

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

OREGON AVIATION WATCH and  
WASHINGTON COUNTY CITIZEN  
ACTION NETWORK,

Petitioners,

v.

WASHINGTON COUNTY,

Respondent,

and

ROBERT D. JOSSY,

Intervenor.

LUBA No. 2013-111  
(Appeal of Ordinance No. 772)

RESPONDENT'S SUBMITTAL OF  
RECORD

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RESPONDENT'S SUBMITTAL OF RECORD

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Attorney for Petitioners

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4 BEFORE THE LAND USE BOARD OF APPEALS  
5 OF THE STATE OF OREGON

6 OREGON AVIATION WATCH and  
7 WASHINGTON COUNTY CITIZEN  
8 ACTION NETWORK,

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LUBA No. 2013-111

RESPONDENT'S SUBMITTAL OF  
RECORD

v.

WASHINGTON COUNTY,

and

Respondent,

ROBERT D. JOSSY,

Intervenor-Respondent.

Pursuant to OAR 661-10-0025 and the Notice of Intent to Appeal, Washington County, respondent and final decision maker, submits the Record of that land use or limited land use decision entitled Ordinance 772, dated October 22, 2013, and which involved a review of the Rural/Natural Resource Plan and the Community Development Code to Develop a Residential Airpark Overlay District.

Attached hereto and incorporated by this reference are certain items described below which constitute the Record of Proceedings.

**INDEX OF RECORD**

ITEMS	DATE	PAGE
-------	------	------

**VOLUME 1 OF 2 (PAGES 1- 243)**

1.	DLCD Notice of Adopted Amendment to Subscribers to Notice Of Adopted Plan or Land Use Regulation Amendments .....	10/30/13 .....	1
2.	DLCD Notice of Adoption of A-Engrossed Ordinance 772 .....	10/22/13 .....	2
3.	<u>Washington County Board of Commissioners Meeting 10/22/13</u>		
a.	Minutes .....	10/22/13 .....	6
b.	Agenda - Public Hearing – Fourth Reading and Fourth Public Hearing, adopting Ordinance 772 .....	10/22/13 .....	17
c.	Adopted Ordinance 722 .....	10/22/13 .....	18
d.	Agenda - Adopt Findings for A-Engrossed Ordinance 772 and R&O 13-106 In the Matter Of Adopting Legislative Findings in Support of A-Engrossed Ordinance 772, .....	10/22/13 .....	30
e.	Land Use Ordinance Material provided to Board .....	10/14/13 .....	36
f.	Staff Report, Land Use Ordinance Materials provided for the October 22, 2013 Board meeting.....	10/14/13 .....	38
	<u>Testimony</u>		
g.	Letter from Bob and April Jossy, in support of Ordinance 772, faxed to Washington County on October 21, 2013 .....		40
h.	Memo from Henry Oberhelman in opposition to Ordinance 772, with comments attached, dated 10/22/13 .....		43
i.	Memo from Henry Oberhelman and Pat Wolter regarding summary of votes at CPO 8 meetings, dated 10/21/13 .....		47
j.	Letter from Linda Peters, Chair, WC CAN, endorsing previous testimony by Linda Peters and Miki Barnes, dated 10/22/13 .....		48
k.	Letter from Sean T. Malone, attorney for Oregon Aviation Watch, in opposition to Ordinance 772, dated 10/22/13 .....		50
l.	Letter from Ellen Saunders in opposition to, Ordinance 772 dated 10/22/13 .....		54
m.	Letter from Robert Braze in support of Ordinance 772, no date.....		59
n.	Letter from Miki Barnes, President, Oregon Aviation Watch, in opposition, with attachments, dated 10/22/13 .....		61

1	4.	<u>Washington County Board of Commissioners Meeting 10/15/13</u>	
2	a.	Minutes.....	10/15/13 ..... 91
3	b.	Agenda - Public Hearing – Third Reading and Third Public Hearing Proposed Ordinance 772 .....	10/15/13 ..... 101
4	c.	Memo from Andy Back providing materials to Board.....	10/7/13 ..... 102
5	d.	Staff Report, staff recommendation, provided for 10/15/13 Board meeting.....	10/7/13 ..... 104
6		<u>Testimony</u>	
7	e.	Letter from Harry Farr, Farr Welding and Equipment Repair in support of Ordinance 772, dated 9/28/13 .....	109
8	f.	Letter from Lawrence R. Derr on behalf of Bob and April Jossy responding to two areas of concern expressed in Hearings on the proposed Residential Airpark Overlay District dated 10/4/13 .....	110
9	g.	Letter from Mary Rosenblum, Oregon Pilots Association, in support of Ordinance 772, dated 10/8/13 .....	112
10	h.	Memo from Miki Barnes in opposition to Ordinance 772, dated 10/10/13 .....	113
11	i.	Memo from Henry Oberhelman, CPO 8, in support of Ordinance 772, dated 10/15/13 .....	119
12	j.	Memo from Linda Peters, WC CAN, dated 10/15/13.....	120
13	5.	Affidavit of Mailing, mailing date 10/4/13 .....	10/9/13 ..... 122
14	a.	Individual Notice No. 2013-26 A-Engrossed Ordinance 722 .....	10/4/13 ..... 123
15	b.	Individual notice mailing list.....	10/4/13 ..... 127
16	6.	Affidavit of Mailing: mailing date 10/4/13, affidavit date 10/23/13 .....	10/4/13 ..... 135
17	a.	Notice of Public Hearings on 10/15/13 and 10/22/13 .....	136
18	b.	Mailing list .....	148
19	7.	DLCD Notice of Proposed Amendment of Comprehensive Plan, A-Engrossed Ordinance 772, mailed 10/4/13 .....	10/4/13 ..... 156
20	8.	Memo from Andy Back to CPO - Notice, Proposed A-Engrossed Ordinance 772 .....	10/4/13 ..... 157
21	a.	Proposed Engrossed Ordinance 772 Distribution Affidavit..	10/4/13 ..... 159
22	b.	Proposed Engrossed Ordinance Distribution Labels updated 9/10/13 .....	160

1 9. Email from Linda Schroeder to ODOT Planning & Development  
2 Manager with proposed engrossed ordinances..... 10/4/13 ..... 163

3 10. Email from Andy Back to Washington County Cities and  
4 Special Service Districts with proposed A and B engrossed  
5 ordinances..... 10/4/13 ..... 164

6 11. A-Engrossed Ordinance 772, An Ordinance Amending the Rural/  
7 Natural Resource Plan Element of the Comprehensive Plan and the  
8 Community Development Code to Develop a Residential Airpark  
9 Overlay and Exhibits 1&2 (filed 10/2/13)..... 10/2/13 ..... 169

10 12. Washington County Board of Commissioners Meeting 10/1/13  
11 a. Agenda Public Hearing – Second Reading and Second  
12 Public Hearing Proposed Ordinance 772 ..... 10/1/13 ..... 181  
13 b. Minutes Washington County Board of Commissioners..... 10/1/13 ..... 182  
14 c. Staff Report provided for 10/1/13 Board meeting  
15 with attachments..... 9/27/13 ..... 193

16 Testimony  
17 d. Letter from Ellen L. Saunders, dated 10/1/13 ..... 210  
18 e. Manuscript, NIH Public Access, presented by Jim Lubisher  
19 regarding association of lead exposure with Attention-Deficit/  
20 Hyperactivity Disorder, dated 1/10 ..... 213  
21 f. Science Direct article regarding lead exposure presented by  
22 Jim Lubisher dated, 2/10/03 ..... 228  
g. Memo by Miki Barnes, dated 10/1/13 ..... 233  
h. State of Oregon Airport license for Sunset Air Strip North  
Plains, dated 1/20/70 ..... 237  
i. Emails between Jeff Caines and Paul Schaefer regarding  
Ordinance 772, dated 7/24/13 ..... 239

**VOLUME 2 OF 2 (PAGES 244- 480)**

13. Washington County Board of Commissioners Meeting 9/24/13  
14 a. Agenda – Public Hearing – First Reading and First Public  
15 Meeting Proposed Ordinance 772 ..... 9/24/13 ..... 240  
16 b. Minute Order 13-266 Proposed Ordinance 772  
17 continuing public hearing to October 1, 2013 ..... 9/24/13 ..... 241  
18 c. Minutes..... 9/24/13 ..... 242  
19 d. Public Hearing Sign-In Sheet ..... 9/24/13 ..... 253  
20 e. Individual Sign-In Forms (if unable to sign in prior to  
21 meeting ..... 9/24/13 ..... 254  
22

1	f.	Memo from Andy Back to Board of Commissioners with additional materials for 9/24/13 Board meeting.....	9/19/13.....	256
2	g.	Memo from Andy Back with materials for 9/24/13 Board meeting .....	9/16/13.....	257
3	h.	Staff Report provided for 9/24/13 Board meeting, with attachments.....	9/16/13.....	259
4		<u>Testimony</u>		
5	i.	Letter from Ed Chadwick in support of Ordinance 772, dated 9/18/13 .....		283
6	j.	Letter from Bob Jossy in support of new Residential Airpark Overlay District, faxed 9/19/13 .....		287
7	k.	Letter from Cliff Gerber in support of Ordinance 772, dated 9/22/13 .....		291
8	l.	Letter from Anne Debbaut, DLCD with comments, dated 9/24/13 .....		289
9	m.	Email from James Lubisher in opposition to first public hearing on 9/24/13, with attachments, dated 9/24/13.....		290
10	n.	Letter from Linda Peters, CPO 8, with comments, dated 9/24/13 .....		312
11	o.	Letter from John Driscoll, Linda Peters, Pat Wolter, Henry Oberhelman, CPO 8, with comments, dated 9/11/13.....		314
12	p.	Letter from Ellen Saunders in opposition to Ordinance 772, with attachment, dated 9/24/13 .....		315
13	14.	Affidavit of Mailing: mailing date 8/14/13, .....	9/16/13.....	325
14	a.	Notice of Public Hearings on 9/4/13 and 9/24/13 .....		326
15	b.	Mailing list – property owners within 1000 feet of properties affected by Ordinance 772.....		333
16	15.	<u>Public Hearing-Planning Commission 9/4/13</u>		
17	a.	Agenda .....	9/4/13.....	342
18	b.	Minutes.....	9/4/13.....	344
19	c.	Staff Report, Proposed Land Use Ordinance 772, provided for 9/4/13 Planning Commission Hearing, with attachments.....	8/28/13.....	402
20		<u>Testimony</u>		
21	d.	Letter from Ann Debbaut, DLCD, with comments, dated 8/20/13.....		423
22	e.	Letter from Lawrence Derr on behalf of Bob and April Jossy responding to objection from Anne Debbaut of DLCD, dated 9/4/13.....		425
	f.	Emails between Larry Derr, Dale Blanton and Gary Fish regarding airport issue, dated 9/3/13 .....		428

1 g. Letter from Bob Jossy regarding proposed Ordinance 772  
with diagram attached, dated 9/4/13..... 430

2 h. Letter from Ellen Saunders in opposition (Exhibit 5) dated 9/4/13 .. 432

3 i. Memo from Miki and David Barnes in opposition, with  
4 attachments (Exhibit 6), dated 9/4/13 ..... 433

5 1) Airport/Facility Directory Northwest U.S., dated  
6/30/11..... 436

6 2) Summary of Adverse Health Effects of Noise Pollution  
prepared by Louis Hagler, MD, no date ..... 439

7 16. Affidavit of Mailing, mailing date 8/21/13 ..... 8/26/13 ..... 441

8 a. Individual Notice No. 2013-17 proposed Land Use  
9 Ordinance No. 772 ..... 8/21/13 ..... 442

10 b. Individual Notice Mailing List ..... 445

11 17. Affidavits and Newspaper Publications of Proposed  
12 Ordinance 772 for The Oregonian and Hillsboro Argus ..... 8/19/13 ..... 453

13 18. Memo from Andy Back to CPO - Notice, Proposed Ordinance 772 .. 8/1/13 ..... 459

14 19. Proposed Ordinance 772 Distribution Affidavit, dated 8/15/13 ..... 8/1/13 ..... 461

15 a. Proposed Ordinance Distribution labels updated 4/12/13 ..... 462


16 20. Email from Linda Schroeder to Planning and Development  
17 Manager, ODOT Region 2 Headquarters re Proposed  
18 Ordinances..... 8/1/13 ..... 465

19 21. Email from Andy Back to Washington County Cities and  
20 Special Service Districts with Proposed Land Use Notices  
772 and 773 ..... 8/1/13 ..... 466

21 22. DLCD Notice of Proposed Amendment of Comprehensive Plan,  
A-Engrossed Ordinance 772, mailed 7/19/13 ..... 7/19/13 ..... 468

22 23. Ordinance 772, An ordinance Amending the Rural/National  
Resource Plan Element of the Comprehensive Plan and the  
Community Code to Develop a Residential Airpark Overlay (filed) 7/18/13 ..... 469

DATED: December 12, 2013.

  
 JACQUILYN SAITO-MOORE; OSB 983410  
 Sr. Assistant County Counsel  
 jacquilyn\_saito-moore@co.washington.or.us  
 Of Attorneys for Respondent

## CERTIFICATE OF SERVICE AND FILING

I hereby certify that I served a true and correct copy of the record by first-class mail, addressed as follows and deposited, postage fully prepaid, on December 12, 2013 with the U.S. Postal Service for delivery on:


Sean T. Malone  
Attorney at Law  
259 E. 5th Ave., Ste 200-G  
Eugene, OR 97401  
Attorney for Petitioners

David C Noren  
Attorney at Law  
PO Box 586  
Hillsboro, OR 97123-4020  
Attorney for Intervenor

I certify that I filed the Original record by first-class mail with the Land Use Board of Appeals, addressed as follows and deposited, postage fully prepaid, on December 12, 2013 with the U.S. Postal Service for delivery.

Land Use Board of Appeals  
DSL Building  
775 Summer Street NE, Suite 330  
Salem, OR 97301-1283

DATED: December 12, 2013

  
\_\_\_\_\_  
Jacquilyn Saito-Moore, OSB# No. 983410  
Sr. Assistant County Counsel  
Of Attorneys for Respondent





**Oregon**  
Theodore R. Klugowski, Governor

Department of Land Conservation and Development  
635 Capitol Street, Suite 150  
Salem, OR 97301-2540  
(503) 373-0050  
Fax (503) 378-5518  
www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/30/2013

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Washington County Plan Amendment  
DLCD File Number 012-13

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, November 14, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Paul Schaefer, Washington County  
Jon Jinings, DLCD Community Services Specialist  
Anne Debbaut, DLCD Regional Representative

<paa> YA



FORM

2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within 20-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person  electronic  mailed

DATE  
OCT 25 2013  
DEPT OF  
LAND USE  
DIVISION  
For Office Use Only

Jurisdiction: **Washington County** Local file number: **A-Engrossed Ordinance No. 772**  
 Date of Adoption: **October 22, 2013** Date Mailed: **October 24, 2013**  
 Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: **07/19/13**  
 Comprehensive Plan Text Amendment  Comprehensive Plan Map Amendment  
 Land Use Regulation Amendment  Zoning Map Amendment  
 New Land Use Regulation  Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".  
**A-Engrossed Ordinance No. 772 adds CDC Section 389 relating to Residential Airpark Overlay District. The district authorizes hangars, tie-downs, and taxi-ways on parcels with an existing dwelling. Rural/Natural Resource Plan Policy 28 is also amended to add text relating to Residential Airpark Overlay District and to update the Sunset Airstrip map to show the proposed overlay district boundaries.**

Does the Adoption differ from proposal? Yes, Please explain below:  
**A-Engrossed Ordinance No. 772 differs from the original filed ordinance (Ordinance No. 772) in that four resource parcels were removed from the proposed Residential Airpark Overlay District and there are no limits to the number of tie-downs.**

Plan Map Changed from: **N/A** to: **N/A**  
 Zone Map Changed from: **N/A** to: **N/A**  
 Location: \_\_\_\_\_ Acres Involved: **N/A**  
 Specify Density: Previous: **N/A** New: **N/A**

Applicable statewide planning goals:  
 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted?  YES  NO  
 Did DLCD receive a Notice of Proposed Amendment...  
 35-days prior to first evidentiary hearing?  Yes  No  
 If no, do the statewide planning goals apply?  Yes  No  
 If no, did Emergency Circumstances require immediate adoption?  Yes  No

DLCD file No. 012-13 (19932) [17657]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Washington County, Oregon Department of Aviation, Federal Aviation Administration, Port of Portland (Hillsboro Airport), City of North Plains

---

Local Contact: Paul Schaefer, Senior Planner	Phone: (503) 846-8817	Extension: n/a
Address: 155 N. First Avenue, Suite 350-14	Fax Number: 503-846-4412	
City: Hillsboro	Zip: 97124	E-mail Address: paul_schaefer@co.washington.or.us

---

### **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ - 11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 6, 2012



FORM 2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within **20-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person  electronic  mailed

For Office Use Only

Jurisdiction: **Washington County** Local file number: **A-Engrossed Ordinance No. 772**

Date of Adoption: October 22, 2013 Date Mailed: October 24, 2013

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 07/19/13

Comprehensive Plan Text Amendment  Comprehensive Plan Map Amendment

Land Use Regulation Amendment  Zoning Map Amendment

New Land Use Regulation  Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

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A-Engrossed Ordinance No. 772 differs from the original filed ordinance (Ordinance No. 772) in that four resource parcels were removed from the proposed Residential Airpark Overlay District and there are no limits to the number of tie-downs.

Plan Map Changed from: N/A to: N/A

Zone Map Changed from: N/A to: N/A

Location: Acres Involved: N/A

Specify Density: Previous: N/A New: N/A

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?  Yes  No

If no, do the statewide planning goals apply?  Yes  No

If no, did Emergency Circumstances require immediate adoption?  Yes  No

DLCD file No. \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Washington County, Oregon Department of Aviation, Federal Aviation Administration, Port of Portland (Hillsboro Airport), City of North Plains

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Local Contact: Paul Schaefer, Senior Planner	Phone: (503) 846-8817	Extension: n/a
Address: 155 N. First Avenue, Suite 350-14	Fax Number: 503-846-4412	
City: Hillsboro	Zip: 97124	E-mail Address: paul_schaefer@co.washington.or.us

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## ADOPTION SUBMITTAL REQUIREMENTS

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per ORS 197.615 and OAR Chapter 660, Division 18

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SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 **green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 6, 2012

**MINUTES**

**WASHINGTON COUNTY BOARD OF COMMISSIONERS**

**October 22, 2013**

**CONVENED:** 6:31 p.m.

**BOARD OF COMMISSIONERS:**

Chairman Andy Duyck  
Vice Chair Greg Malinowski  
Commissioner Bob Terry  
Commissioner Roy Rogers

Commissioner Dick Schouten was absent on this meeting.

**STAFF:**

Robert Davis, County Administrator  
Alan Rappleyea, County Counsel  
Steve Franks, LUT, Office of Director/Administrative Services  
Jerry Linder, CWS, Legal Counsel  
Andy Back, Planning and Development Services Manager  
Paul Schaeffer, LUT, Long Range Planning  
Suzanne Savin, LUT, Long Range Planning  
Stephen Roberts, LUT, Communications Coordinator  
Michelle Pimentel, LUT, Long Range Planning  
Margot Barnett, Extension Service  
Ana Noyola, Alternate Clerk of the Board  
Jim Thiessen, Audio Visual Technician

**PRESS:**

Simina Mistreanu, *The Oregonian*

On behalf of the Board, Commissioner Terry expressed sympathies and sorrow to the family of the two little girls who lost their lives yesterday in Forest Grove. It was a terrible and tragic accident; it is something that touches everyone's hearts and feelings. Thoughts and prayers go out to them.

**1. ORAL COMMUNICATION (2 MINUTE OPPORTUNITY)**

Patrick Chikoti, 14320 Cherry Hill Dr, Beaverton, introduced himself to the Board. He is visiting from Malawi, Africa through a U.S. Department of State funded fellowship program. He is here to study issues of planning, land use, community participation involvement, and government structures. He commented that he wants to understand how things link up in Washington County, its cities and unincorporated areas. He has attended city council meetings

4.c.

ADOPTED

Proposed A-Engrossed Ordinance No. 772 – An Ordinance Amending the Rural/Natural Resource Plan and the Community Development Code to Develop a Residential Airpark Overlay District (CPO 8)

Commissioner Terry moved to have A-Engrossed Ordinance No. 772 read by title only.

Motion – Terry

2nd – Rogers

Vote – 4-0

Alan Rappleyea read A-Engrossed Ordinance No. 772 by title only.

No staff report was provided.

Chairman Duyck opened the public hearing.

1. Bill McCandless, 32905 NW Beach Rd, Hillsboro, spoke as president of Roth Development Corporation, owner of the runway and taxiway. He addressed the commercial/non-commercial activities at the airport. He stated that he provided copies of CC&Rs for Air Acres and Air Acres 2 to County staff. Article III prohibits commercial activities, including commercial activities in the house; it does not restrict flying commercial activities only. The sole exception is that a medical practitioner can provide services at the house. Roth Development is owned by 11 of the residents, there is no single majority owner to take it in a new direction because that requires majority vote. New easements would be issued to the new properties, only with share purchase. The new easement CC&Rs would also contain the prohibition on commercial activities. The other issue he addressed was CDC 389 as found to be Sunset specific, not precedent-setting. People have expressed concern about the traffic from the airport. At the moment, they have 16 aircrafts and 10 active pilots. In one day, there are 6 take-offs and landings. Contrasted to the Hillsboro airport, in 2008, the Hillsboro airport had 695 operations per day. The Sunset Airpark is not a large contributor to the air traffic. He concluded by requesting the Board to approve this ordinance, which is Sunset-specific and will remain non-commercial.

Vice Chair Malinowski asked if the new CC&Rs will be the same as the current ones and Mr. McCandless answered that the new ones will be modeled after the existing CC&Rs. They contain the non-commercial provision. The new CC&Rs have not been written yet.

Vice Chair Malinowski asked if the intent is to place the same restrictions on the new homeowners that the current homeowners live under. Mr. McCandless answered in the affirmative and added that rough development would do that as a condition of granting an easement to use the runway. If they do not sign, they cannot use the runway. They could have a hangar and taxi, but both would be useless.

2. Henry Oberhelman, 26185 NW Evergreen, Hillsboro, submitted for the record a letter and comments providing perspective on some of the remarks heard during previous Board of

Commissioners meetings. He paraphrased the contents of the letter. Ordinance 772, coupled with relaxed restrictions of Ordinance 773 (Home Occupancy) promises significant noise impact on the neighbors of the Sunset Airstrip. Nothing in the ordinance gives residents redress against these impacts. Current noise codes precludes from raising these issues. The CC&Rs are in control of the airstrip owners and are hidden from the public view and community input. The ordinance is incomplete. For example, it is missing records of FAA review of the expansion and lacks support for the assertion of the value of clustering noise generators, such as aircraft. This seems to be at odds with Port of Portland's practice of dispersing aircraft for noise dispersal. He requested in the interest of transparency, accountability and community involvement for the Board to reject this ordinance. Further work between now and at the beginning of next ordinance season could provide a more balanced approach that may include the following:

- a) Clarification and support for missing references and unsubstantiated claims,
- b) Mechanism that gives a voice in the CC&Rs to community members, and
- c) Clarification of existing Health and Human Services Code for suitable aviation noise control.

Vice Chair Malinowski asked if Mr. Oberhelman proposes to have the new CC&Rs substantially like they are now.

Mr. Oberhelman answered that Mr. McCandless stated that he would not object to incorporating the current CC&Rs into the ordinance during the Planning Commission meeting on September 4<sup>th</sup>, but Mr. McCandless did not follow through.

Chairman Duyck asked why the CC&Rs are necessary in the ordinance. He assumed that the existing airpark residents are going to have a much more vested interest than anyone else in ensuring that access to the runway will not be granted unless those CC&Rs comply because they are the ones most impacted and most likely to police that action.

Mr. Oberhelman answered that community members who are subject to the noise impacts have no voice in writing or administering those CC&Rs. The impact of helicopters has been understated and these could very well fly off the areas under new development.

3. Linda Peters spoke on behalf of Washington County Citizen Action Network (WC CAN) and for the record registered that WC CAN would like to be granted status of an organization. She also submitted written testimony. On October 20, 2013, WC CAN endorsed testimony regarding Ordinance 772, submitted by Linda Peters and Miki Barnes on behalf of Oregon Aviation Watch. She listed WC CAN's concerns: Ambiguity of the ordinance's intent, potential commercialization and significant increase in air traffic at Sunset Airpark, inappropriateness of County outsourcing protection against increases in air traffic and consequent decreases in air quality, and, lastly, legal problems cited by Oregon Aviation Watch. She drew attention to a letter from Sean T. Malone, Attorney at Law, which was submitted for the record.

4. David Barnes, member of Oregon Aviation Watch, also expressed concerns about Ordinance 772 by reading from a letter submitted by Miki Barnes. In 1994, the State accorded private airport status to Sunset Airpark and Sunset Airpark accepted it even though it is a personal use airport. Presumably, Sunset Airpark aspires to engage in commercial activities and restrained from lobbying against the designation of a private airport. The distinction between private



airport status and personal use airpark is important. The airpark's homeowner's association appealed to the County by Ordinance No. 772 in order to break from state and county laws. If Commissioners support this effort, it will allow other airports in the County to build aviation-related structures on properties zoned for residential uses. Legal challenges will follow, but can be prevented by rejecting this ordinance. The current airpark expansion proposal is similar to the multi-year legal struggle of the Apple Valley Airport, which was also designated as Private Use Airpark Overlay District. The final LUBA opinion in *NAAVE v. Michael and Jennie Applebee* reveals that Jossy and the airpark residents are attempting to circumvent state statute and LUBA precedent. This could trigger countywide reverberations. Ordinance No. 772 does not protect neighboring property owners.

5. Dale Feik, 3363 Lavina Dr., Forest Grove, stated that he has been a pilot since the 1970s and loves flying. He spoke as a member of the Oregon Aviation Watch and a member of WC CAN. He submitted for the record a letter from Sean T. Malone, Attorney at Law and read parts of that letter during his testimony. The letter requests the Board to reject Ordinance 772 because, as it currently stands, it violates state law, is inconsistent with the comprehensive plan provisions and fails to demonstrate compliance with applicable statewide planning goals. The ordinance violates ORS 836.608. Sunset Airport is a private use airport and is therefore governed by state law according to ORS 836.608(2). He highlighted some case law, *NAAVE v. Washington County*, which determined that 'nothing cited to us in the statute suggests that existing airport uses or structures may be relocated outside the established airport boundaries without first amending those boundaries.' The County must first amend the airport boundary as that is defined in the statute and then if it chooses to do so, create an additional airpark overlay district that is clearly devoted to airport uses. He concluded with the letter's conclusion: 'Unless the County first amends the airport boundary, Ordinance No. 772 violates ORS 836.608. Ordinance No. 772 similarly violates statewide planning goal 6 and comprehensive plan provisions. Finally, though the County is proposing a legislative decision, the County must still make adequate findings to ensure consistency with statewide planning goals and the existing comprehensive plan. Because of these flaws, the County should reject proposed Ordinance No. 772.' Otherwise, it will likely draw an appeal to LUBA.

Alan Rappleyea responded that what the County is doing is different from what Ms. Barnes and Mr. Malone think it is doing. In 2009, this Board entertained an ordinance that proposed to expand the district airport boundary. At that point, the DLCD objected to the expansion of the boundary and the Board rejected the ordinance. This time, the County proposed an airport overlay district, which entails placing an area that is outside the resources zones, which was an issue raised by DLCD earlier, and instead, have the airport overlay areas inside the exception areas, where such uses are allowed. County staff reviewed the statutes with the DLCD and DLCD had no objection to the creation of this overlay district. It is an unusual and experimental project, but it does comply with state statutes.

Chairman Duyck cited Mr. Malone's last paragraph, stating that the County must first amend the airport boundary, and presumed that that is the boundary set by Ordinance No. 609, which defined the extent of the airport. He asked if this ordinance is separate from No. 609 or whether this ordinance has to stay within the boundaries of Ordinance No. 609.

Mr. Rappleyea answered that this current ordinance does something different; this is not an amendment of the airport boundaries. Instead, Ordinance No. 772 places the overlay district that allows these uses. It is untested, but, in his opinion, the statutes allow it.

6. Ellen Saunders, 47950 NW Dingheiser Rd., Manning, submitted written testimony for the record and stated that Ordinance 772 constitutes a taking from local residents. Since the air traffic from Sunset Airpark would be flying lower than 500 feet in many cases, the local noise and lead gas plume will substantially diminish the property values, health and safety, and livability of the local areas. She quoted from the Oregon Aviation Watch President, Miki Barnes, regarding possible takings. The 1998 letter of Understanding between the FAA and Roth Development states that 'pilots of aircraft using the Sunset Airport shall remain at or below 500 ft. AGL while in the Hillsboro Class D surface area. Hillsboro Airport Class D airspace extends outward in a 4.2 mile radius of the Hillsboro Airport and includes the most densely populated areas over North Plains. The FAA directive may well constitute a taking, as individual property owners own the air space 500 feet above their properties.' She cited *Aaron v. United States*, which entitled plaintiffs to compensation for an easement only with respect to overflights below 500 feet above ground. She mentioned that the Rural/Natural Resources Plan under the Natural and Cultural Setting are in direct conflict with the proposed ordinance and reiterated that this airpark site is in the middle of an agricultural land. The expansion of this facility will severely impact the rural uses of the land, which constitutes a taking. She stated that there are many riding stables within the airpark's takeoff and landing patterns.

Chairman Duyck asked Ms. Saunders if she has any land that would be a taking and Ms. Saunders answered in the negative. She explained that there are riding stables all over that area. She recalled earlier testimony she submitted where she mentioned the dangers of aviation and horses, especially in regards to helicopters, and there is one in the airpark. She added that when there are people using the trails in this area and the one in Tillamook, aviation over what will be used by horses is an exceedingly disturbing issue.

Chairman Duyck observed that this airport is nearly a dozen miles away from that trail.

Ms. Saunders responded that the airport activities may still affect the trail.

Chairman Duyck asked whether the issue involves aircraft in general, not the operations at this airport and Ms. Saunders clarified that the issue is the airport's proximity to the areas where there will be takeoffs and landings, including a helicopter. She said that the 500 ft. limitation means that the noise level is going to be substantial for miles, even out from the takeoff and landings.

Chairman Duyck respectfully disagreed about the impact. He stated that this airport's pattern is quite a number of miles from the nearest trail and will have no impact.

7. Robert Braze, 264 SE 33<sup>rd</sup>, Hillsboro, a retired FAA Operations Inspector, submitted written testimony for the record. He said he hopes to clear up some concerns about Ordinance 772 by sharing that Sunset Airpark has been an exemplary model of a successful private use airport for more than 20 years. It operates within Federal Class D airspace controlled by Air Traffic

Control (ATC) Tower in Hillsboro Airport. Pilots are required to inform the tower of arrivals and departures in order to allow ATC to separate aircrafts operating within this airspace. The Code of Federal Regulations does not limit the number or frequency of aircrafts using public or private use airports. As an Operations Inspector, he is intimately familiar with general aviation and air carrier operations. If a Pilot Deviation is filed by ATC or a public complaint is received, then the Flight Standards District Office conducts a federal investigation. He is aware of no investigations or violations during his tenure with regard to the Sunset Airpark pilots. He commented that Washington County citizens should be pleased that the Board has not failed in its attention to detail and that the Board's final decision will be in the best interest of its constituency. By prohibiting commercial flight activity, the current Airpark's status would remain unchanged, and defining hangar size, tie down space and taxiways currently in use in Sunset Airpark encourages future success in the proposed lots. Operational safety has not been an issue and there is no reason to assume it will change. He concluded by recommending passage of Ordinance 772 and proposed this to be the standard by which future residential airpark overlay districts will be judged.

8. Miki Barnes, P.O. Box 838, Banks, testified on behalf of Oregon Aviation Watch. She commented on Mr. McCandless' testimony about the airport as a personal use airport. She stated that something that would alleviate some of the uneasiness felt by community members is if the airport forfeited "private use" status and returned to being a residential airpark. She is under the impression that hidden in this "private use" status is a notion that the airpark could potentially become commercial some day. On the one hand, the residential overlay zone will not allow commercial operations, but the Sunset Airpark can revert to commercial operations if they go through the hearing. This latter piece was in the planning documents, which talked about how the airpark had been authorized for freight and various other commercial activities. One way to address this possibility would be to simply forfeit private airport status and have the airpark say it would prefer being a residential airpark. In this way, the public could feel more comfortable with the notion that there will only be six, seven or eight operations per day. She added that there are more than 450 airports in this state and many of these are underutilized. Given that a pilot can fly only one airplane at a time, it makes sense that they store them at an existing airport rather than start approving hangars and other airport uses in a residential property. Otherwise, this opens a can of worms, as it was seen in the LUBA decision regarding Apple Valley. In 2009, the Applebees owned an airport property and a residential parcel. They wanted to build a hangar, a helicopter landing pad and a gravel parking area on the residential property. The hearings officer denied the helicopter pad and the gravel parking area, but approved the hangar based on the fact that the Applebees were already using a barn on the residential property as a hangar. LUBA took a firm stance against this. Several quotes of this decision, which states that the airport boundary determines the airport, are included in her testimony, which is available as part of the record. As it is, if there is a residential overlay and an airport overlay, there will be a two-tiered system, but they are all using the same runway. She asked what is to stop a resident from coming to an airport that claims it has the option for commercial status and engaging in commercial activity. She stated that this is a vague boundary. She shared that she feels there's a good chance of winning a LUBA appeal on this matter. She concluded by saying this is ripe for a legal challenge and she will feel compelled to appeal if this passes.

Chairman Duyck closed the public hearing and Board deliberations followed.

Vice Chair Malinowski addressed the commercial operations issue. He asked if this particular district can obtain authorization to become a commercial airpark from a different entity.

Paul Schaefer referred to Section 389-1, which specifically targets Sunset Airstrip. With the engrossed changes prohibiting commercial aviation activities there would need to be additional changes to allow commercial activities, if that is the desire of the Board.

Vice Chair Malinowski asked if the Board will get to weigh in on the potential change to commercial status.

Mr. Schaefer answered that if this was adopted as filed (A-Engrossed), the language says no commercial aviation activity. So if someone proposed to include commercial activity, then this code section would need to be amended.

Chairman Duyck asked for an explanation as to why Ordinance 772 is important at all. There was a development application for residential development, which is moving forward without the ordinance, so what does the ordinance specifically do that could not be done otherwise.

Mr. Schaefer agreed that the applicant does have approval for an 18-lot subdivision for residential homes. However, the applicant cannot build hangars there or plat taxiways to access the airstrip. The ordinance is needed to authorize that district.

Chairman Duyck supposed the following: landowners build a two-car garage where they park an airplane in. This, in effect, is a hangar. Additionally, the landowners have an extended lawn, which, in effect, is a taxiway. He asked how the ordinance differs in this scenario and whether it is just a clean-up mechanism.

Mr. Schaefer answered that absent the district, there would be no code allowances (i.e. Section 389) that would allow someone to have a hangar. A hangar could be built, but no current provisions allow that.

Alan Rappleyea added that it would be illegal to build a hangar in this district without the ordinance.

Chairman Duyck suggested that it would not be called a hangar, but a garage. Mr. Rappleyea responded that if an airplane is parked in it, it would be called a hangar.

Chairman Duyck clarified for the record that this illustrates the function of the ordinance. It is a clean-up mechanism because there are other ways to build hangars and taxiways, but the other ways would be subject to challenge. The ordinance makes it a clean process.

Commissioner Rogers commented that the adoption of the ordinance comes down to a basic trust of what is going to happen. Based on what County staff and County Counsel have indicated, there is certainly an attempt to restrict the use and prohibit commercial activities. Others may think that this will not be used strictly by those residents and that there will some commute; a

commercial application; that the Board is opening it up for future problems, but he perceives that the issues have been adequately addressed. He proposed a motion to adopt the ordinance.

Vice Chair Malinowski moved to postpone adoption of the ordinance until next spring, but no second followed. He observed that the Jossys have been stymied for a number of years. Most of the complaints are about the potential for a slippery slope effect. He agreed that there is a lack of trust on what could happen. Even though there are safeguards built in to prevent the slippery slope effect, he has mixed feelings about the ordinance. He did not hear a lot of testimony mentioning "the way it is now, if it were done," and assumed that this would be a specialty product. If one does not fly an airplane, why buy the lot in the airpark? If this does in effect create a slippery slope effect, he will not be sympathetic.

Commissioner Rogers concurred with Vice Chair Malinowski's sentiments. If problems arise, he would ask for enforcement and change. In his opinion, everyone is trying to do the right thing. Those who are opposing are doing it for the right reasons, thinking that there will be an expansion. The proponents feel that there are adequate controls. County staff and Council also feel there are adequate safeguards as well. If someone wants to appeal to LUBA, it is within that person's right; that is why we have State land use. That is the system.

Vice Chair Malinowski asked County staff if it has heard anything officially from North Plains and after Mr. Schaefer answered in the negative, he commented that after all of the fun with North Plains last year with what one of its neighbors was doing, North Plains seems to be sitting on its hands on this. If he receives phone calls from citizens of North Plains about how horrible this proposed ordinance is, he will direct the callers to the city of North Plains.

Chairman Duyck mentioned that an even more important statement is that North Plains has already shown it is not shy about expressing its opinion. If there is no objection from that city on this, that speaks volumes.

Commissioner Terry thanked everyone who attended the Board meeting and appreciated the fact that testifiers came to express what he, as a veteran, fought for: freedom of expression. He added that North Plains was asked to weigh in and has not done so. He has not heard from anyone who is directly involved with this project receiving any complaints about it. The people who live around the airpark have not complained about it, and those who have come in to testify are not directly associated with this area. He commended County staff for doing a great job. The biggest area of concern he has heard about centers on "what if?" He commented that we live in a world where it is always "what if?" and we try to make the best decisions upon uncertainty. The overall sense he perceived from this decision is that it will not hurt the County and the ordinance could therefore move forward. County staff and Council have assured the Board that if there was a change in direction, it would have to come back for the Board's approval. He stated that he has heard no complaints about the Jossys and the way they operate now and about the way they have operated in the past. He agreed with Commissioner Rogers' comments about trusting that the airpark will follow through its assurances.

Commissioner Terry moved to adopt A-Engrossed Ordinance No. 772.

Motion – Terry  
2<sup>nd</sup> – Rogers  
Vote – 4-0

ROLL CALL:  
Aye: 4  
Nay: 0

4.d.

ADOPTED

Proposed A-Engrossed Ordinance No. 773 – An Ordinance Amending Home Occupation Standards of the Community Development Code (CPO All)

Vice Chair Malinowski moved to read A-Engrossed Ordinance No. 773 by title only.

Motion – Malinowski  
2<sup>nd</sup> – Terry  
Vote – 4-0

Alan Rappleyea read A-Engrossed Ordinance No. 773 by title only.

No staff report was provided.

Chairman Duyck opened the public hearing.

Bruce Bartlett, 11672 NW Permian Dr., Portland, submitted written testimony for the record. He stated that he looked at the occupation codes a number of times and was struck by the exceedingly low number of trips allowed per day as the maximums. In his testimony, he mentions that if there was a very active house with a large number of children, there would more than the 11 trips per day the code assumes. He thinks the number of trips could be as high as 20 or 30. He witnessed a lot of traffic coming in and out of his neighbors' driveway. This household has a lot of children. Other neighbors have deliveries from FedEx, SafeWay, and other types of home deliveries. These trips do not generate many issues or burdens. The home occupation itself takes a bedroom out of commission to reduce the number of non-occupation trips by having the home occupation in place. The number of trips from the home occupation seems to break even. Since home occupations are often incubators for a more substantial small business in the future, considering doubling the number of trips for the Types I and II might yield better code compliance because they are more in line with what modern businesses generate with people coming and going.

Chairman Duyck explained that this is the last opportunity to adopt the ordinance this year. The ordinance as written is a good first step. If there's a problem in the future, the Board can always revisit it.

Mr. Bartlett mentioned that he just wanted to get that thought planted.

**5. ACTION – LAND USE AND TRANSPORTATION**

5.a.  
RO 13-104  
Adopt Findings for B-Engrossed Ordinance No. 769 (CPO All)

Commissioner Rogers moved to adopt the findings.

Motion – Rogers  
2<sup>nd</sup> – Malinowski  
Vote – 4-0

5.b.  
RO 13-105  
Adopt Findings for A-Engrossed Ordinance No. 771 (CPO 7)

Commissioner Terry moved to adopt the findings.

Motion – Terry  
2<sup>nd</sup> – Rogers  
Vote – 4-0

5.c.  
RO 13-106  
Adopt Findings for A-Engrossed Ordinance No. 772 (CPO 8)

Commissioner Rogers moved to adopt the findings.

Motion – Rogers  
2<sup>nd</sup> – Terry  
Vote – 4-0

5.d.  
RO 13-107  
Adopt Findings for A-Engrossed Ordinance No. 773 (CPO All)

Commissioner Rogers moved to adopt the findings.

Motion Rogers  
2<sup>nd</sup> – Malinowski  
Vote – 4-0

5.e.  
RO 13-108  
Adopt Findings for A-Engrossed Ordinance No. 774 (CPO All)

Commissioner Terry shared that he would make it unanimous by voting 'aye,' but that he is not excited about the chicken motion. He would like to learn more about the issue.

Vice Chair Malinowski expressed appreciation for the Board's forbearance.

**7. ORAL COMMUNICATION (5 MINUTE OPPORTUNITY)**

Bruce Bartlett, 11672 NW Permian Dr., Portland, followed up on the rooster issue and testified that listening to barking dogs is profoundly more insulting and offensive than a chicken. He shared that Animal Control has a fairly well-documented process for dealing with barking dogs, which identifies the hand-shakes back and forth in mediation. He asked if there has been any thought in using that process to deal with anything else that is noisy.

Chairman Duyck explained that there is a distinction because in this rooster case, they are livestock and not pets. Animal Services does not handle this issue.

**8. BOARD ANNOUNCEMENTS**


Chairman Duyck announced that the next Board meeting is November 5, 2013; the Worksession will start at 8:30 a.m. and the Board meeting will follow at 10:00 a.m.

**9. ADJOURNMENT: 8:06 p.m.**

Motion – Terry  
2<sup>nd</sup> – Malinowski  
Vote – 4-0

MINUTES APPROVED THIS 26<sup>th</sup> DAY November 2013

  
RECORDING SECRETARY

  
CHAIRMAN



**AGENDA**

**WASHINGTON COUNTY BOARD OF COMMISSIONERS**

**Agenda Category:** Public Hearing – Fourth Reading and Fourth Public Hearing  
Land Use & Transportation; County Counsel (CPO 8)

**Agenda Title:** **PROPOSED A-ENGROSSED ORDINANCE NO. 772 – AN  
ORDINANCE AMENDING THE RURAL/NATURAL RESOURCE  
PLAN AND THE COMMUNITY DEVELOPMENT CODE TO  
DEVELOP A RESIDENTIAL AIRPARK OVERLAY DISTRICT**

**Presented by:** Andrew Singelakis, Director of Land Use & Transportation  
Alan Rapplevea, County Counsel

**SUMMARY:**

A-Engrossed Ordinance No. 772 proposes to add a new section (Section 389) to the Washington County Community Development Code and proposes to amend the Rural/Natural Resource Plan relating to a new Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling. A-Engrossed Ordinance No. 772 is posted on the county's land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm>

The Board conducted hearings for Ordinance No. 772 on September 24 and October 1, 2013. On October 1, the Board ordered engrossment of the ordinance to make a number of changes and continued the hearing to October 15, 2013. The first hearing on A-Engrossed Ordinance No. 772 was held on October 15. At the conclusion of the hearing, the Board continued the hearing to October 22, 2013.

The staff report for the October 22, 2013 hearing will be provided to the Board prior to the hearing, posted on the above land use ordinance web page, and will also be available at the Clerk's desk.

Consistent with Board policy, testimony about the ordinance is limited to two minutes for individuals and five minutes for a representative of a group.

Clerk's Desk Item: Staff Report (*click to access electronic copy*)

**DEPARTMENT'S REQUESTED ACTION:**

Read A-Engrossed Ordinance No. 772 by title only and conduct the second public hearing on the engrossed ordinance. At the conclusion of hearing, adopt A-Engrossed Ordinance No. 772.

**COUNTY ADMINISTRATOR'S RECOMMENDATION:**

I concur with the requested action.

**ADOPTED**

Agenda Item No.	<b>4.c.</b>
Date:	10/22/13

FILED

OCT 02 2013

Washington County  
County Clerk

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS  
2 FOR WASHINGTON COUNTY, OREGON

3  
4 A-ENGROSSED ORDINANCE 772

An Ordinance Amending the Rural/Natural  
Resource Plan Element of the Comprehensive  
Plan and the Community Development Code to  
Develop a Residential Airpark Overlay

5  
6 The Board of County Commissioners of Washington County, Oregon ("Board")  
7 ordains as follows:

8 SECTION 1

9 A. The Board recognizes that the Rural/Natural Resource Plan Element of the  
10 Comprehensive Plan (Volume III) was readopted with amendments, by way of Ordinance  
11 No. 307, with portions subsequently amended by Ordinance Nos. 342, 383, 411, 412, 458,  
12 459, 462, 480, 482, 499, 539, 547, 572, 574, 578, 588, 598, 606, 609, 615, 628, 630, 631,  
13 637, 643, 648, 649, 653, 662, 671, 686, 733, 740, 753, and 764.

14 B. The Board recognizes that the Community Development Code Element of the  
15 Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986,  
16 by way of Ordinance No. 308, and subsequently amended by Ordinance Nos. 321, 326, 336-  
17 341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417,  
18 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471,  
19 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-  
20 561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623,  
21 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674,

1 676, 677, 682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 722, 725, 730, 732,  
2 735, 739, 742-745, 754-758, 760, 762, 763, and 765-766.

3 C. Notwithstanding the rejection of Washington County's efforts to expand the  
4 Private Airport Use Overlay to properties adjacent to the Sunset Airstrip located south of the  
5 city of North Plains in 2009, subsequent planning efforts of the County, in part in response to  
6 a request to develop a residential airpark overlay near the Sunset Airstrip, indicate this  
7 concept of a residential airpark overlay is warranted for further review and development.  
8 Such changes to the planning documents, the Board recognizes, are necessary from time to  
9 time for the benefit of the residents of Washington County, Oregon.

10 D. Under the provisions of Washington County Charter Chapter X, the  
11 Department of Land Use and Transportation has carried out its responsibilities, including  
12 preparation of notices, and the County Planning Commission has conducted one or more  
13 public hearings on the proposed amendments and has submitted its recommendations to the  
14 Board. The Board finds that this Ordinance is based on those recommendations and any  
15 modifications made by the Board are a result of the public hearings process;

16 E. The Board finds and takes public notice that it is in receipt of all matters and  
17 information necessary to consider this Ordinance in an adequate manner, and finds that this  
18 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan  
19 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington  
20 County Charter, the Washington County Community Development Code, and the Washington  
21 County Comprehensive Plan.

22

1        SECTION 2

2                The following exhibits, attached hereto and incorporated herein by reference, are  
3        adopted as amendments to the designated documents as follows:

- 4                A.     Exhibit 1 (2 pages), amending the Community Development Code by adding  
5                        a new section (Section 389, Residential Airpark Overlay District); and  
6                B.     Exhibit 2 (6 pages), amending Policy 28, AIRPORTS, of the Rural/Natural  
7                        Resource Plan to add certain text relating to the new Residential Airpark  
8                        Overlay District.

9        SECTION 3

10               All other Comprehensive Plan provisions that have been adopted by prior ordinance,  
11        which are not expressly amended or repealed herein, shall remain in full force and effect.

12        SECTION 4

13               All applications received prior to the effective date shall be processed in accordance  
14        with ORS 215.427.

15        SECTION 5

16               If any portion of this Ordinance, including the exhibits, shall for any reason be held  
17        invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be  
18        affected thereby and shall remain in full force and effect.

19        SECTION 6

20               The Office of County Counsel and Department of Land Use and Transportation are  
21        authorized to prepare planning documents to reflect the changes adopted under Section 2 of  
22        this Ordinance, including deleting and adding textual material and maps, renumbering pages

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or sections, and making any technical changes not affecting the substance of these amendments as necessary to conform to the Washington County Comprehensive Plan format.

SECTION 7

This Ordinance shall take effect on November 21, 2013.

ENACTED this 22nd day of October, 2013, being the 4th reading and 4th public hearing before the Board of County Commissioners of Washington County, Oregon.

BOARD OF COUNTY COMMISSIONERS  
FOR WASHINGTON COUNTY, OREGON

**ADOPTED**

*Andy Dwyer*  
CHAIRMAN

*Ana D. Nayola*  
RECORDING SECRETARY

READING

PUBLIC HEARING

First September 24, 2013  
Second October 1, 2013  
Third October 15, 2013  
Fourth October 22, 2013  
Fifth \_\_\_\_\_

First September 24, 2013  
Second October 1, 2013 (Engrasment Ordered)  
Third October 15, 2013  
Fourth October 22, 2013  
Fifth \_\_\_\_\_

VOTE: Aye: Terry, Rogers, Malinowski, Duyck

Nay: NONE

Recording Secretary: Ana D. Nayola Date: 10/22/13

Amend the Community Development Code to include a new section (Section 389, Residential Airpark Overlay District):

**389 RESIDENTIAL AIRPARK OVERLAY DISTRICT**

**389-1 Intent and Purpose**

The intent of the Residential Airpark Overlay District is to support the continued operation and vitality of the Sunset Airstrip and the uniqueness of residential airpark-type development. The Residential Airpark Overlay District authorizes uses commonly associated with airstrip use and accessory to residential uses and ensures compatibility with the continued operation of Sunset Airstrip.

**389-2 Applicability**

This Overlay District applies to the rural residential areas adjacent to the Sunset Airstrip identified in Policy 28 of the Rural/Natural Resource Plan. This overlay district allows limited accessory uses commonly associated with adjacent airstrip use. Residential uses are not authorized by the Residential Airpark Overlay District and are subject to the standards of the underlying land use districts.

The provisions of Section 386, Private Use Airport Safety Overlay District, continue to apply to lots and parcels within the Residential Airpark Overlay District that are also designated with the Private Use Airport Safety Overlay District.

Designation of the Residential Airpark Overlay District authorizes Residential Airpark Development (RAD) but does not allow access to the existing private airstrip. Access to the airstrip must be obtained from airstrip owner prior to accessing the airstrip from a RAD.

**389-3 Uses Permitted Through a Type I Procedure**

The use of land and buildings must be in compliance with the underlying land use district as established by the Rural/Natural Resource Plan, and is further limited to the following permitted uses on lands designated as Residential Airpark Overlay District:

A. Residential Airpark Development (RAD) may be authorized to allow for the addition of an individual aircraft hangar and paved tie-down area(s) on the same lot or parcel as an existing detached single family dwelling unit as the primary use. Each lot or parcel may be provided with a hangar and paved tie down area(s). The hangar can be attached or detached to the dwelling unit. No more than one hangar may be allowed on a lot or parcel with an existing dwelling unit. Hangars shall not be rented out.

B. Accessory uses and structures on a lot or parcel with an existing dwelling unit:

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- (1) Aircraft Hangar. An aircraft hangar cannot be used as a residence.
- (2) Aviation fuel storage consistent with all applicable federal, state and local requirements, including the 2010 or most current Oregon Structural Specialty Code and 2010 or most current Oregon Fire Code.

C. Aircraft taxi ways.

**389-4 Prohibited Uses**

Unless authorized by the process outlined for the AF-5 and RR-5 Districts, all commercial aviation activities, including but not limited to flight training, commercial aircraft sales and repairs, commercial fueling operations, are prohibited.

**389-5 Property Owner Notification**

Prior to the issuance of a building permit for a single family dwelling unit the property owner shall submit to the Review Authority a copy of a signed and recorded waiver of the right to remonstrate against customarily accepted airstrip and airpark uses.

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1. Amend Policy 28, AIRPORTS, of the Rural / Natural Resource Plan to add the following text relating to the new Residential Airpark Overlay District set forth in Exhibit 1 of this ordinance:

#### **POLICY 28, AIRPORTS:**

**It is the policy of Washington County to protect the function and economic viability of existing public use airports, while ensuring public safety and compatibility between airport uses and surrounding land uses for public use airports identified by the Oregon Department of Aviation (DOA).**

##### Introduction

Changes in state law passed in 1995 and 1997 require local jurisdictions to adopt an airport planning program for certain airports described in ORS 836.600 et. Seq. The Aeronautics Division of the Oregon Department of Transportation (now the Department of Aviation/DOA) and the Department of Land Conservation and Development together developed Airport Planning Rules (OAR 660-013) and identified certain public and private use airports that would be subject to these rules, based on the parameters set forth in the statute. The DOA manages the list of identified airports, which is subject to amendment through a review and decision process by the state Aviation Board, pursuant to OAR 738-090. Procedures for amendment of the state airport list include public notice procedures. As necessary, the County will initiate Comprehensive Plan amendment proceedings to remain current with DOA list of all airports.

Policy 17 of the Washington County 2020 Transportation Plan identifies and outlines transportation-related policies for the County's three public use airports. The Rural/Natural Resource Plan and the Comprehensive Framework Plan for the Urban Area each outline land use related policies that address only those airports within the Washington County jurisdiction that are identified by the DOA list, with the addition of Skyport, a small public use facility located north of Cornelius.

Policy 28 outlines implementing strategies which, in part, set forth Airport Overlay Districts to regulate safety concerns, land uses and land use compatibility issues on airport properties and within surrounding area. These are structured to address state-recognized airports in two categories, generally referred to herein as Public Use Airports and Private Use Airports. Where the Airport Overlay Districts are concerned, references to airports and airport facilities generally includes heliports as well.

Several other airport facilities exist throughout the County that are not a part of this airport planning program and thus not recognized by the established Airport Overlay Districts. In general, these include personal use airports, heliports and agriculturally related landing strips. With the exception of agriculturally related landing strips, these facilities are regulated as special uses in specified land use districts pursuant to standards outlined in the Community Development Code. Where personal use facilities are concerned, the Community Development Code make a distinction between the terms and heliport, as they are permitted equally in all land use districts.

Outside the UGB, land use districts which allow personal use airports as a special use generally include all rural districts except rural commercial (RCOM) and rural Industrial (RIND); inside the land use district which allow personal use heliports as a special use include the rural residential districts (AF-5, AF-10 and RR-5), and the special industrial overlay district (SID). Urban land use districts that permit personal use

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heliports include all residential districts (R-5, R-6, R-9, R-15, R-24, and R-25+), the commercial and business districts with the exception of the neighborhood commercial district (allowed in OC, CBD, and GC districts), and the industrial district (IND).

Policy 28 allows Residential Airpark Development (RAD) within a Residential Airpark Overlay District. The Residential Airpark Overlay District authorizes aircraft hangars, paved tie down areas and taxiways as accessory uses.

Implementing Strategies

The County will:

- a. Adopt and implement Airport Overlay Districts consistent with LCDC Airport Planning Rules and ORS Chapter 836 in order to:
  1. Protect public use airports by regulating land uses in designated areas surrounding the Portland-Hillsboro and the Stark's Twin Oaks airports based on adopted airport master plans or evidence of each airport's specific level of risk and usage. Prevent the installation of airspace obstructions, additional airport hazards, and ensure the safety of the public and guide compatible land use. Limit uses in specific noise impact and crash hazard areas that have been identified for each specific airport. To a lesser degree, protect the function and economic viability of the Skyport airport, which was not identified pursuant to ORS 836.600 but which the County recognizes as an established privately owned public use airport and thus requiring regulatory measures to promote safety.
  2. Protect privately owned, private use airports identified by the DOA. Each airport's specific level of risk and usage shall be used to guide the continued safe aeronautical access to and from these airports, considering the type of aircraft approved to use the field.
- b. Recognize the Portland-Hillsboro airport as the major aviation facility in Washington County and an airport of regional significance. To promote its operation, the County shall coordinate with the City of Hillsboro to help ensure compatibility with surrounding land uses. The Comprehensive Plan will be updated to reflect any necessary changes resulting from this process.
- c. Work with airport sponsors to coordinate with the Federal Aviation Administration (FAA) in promoting FAA-registered flight patterns and FAA flight behavior regulations in order to protect the interests of County residents living near airports;.
- d. Maintain geographic information system (GIS) mapping of the Airport Overlay Districts and provide timely updates;.
- e. Participate in and encourage the adoption of master plans for all public use airports and, at a minimum, an airport layout plan for the remaining DOA recognized airfields in Washington County;.
- f. Discourage future development of private landing fields when they are in proximity to one another, or where they are near other public airports and potential airspace conflicts are determined to exist by the FAA or the DOA.

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- g. Allow Residential Airpark Development in a Residential Airpark Overlay District.
- h. Ensure that future Residential Airpark Development is compatible with the continued operation of adjacent private airstrips.

Summary Findings and Conclusions

In Washington County, the LCDC Airport Planning Rules apply to the following facilities, which are included in the County's airport planning program.

- 1. Public Use Airports – Publicly Owned:
  - a. Portland-Hillsboro (KHIO)
- 2. Public Use Airports – Privately Owned:
  - a. Stark's Twin Oaks Airpark (7S3)
- 3. Private Use Airports – Privately Owned (recognized by DOA as having 3 or more based aircraft in 1994):
  - a. Apple Valley (1/2 mile S of Buxton) (OR61)
  - b. Meyer's Riverside (2 miles SW of Tigard) (OG34)
  - c. North Plains Gliderport (2 miles W of North Plains) (1OR4)
  - d. Olinger Strip (3 miles NW of Hillsboro) (OR81)
  - e. Providence St. Vincent Medical Center Heliport (2.5 miles NE of Beaverton) (53OR)
  - f. Sunset Airstrip (1/2 mile SW of North Plains) (1OR3)

In addition to the above, the Skyport Airport (4S4) (located 3 miles N of Cornelius) is a privately owned public use facility that was not identified by the DOA because of its relatively small size and low level of activity. However this facility has been included in the County's airport planning program because of its status as a public use airport. The level of protection provided for this facility is similar to that required provided for the privately owned private use airports identified in List 3, above.

The Portland-Hillsboro Airport, owned by the Port of Portland, is located within the city limits of Hillsboro. However land use and noise impact areas associated with this airport affect County lands. The County's planning efforts for rural lands around the Portland-Hillsboro airport therefore will be coordinated with the City of Hillsboro ~~after the current (2003) master plan update process is complete.~~

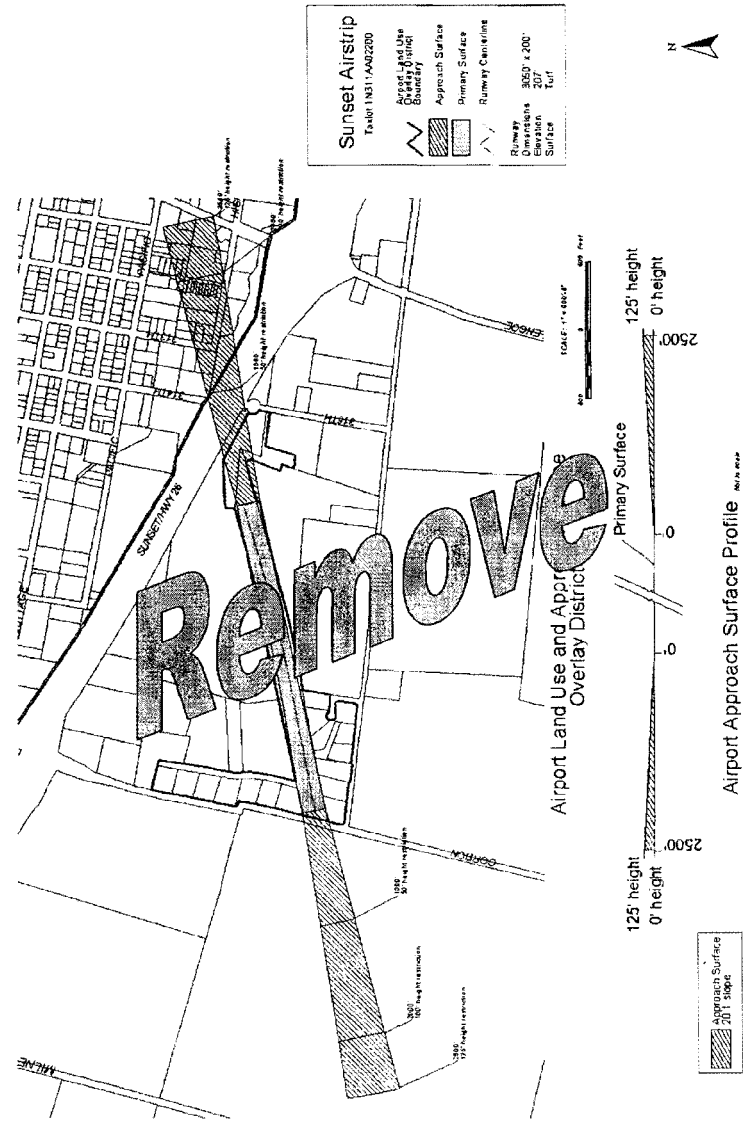
LCDC's Airport Planning Rules prescribe different levels of protection for the listed airports, depending on the nature of use and the size of the facility. In general, state requirements are applied to facilities within the County's jurisdiction through the application of Airport Overlay Districts to regulate land uses. ~~The county utilizes~~ are two sets of overlays: one set applies to Public Use Airports (Portland-Hillsboro and Stark's Twin Oaks), and one set applies to Private Use Airports, including all of those identified in List 3, above. For each airport category (public and private), the overlay district set consists of 1) a land use overlay district to regulate airport related land uses at the airport site, and 2) a safety and/or land use compatibility overlay district to mitigate land uses and height of structures and objects on properties immediately surrounding airports. For the Private Use Airports, the protection of the safety overlay district is limited to graduated height restrictions along approach corridors. For the Public Use Airport (i.e., Stark's Twin Oaks), the second overlay district is more elaborate and mitigates land uses and safety hazards in a broader area surrounding the airport. This overlay includes boundaries to identify areas subject to noise impacts, bird strike hazards, and protection measures for imaginary surfaces for airborne aircraft.

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Policy 28 identifies an additional overlay, the Residential Airpark Overlay District. The Residential Airpark Overlay District applies to certain rural lands adjacent to Sunset Airstrip. This district supports the continued operation of the Sunset Airstrip and the uniqueness of Residential Airpark Development by authorizing limited accessory uses commonly associated with airstrip use. This district also promotes public health and safety in the vicinity of Sunset Airstrip by ensuring that Residential Airpark Development complies with the provisions of the Private Airport Safety Overlay District and the standards of the Residential Airpark Overlay District.

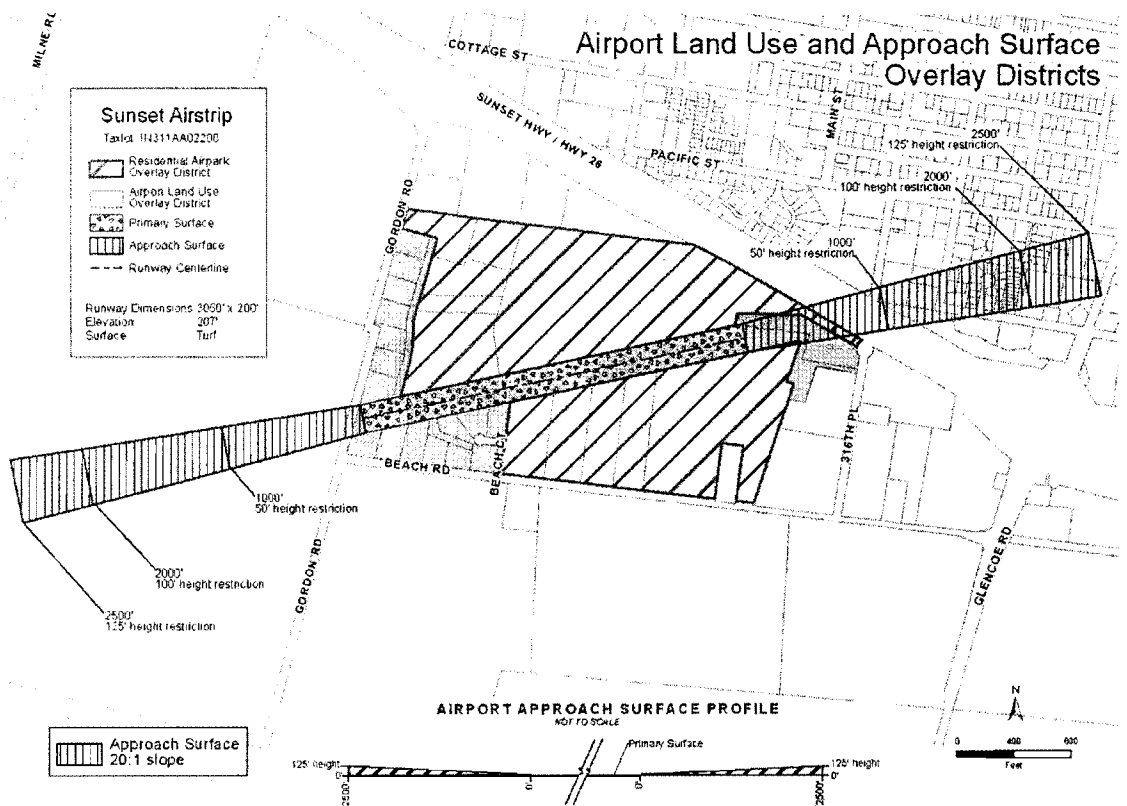
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2. Amend Policy 28, AIRPORTS, of the Rural / Natural Resource Plan to remove the Sunset Airstrip map shown below:



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3. Amend Policy 28, AIRPORTS, of the Rural / Natural Resource Plan to add the Sunset Airstrip map shown below:



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**AGENDA**

**WASHINGTON COUNTY BOARD OF COMMISSIONERS**

**Agenda Category:** Action – Land Use & Transportation (CPO 8)

**Agenda Title:** ADOPT FINDINGS FOR A-ENGROSSED ORDINANCE NO. 772

**Presented by:** Andrew Singelakis, Director of Land Use & Transportation

**SUMMARY:**

A-Engrossed Ordinance No. 772 proposes to add a new section (Section 389) to the Washington County Community Development Code and proposes to amend the Rural/Natural Resource Plan relating to a new Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling. A-Engrossed Ordinance No. 772 is posted on the county's land use ordinance web page at the following link:  
<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm>

Post acknowledgment comprehensive plan amendments are amendments made to the county's Comprehensive Plan after it was acknowledged by the State Department of Land Conservation and Development as complying with the Statewide Planning Goals. ORS 197.615 requires that such amendments be accompanied by findings setting forth the facts and analysis showing that the amendments are consistent with the applicable Statewide Planning Goals, Oregon Revised Statutes, State Administrative Rules and the applicable provisions of Washington County's Comprehensive Plan.

Attached is the Resolution and Order to adopt the findings for A-Engrossed Ordinance No. 772. Prior to the October 22, 2013 hearing, the proposed findings will be provided to the Board, posted on the above land use ordinance web page, and will also be available at the Clerk's desk.

Clerk's Desk Item: Findings (*click to access electronic copy*)

Attachment: Resolution and Order

**DEPARTMENT'S REQUESTED ACTION:**

Adopt the findings for A-Engrossed Ordinance No. 772 and authorize the Chair to sign the Resolution and Order memorializing the action.

**COUNTY ADMINISTRATOR'S RECOMMENDATION:**

I concur with the requested action.

RO 13-106

Agenda Item No.	<b>5.c.</b>
Date:	10/22/13

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IN THE BOARD OF COUNTY COMMISSIONERS  
FOR WASHINGTON COUNTY, OREGON

In the Matter of Adopting ) RESOLUTION AND ORDER  
Legislative Findings in Support )  
of A-Engrossed Ordinance No. 772 ) No. 13-106

This matter having come before the Washington County Board of Commissioners at its meeting of October 22, 2013; and

It appearing to the Board that the findings contained in Exhibit "A" summarize relevant facts and rationales with regard to compliance with the Statewide Planning Goals, Oregon Revised Statutes and Administrative Rules, and Washington County's Comprehensive Plan relating to A-Engrossed Ordinance No. 772; and


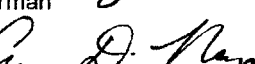

It appearing to the Board that the findings attached as Exhibit "A" constitute appropriate legislative findings with respect to the adopted ordinance; and

It appearing to the Board that the Planning Commission, at the conclusion of its public hearing on September 4, 2013, made a recommendation to the Board, which is in the record and has been reviewed by the Board; and

It appearing to the Board that, in the course of its deliberations, the Board has considered the record which consists of all notices, testimony, staff reports, and correspondence from interested parties, together with a record of the Planning Commission's proceedings, and other items submitted to the Planning Commission and Board regarding this ordinance; it is therefore,

RESOLVED AND ORDERED that the attached findings in Exhibit "A" in support of A-Engrossed Ordinance No. 772 are hereby adopted.

DATED this 22nd day of October, 2013.

		<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	BOARD OF COUNTY COMMISSIONERS FOR WASHINGTON COUNTY, OREGON
	<b>DUYCK</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<b>SCHOUTEN</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Chairman
	<b>MALINOWSKI</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
APPROVED AS TO FORM:	<b>ROGERS</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Recording Secretary
	<b>TERRY</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

County Counsel  
For Washington County, Oregon

## EXHIBIT A

### FINDINGS FOR A-ENGROSSED ORDINANCE NO. 772 AN ORDINANCE AMENDING THE RURAL/NATURAL RESOURCE PLAN ELEMENT OF THE COMPREHENSIVE PLAN AND THE COMMUNITY DEVELOPMENT CODE TO DEVELOP A RESIDENTIAL AIRPARK OVERLAY

October 22, 2013

#### GENERAL FINDINGS

A-Engrossed Ordinance No. 772 adds Section 389 to the Washington County Community Development Code (CDC) to create a Residential Airpark Overlay District. The new district authorizes hangars, tie-downs and taxi-ways when constructed on property with an existing dwelling. A-Engrossed Ordinance No. 772 also amends Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan to add text relating to the Residential Airpark Overlay District and replaces the existing Sunset Airstrip map with a new map that shows the Residential Airpark Overlay District boundaries.

#### Key Ordinance Provisions

- Adds new CDC Section 389 (Residential Airpark Overlay District) that contains regulations governing Residential Airpark Development and authorizes limited accessory uses commonly associated with airstrips when constructed on property with an existing dwelling.
- Allows the designation of certain rural residential properties located on either side of Sunset Airstrip as Residential Airpark Overlay District lands.
- Allows limited accessory airport related uses when constructed on a lot/parcel with an existing dwelling.
- Prohibits commercial aviation activities, except as may be allowed in the Agriculture and Forest (AF-5) and Rural Residential Five Acre Minimum (RR-5) Districts.

Because the ordinance would make changes that do not affect compliance with Oregon's Statewide Planning Goals (Goals), it is not necessary for these findings to address the Goals with respect to each amendment. The Board of County Commissioners (Board) finds that the Goals apply to amendments covered by these findings only to the extent noted in specific responses to individual applicable Goals, and that each amendment complies with the Goals. Goals 15 (Willamette River Greenway), 16 (Estuarine Resources), 17 (Coastal Wetlands), 18 (Beaches and Dunes) and 19 (Ocean Resources) and related Oregon Administrative Rules (OAR) are not addressed because these resources are not located within Washington County.



## **GOAL FINDINGS**

The purpose of the findings in this document is to demonstrate that A-Engrossed Ordinance No. 772 is consistent with Statewide Planning Goals (Goals), ORS and OAR requirements, and the Washington County Comprehensive Plan. The Washington County Comprehensive Plan was adopted to implement the aforementioned planning documents and was acknowledged by the State of Oregon. The county follows the post-acknowledgement plan amendment (PAPA) process to update the Comprehensive Plan with new state and regional regulations as necessary and relies in part upon these prior state review processes to demonstrate compliance with all necessary requirements.

No goal compliance issues, with the exception of Goal 3 (Agricultural Lands), were raised in the hearing proceedings described below. The Department of Land Conservation and Development (DLCD) raised Goal 3 compliance issues prior to the initial public hearing for Ordinance No. 772. DLCD expressed concerns with the ordinance because three parcels designated Exclusive Farm Use (EFU) and one parcel designated Agriculture and Forest (AF-20) District were included in the proposed overlay district. DLCD objected to the expansion of airport-related uses onto these exclusive farm use (resource) lands.

The proposed overlay boundary was revised in A-Engrossed Ordinance No. 772 to exclude the four resource parcels to ensure Goal 3 compliance. Therefore, none of the changes in A-Engrossed Ordinance No. 772 implicate a Goal compliance issue. The following findings are provided to demonstrate ongoing compliance.

### **Goal 1 - Citizen Involvement**

Washington County has an acknowledged citizen involvement program that provides opportunities for citizens and other interested parties to participate in all phases of the planning process. In addition, Chapter X of the County Charter sets forth specific requirements for citizen involvement during review and adoption of land use ordinances. Washington County has utilized these requirements for the adoption of A-Engrossed Ordinance No. 772.

A Type III Public Hearing Notice was mailed on August 14, 2013, prior to the scheduled Planning Commission and Board of Commissioners hearings. This public hearing notice was mailed to all owners of property within 1000 feet of the proposed Residential Airpark Overlay District. On October 4, 2013, a second Type III Public Hearing Notice was mailed to all property owners within 1000 feet of the proposed Residential Airpark Overlay District to advise them of the revised overlay district boundary included in A-Engrossed Ordinance No. 772.

### **Goal 2 - Land Use Planning**

Statewide Planning Goal 2 addresses Land Use Planning by requiring an adequate factual base to support a decision as well as coordination with affected governmental entities. Washington County has an acknowledged land use planning process that provides for the review and update of the various elements of the Comprehensive Plan, which includes documents such as the Rural/Natural Resource Plan, Comprehensive Framework Plan for the Urban Area, Community Development Code, Transportation Plan, Community Plans and Urban Planning Area

Agreements. Washington County utilized this process to adopt A-Engrossed Ordinance No. 772. Notice was coordinated with all affected governmental entities. Comments received from respective entities and agencies regarding this ordinance were considered by the county in the adoption of A-Engrossed Ordinance No. 772 .

**Goal 3 – Agricultural Lands**

Implementing Strategies (a) and (f) in Policy 15 of the Rural/Natural Resource Plan include provisions for the preservation of agricultural lands. Plan compliance with Goal 3 is maintained with the amendments made to the Rural/Natural Resource Plan by A-Engrossed Ordinance No. 772. The adopted Residential Airpark Overlay District does not include agricultural lands in the Exclusive Farm Use (EFU) District or Agriculture and Forest (AF-20) District. The amendments are therefore consistent with Goal 3; OAR Chapter 660, Division 33; and the county’s acknowledged policies for preservation of farmland.

**Goal 9 – Economic Development**

Policies 15, 16, 20 and 21 in the Rural/Natural Resource Plan set out the county’s policies to strengthen the local economy. The Community Development Code contributes to a sound economy by providing standards that facilitate development in an orderly and efficient fashion. The adopted Residential Airpark Overlay District supports the continued operation and vitality of the Sunset Airstrip and the uniqueness of residential airpark-type development.

Plan compliance with Goal 9 is maintained with the amendments made by A-Engrossed Ordinance No.772. The amendments are consistent with the county’s acknowledged policies and strategies for strengthening the local economy as required by Goal 9. This conclusion is supported by the following facts:

The Residential Airpark Overlay District authorizes uses commonly associated with airstrip use and accessory to residential uses and ensures compatibility with the continued operation of Sunset Airstrip.

**Goal 10 - Housing**

Policies 19 and 25 of the Rural/Natural Resource Plan address the provision of housing in the rural areas of the county. The Community Development Code contributes to the provision of adequate housing by establishing standards that facilitate development in an orderly and efficient fashion. A-Engrossed Ordinance No.772 authorizes Residential Airpark Development (RAD) within the adopted overlay district. The new district does not authorize dwelling units, but recognizes the rural residential character of the area surrounding Sunset Airstrip and allows RAD. Therefore Plan compliance with Goal 10 is maintained with the amendments made by A-Engrossed Ordinance No.772.

**Goal 12 - Transportation**

Goal 12 requires the provision and encouragement of a safe, convenient, multi-modal and economic transportation system. Policy 23 of the Rural/Natural Resource Plan, and in particular the Washington County 2020 Transportation Plan, describe the transportation system necessary to accommodate the transportation needs of Washington County through the year 2020. Implementing measures are contained in the 2020 Transportation Plan and the CDC.

The adopted Residential Airpark Overlay District allows RAD, which allows for the construction of a single personal hangar and tie-down(s) on a lot with an existing dwelling unit. Air traffic that may result from RAD (and personal aircraft) is consistent with the 2020 Transportation Plan, as it is a mode of transportation. The Residential Airpark Overlay District is also subject to CDC Section 386 (Private Use Airport Safety Overlay District).

Furthermore, the proposed overlay district and resulting RAD that could result is not anticipated to adversely impact the existing countywide transportation system or result in the need to change the current functional class designations of roads serving the subject area. This is due in part to the fact that the underlying land use districts (AF-5 and RR-5) will be not changed by A-Engrossed Ordinance No. 772. In addition, operation of personal aircraft from any of the approved 18 lots may help to lower the number of Average Daily Trips (ADTs).

Plan compliance with Goal 12 is maintained with the amendments made by A-Engrossed Ordinance No. 772. The amendments are consistent with the county's acknowledged policies and strategies for the provision of transportation facilities and services as required by Goal 12 (the Transportation Planning Rule or TPR, implemented via OAR Chapter 660, Division 12).



October 14, 2013

*Land Use Ordinance Materials  
provided for the October 22, 2013  
Board of Commissioners Meeting*

1. **B-Engrossed Ordinance No. 769 – Comprehensive Plan amendments relating to the Religious Land Use and Institutionalized Persons Act (RLUIPA)**
  - Public Hearing agenda
  - Staff Report
  - B-Engrossed Ordinance No. 769 Findings:
    - Agenda to adopt Ordinance Findings
    - Resolution and Order
    - Ordinance Findings
  
2. **A-Engrossed Ordinance No. 771 – Comprehensive Plan Amendments Related to Implementation of the North Bethany Subarea Plan**
  - Public Hearing agenda
  - Staff Report
  - A-Engrossed Ordinance No. 771 Findings:
    - Agenda to adopt Ordinance Findings
    - Resolution and Order
    - Ordinance Findings
  
3. **A-Engrossed Ordinance No. 772 – Development of a Residential Airpark Overlay District**
  - Public Hearing agenda
  - Staff Report
  - A-Engrossed Ordinance No. 772 Findings:
    - Agenda to adopt Ordinance Findings
    - Resolution and Order
    - Ordinance Findings
  
4. **A-Engrossed Ordinance No. 773 – CDC amendments relating to Home Occupation Standards**
  - Public Hearing agenda
  - Staff Report
  - A-Engrossed Ordinance No. 773 Findings:
    - Agenda to adopt Ordinance Findings
    - Resolution and Order
    - Ordinance Findings

**Department of Land Use & Transportation · Planning and Development Services  
Long Range Planning**

155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072  
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · www.co.washington.or.us

**5. A-Engrossed Ordinance No. 774 – CDC amendments relating to Accessory Dwelling Units**

- Public Hearing agenda
- Staff Report
- A-Engrossed Ordinance No. 774 Findings:
  - Agenda to adopt Ordinance Findings
  - Resolution and Order
  - Ordinance Findings

**6. A-Engrossed Ordinance No. 775 – Comprehensive Plan changes relating to Area 93**

- Public Hearing agenda
- Staff Report
- A-Engrossed Ordinance No. 775 Findings:
  - Agenda to adopt Ordinance Findings
  - Resolution and Order
  - Ordinance Findings

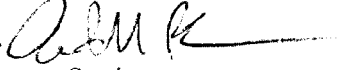
**7. A-Engrossed Ordinance No. 776 – Housekeeping and General Update changes**

- Public Hearing agenda
- Staff Report
- A-Engrossed Ordinance No. 776 Findings:
  - Agenda to adopt Ordinance Findings
  - Resolution and Order
  - Ordinance Findings

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October 14, 2013

To: Washington County Board of Commissioners  
From: Andy Back, Manager   
Planning and Development Services  
Subject: **PROPOSED A-ENGROSSED LAND USE ORDINANCE NO. 772 - An Ordinance amending the Rural/Natural Resource Plan and the Community Development Code to develop a Residential Airpark Overlay District.**

**STAFF REPORT**

**For the October 22, 2013 Board of Commissioners Hearing**  
*(The public hearing will begin no sooner than 6:30 pm)*

**I. STAFF RECOMMENDATION**

Conduct the second of two required public hearings on A-Engrossed Ordinance No. 772. At the conclusion of public testimony, close the hearing and adopt A-Engrossed Ordinance No. 772 and associated findings.

**II. BACKGROUND**

On September 24, 2013 the Board held the first of two public hearings on proposed Ordinance No. 772. After much discussion on the proposed ordinance, the Board continued the hearing to October 1, 2013 to allow additional time to consider submitted testimony and recommendations provided by the Planning Commission and staff.

On October 1, the Board directed engrossment of the ordinance to include changes described in the October 1 staff report and continued the hearing to October 15 and 22, 2013. The Board further directed staff to provide notice of the changes and the schedule for engrossment hearings as required by Chapter X of the County Charter. The Board also directed staff to prepare and mail a Type III Public Hearing Notice to owners of property within 1000 feet of the proposed overlay district. Copies of A-Engrossed Ordinance No. 772, Individual Notice No. 2013-26, and the Type III Public Hearing Notice were provided in the Board's materials for the October 15, 2013 hearing.

**Department of Land Use & Transportation · Planning and Development Services**  
**Long Range Planning**  
155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072  
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · www.co.washington.or.us

On October 15, the Board is scheduled to hold the first of two required public hearings on A-Engrossed Ordinance No. 772. Since this staff report was prepared prior to the October 15 hearing, staff will provide updated information to the Board at the October 22 meeting as appropriate.

A separate action item recommending adoption of the findings for A-Engrossed Ordinance No. 772 by resolution and order has been provided in the meeting materials for the Board's October 22, 2013 hearing.

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By Fax: 503-846-4412

Washington County, Department of Land Use & Transportation  
Planning and Development Services, Long Range Planning  
155 N. First Ave., Suite 350-14  
Hillsboro, OR 97124-3072

Re: Proposed Ordinance No. 772

Chair Duyck and Commissioners:

Please submit this letter to the Washington County Board of Commissioners for its hearing on Oct 22, 2013.

I am Bob Jossy; my wife and I own the land that is adjacent to the Sunset Airstrip that is proposed for application of the new Residential Airpark Overlay District.

We are asking the Washington County Board of Commissioners pass A-Engrossed Ordinance No. 772.

First, after watching this process, I would like to thank each of you for giving the time to serve as a Commissioner.

We have an approved subdivision, Sunset Orchard Estates (18 lots), which surrounds the Sunset Airstrip. What we are trying to create is a subdivision that is cohesive and united in conjunction with the airstrip and the 18 homes already associated with the Airstrip. We want all of the homeowners in the subdivision to be part of the airstrip. We feel this is a proactive step in trying to minimize any possible conflict. In Ordinance No. 772 there is language that states prior to issuance of a building permit for a single family dwelling, the owner must sign and record a waiver not to remonstrate against customarily accepted airstrip and airpark uses. That is a powerful tool for the homeowners that are and will be associated with airstrip. If Ordinance 772 is not passed the present homeowners next to the airstrip will be associated with the airstrip and new homeowners next to the airstrip would not be associated with the airstrip. These new homeowners would not be bound by the regulations of the present Airpark overlay. This situation could result in conflict.

I sent you this statement for the first hearing on 772 and it is still pertinent. Those that oppose ordinance 772 have voiced a concern about air traffic and how this will cause harm to the county. However they have not talked about the amount of traffic 772 would cause. I think we have shown that there would be a very small increase in flights at Sunset Airstrip with the passage of 772. The total may be 4 to 6 flights per day which is only twice the current number of 2 or 3 per day.

There will not be any commercial aviation activities allowed from these new lots in Sunset Orchard Estates. There could be commercial activities on the lots, such as a bed and breakfast or



u-pick farm. It is possible that a plane could fly to this activity and park on that lot, however this is much like an automobile driving to that business just a different form of transportation. The amount of air traffic a business on these lots would create is small and there are very few businesses allowed in the AF5 and RR5 zones. We are asking the Washington County Board of Commissioners pass A-Engrossed Ordinance No. 772 making Sunset Orchard Estates an airstrip community. It seems to me the Board of Commissioners should encourage businesses as long as they fit the community.

There was a suggestion by one opponent that since Washington County does not have an effective code enforcement program, to assure that the future airpark owners comply with the requirements ordinance 772 should require a conditional use process. The county long ago eliminated conditional uses and their periodic review of conditions. Any approved land use must continue to comply with all requirements applicable to it. If there is a violation it must be taken care of by the code enforcement program. We do not agree that the County does not have an effective code enforcement program. We do believe that if the program is not effective now, stating the requirements of 772 in some different fashion would not solve that problem.

One of those opposed stated that this airpark may not be a problem but future residential air parks may be a problem. The chances of there ever being a new airstrip in Washington County with multiple homes associated with it are slim at best.

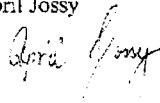
Ordinance 772 only allows four things that cannot already be done in the AF-5 and RR-5 zone. These are: If you have a residence you can have a hanger, have a taxiway for your plane, have a tie down and store aviation fuel. Putting this ordinance over to next year's work program to make it more restrictive would be counterproductive as I do not believe any change would be made to ordinance 772.

We ask the Washington County Board of Commissioners pass A-Engrossed Ordinance No. 772.

Bob Jossy



April Jossy





**Jossy Farms**  
31965 NW Beach Rd.  
Hillsboro, OR 97124  
503-647-5234 Fax # 503-647-0492

**RECEIVED**  
OCT 21 2013  
Long Range Planning  
Land Use & Transportation

To: Washington County From: Bob Jossy  
Dept. of Land Use & Transportation  
Fax #: 503-846-4412 Date: 10-21-2013  
Phone: \_\_\_\_\_ Pages: 3  
Re: Ordinance No. 772 CC: \_\_\_\_\_

Urgent  For Review  Please Comment  Please Reply  Please Recycle

•Comments

Please submit to the Washington  
County Board of Commissioners

Thank you!

4.c.  
#2

26185 NW Evergreen Road  
October 22, 2013

Washington County Commissioners

Re: Ordinance 772

Chair Duyck, Commissioners Malinowski, Rogers, Terry

In spite of significant and meaningful public comment, Ordinance 772 retains many objectionable features.

This ordinance, particularly in combination with the relaxed Home Occupations requirements in Ordinance 773, opens the door to virtually unrestricted aviation impact on community members. There is nothing in Ordinance 772, nor perhaps elsewhere in local law that provides for balancing aviation user activities with the erosion of livability for local residents. In fact, extensive existing legal infrastructure provides high levels of protection for aviation interests, e.g., aviation noise complaints are categorically excluded as invalid by Washington County's noise code. Similarly, Ordinance 772 "ensures that Residential Airpark development [at Sunset Airstrip] is compatible with continued operation of adjacent private airstrips," but doesn't ensure compatibility with operation of non-aviation land uses. The proponents claim that their CC&Rs will provide that compatibility but yet those documents are solely under the control of the airstrip owners and thus hidden from the public view and community input.

The ordinance is very ambiguous and omits important supporting work. For example, there is no reference to any input from the Federal Aviation Administration (FAA), a controlling jurisdiction, in spite of the very old Airport License, 1970 and the Policy reference within the ordinance itself that calls for FAA consultation. This is in contrast with other references to Oregon Department of Aviation and Port of Portland comments. In addition, staff comments (Staff report dated 10/7/13, p 2) about clustering noise generators, i.e., aircraft, has no supporting documentation and, in fact, seems at odds with the Port of Portland's efforts to disperse aviation activity to less "noise sensitive" areas.

I request that, in the interests of transparency, accountability and community involvement, that you reject this ordinance. Ordinance work early in 2014 could provide a balanced approach that might incorporate the following suggestions:

1. Provide clarification and support for the missing references and unsubstantiated claims.
2. Develop a mechanism whereby community members have a voice in the CC&Rs. This opportunity was identified in the Planning Commissions discussion of the ordinance in the September 4<sup>th</sup> meeting.
3. Clarify the existing Health and Human Services code to provide structure to suitable aviation noise control measures.

Thank you,

Henry Oberhelman

Attachment: Comments re Ordinance 772

## Comments re Ordinance 772

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### 1. FAA Comments or reference missing

The ordinance [1] contains references to Oregon Department of Aviation [DOA] and the Port of Portland yet has no comments or reference to the Federal Aviation Administration [FAA]. The FAA clearly has jurisdiction over the airspace above Sunset Airstrip yet their input is not acknowledged. Ordinance 772 increases capacity of the air strip, as measured by the number of hangars and tie-downs, and it is expected that such an increase would call for consultation with the controlling jurisdiction under current airspace doctrine. Further, Policy 28 pp. 2 of 8, as included in the ordinance makes specific reference (paragraph a under implementing strategies) to "coordinate with the FAA. . .)

### 2. Sunset Air Strip license

The existing license is capped at 25 "families with aircraft" and does not allow for the 34 that are now available with the new subdivision. It would seem that this should be addressed in concert with the ordinance, particularly as the FAA is a party to the license.

### 3. Ambiguity and missing definitions

A number of phrases; Commercial Aircraft Activities and Commercial Aviation Activities, are used throughout the material to describe activities under the ordinance. It's true that "commercial aviation activity" is prohibited at Sunset Airstrip. But it's also true that our Codes do not define that phrase. Could an aircraft kit builder buy a lot at or adjacent to this Airstrip and assemble aircraft kits, or a flying club buy such a lot and sponsor sky diving activities, or a bed and breakfast be established in this area catering to fly in lodgers? In his letter [2] Mr. Derr makes the point that "commercial use" is not authorized in the RAOD. . . . (We find no reference to the phrase "commercial use" in the RAOD as presented in [1]) and goes on to comment that he does not think that the meaning of "Commercial Aviation Activities" is unclear. We suggest that Mr. Derr review FAA and Internal Revenue Service writings if there is doubt as the ambiguity of the phrasing.

### 4. Unsubstantiated Claims

It is a practice of the Port of Portland to disperse noise generating aviation training activities into adjacent areas based on their assessment of "Noise Sensitive Areas" By contrast, Ordinance 772 [1] page 2 of 5, Policy 5(Noise) states that ". . . to locate future noise generators (aircraft) near the existing airstrip rather. . . (dispersal)." There is no substantiation for this statement nor is there any notation of the staff involved in this decision, thus the validity of the claim is suspect.

### 5. Aircraft/Hangar numbers vs. aviation activity

There are 16 residential properties at present, the new subdivision adds 18 parcels, all on a total of 94 acres. The new parcels are significantly larger than the exist and with now unlimited tie-downs, it is conservative to expect future aircraft basing to be at levels approaching 100 as discussed in [3]. Further, reference [4] refers to ". . . a number of residents with multiple planes. . ." with the conclusion clearly that the number of based aircraft will exceed one per residence.

A letter from Lawrence R. Derr representing Bob and April Jossy [2] speaks to the number of aircraft and quotes a letter from a recreational pilot; ". . . however, many aircraft a person may own, that person can only fly one at a time" A better analysis would be based on amount of flight activity as driven by number of based aircraft as well as number of pilots living at a particular residence coupled with some recognition of the particular type of aviation activity such as personal flight training. Such an approach is validated by the Integrated Noise Model as used as HIO.

### 6. Home Occupations

Ordinance 773 [5] significantly relaxes restrictions on Type 1 Home Occupations uses, e.g., retail sales now allowed, and permits Bed and Breakfast facilities as Type 1 in AF5 and RR5 districts. This action increases the likelihood of increased air traffic at Sunset Air Strip.

## 8. County wide impact

The ordinance, through amendment through amendment to Policy 28 extends the template effect of the 389 CDC throughout the county with little regard for the concerns or input from local residents. Future air park development can occur with no notice to the public and thus no chance for community involvement.

## 9. Accountability and CC&Rs

The proponents have repeatedly alluded to the CC&Rs of the private organization as being the control mechanism for insuring protection of the community against adverse aviation impacts. These CC&Rs are hidden from the public and subject to no input from affected community members. In the transcript of the WACO planning commission meeting held on September 4, 2010, Mr. McCandless, the President of Roth Development indicated that he would have objection to having those CC&R's specified in the land use regulations regulating this district.

## 10. Balance

Ordinance 772 does two things: sets in place an ordinance for a residential air park specifically for Sunset Air Strip and sets in place a policy amendment to spread this action across the county. Together those actions provide a template for other similar developments and an enabling mechanism for such activity. There is nothing in either statement that provides for balance between aviation user activities and local resident livability erosion. In fact, existing county legal infrastructure provides very high levels of protection for aviation interests, e.g., aviation noise complaints [1] page 2 of 5, Policy 5(Noise) are categorically excluded as valid. As a result county residents are completely vulnerable to both current aviation technology adverse effects as well as the constant development of newer technologies, e.g., wearable personal aircraft, robotic helicopters and personal commuter aircraft.

## 11. Proponents Testimony

The testimony from proponents seems to lie along similar lines: 1.) It refers only to the benefits "I can see only a benefit. . ." [4]. 2.) "I like to fly" [6] [7] We note that these two letters are so close in wording that they appear to be copied from someone's template. 3.) "I like this air strip just as it is." Other proponents comments are addressed elsewhere. Perhaps the most telling comment is from this letter of support [8]: "In summary. . . I hope the text of the RAOD is kept as simple as possible, allowing underlying zoning and HOA regulations to rule the land" (emphasis mine)

## 12. Financial Hardship

The applicant has stated that he will incur "financial hardship" unless the ordinance is passed. Certainly this is a matter of degree that depends not only on the ordinance but more significantly on the price asked per lot and the demand for such lots vs. the loss of the purchaser that are not willing to buy if there were community protecting restrictions.

## 13. What ifs and future casting

The proponents have attempted to denigrate the communities efforts to anticipate the future impacts of the Sunset Air Strip. In part, these forecasts are based on the personal experience of those living around Apple Valley Airport and the Hillsboro Airport as well as the experience of effected residents around the country. More to the point is that "Future Casting", i.e., predicting the future is an essential part of any design or marketing effort. Lacking such effort is assuming that the future will be the same as the past at best and we know that will not happen. In fact the applicant has identified a potential market for the lots in the subdivision and this is indeed predicting the future.

## 14. Noise

Noise from aviation activities is a well-known community impact and there is a large body of work on the measurement and control of its adverse effects. Helicopters are a particularly egregious source of noise through the different characteristics [9] of the noise they generate and their current availability as well as future development of lower cost versions. At this time, Washington County has no mechanism for assessing this noise yet the implementation of 772 is sure to bring more of this adverse effects

15. WACO Planning Commission input

The Washington County Planning Commission voted 4 to 1 to request denial of 772 and at the least this input should be considered rather than denigrated as has happened.

References from public records and sources:

- [1] WACO, "ORD 772 A," 8/15/13.
- [2] L. R. Derr, "Re: Ordinance 772, 10/4/2013," 10/4/13.
- [3] M. Barnes, "Letter, 10/10/13 in opposition," 10/10/13.
- [4] OPA, "Letter, OPA to BOC, support for 772," 10/8/13.
- [5] WACO, "ORD 773, A," 10/22/13.
- [6] E. Chadwick, "Letter of Support to LUT," 9/18/13.
- [7] H. Farr, "Letter of Support, dated 9/28/13," 9/28/13.
- [8] C. Gerber, "Re: Ordinance 772," 9/22/13.
- [9] W. Johnson, "Helicopter Theory," 1994.

4. C.  
# 2

October 21, 2013

TO: WASHINGTON COUNTY BOARD OF COMMISSIONERS

FR: Henry Oberhelman and Pat Wolter, CPO 8 Interim Co-Chairs

RE: Ordinance 772 - Summary of Votes at CPO 8 Meetings

We feel it would be useful to summarize the voting results of two motions regarding Ordinance 772 from the September and October CPO 8 meetings.

At the meeting on September 9, 2013, members eligible to vote upheld the action of the Planning Commission re Ordinance 772 by a unanimous vote of the 28 members present; this decision was presented to the BOC at its September 12<sup>th</sup> meeting.

Following that BOC meeting, proponents of the ordinance approached CPO representatives, both in person and by phone, to express their differing views; subsequently, the decision was made to invite county staff to the October meeting to further discuss the engrossed ordinance.

At the October 14<sup>th</sup> CPO meeting, proponents presented a motion in favor of the engrossed ordinance, which passed by a vote of 12 in favor; 3 opposed; and 3 abstentions. Additionally, there were five people present from other CPOs who, not being members, could not vote. It is important to note that most of the people who had voted to uphold the Planning Commission's decision were not present for this vote.

Here, in another form, is a summary of the voting results on adopting Ordinance 772:

Meeting Date	In Favor	Opposed	Abstentions
September 9, 2013	0	28	0
October 14, 2013	12	3	3

The purpose of this writing is simply to provide perspective, in one place, on voting results on a contentious issue at two CPO 8 meetings. From recent reporting in the local news media, it could be interpreted that the BOC is giving more weight to the results of the second vote. We ask that the Board give appropriate weight to both results.

Thank you,

Henry Oberhelman

Pat Wolter

4.C.

#3



## Washington County Citizen Action Network

*Washington County Citizen Action Network (WC CAN) is a coalition of grassroots advocates (individuals and groups) dedicated to improving quality of life in Washington County by promoting healthy and sustainable communities, social and economic justice, and open and responsive government.*

October 22, 2013

To: Chair Andy Duyck  
Vice Chair Greg Malinowski  
Commissioner Roy Rogers  
Commissioner Dick Schouten  
Commissioner Bob Terry  
cc: LUT Director Andrew Singelakis  
Senior Planner Paul Shafer  
County Counsel Alan Rappleyea

From: Board of Directors, Washington County Citizen Action Network (WC CAN)

Re: A-Engrossed Ordinance 772

On October 20, 2013, with more than a quorum present, we voted unanimously to endorse the testimony previously submitted by Chair Linda Peters regarding A-Engrossed Ordinance 772. In the same motion, we endorse all testimony submitted by Miki Barnes on behalf of Oregon Aviation Watch previously and at the October 22 final hearing.

Our concerns remain:

1. Ambiguity of the Ordinance's intent: does it create a new variety of Overlay District applicable to rural residential properties surrounding private airstrips, or is it a one-off Code change benefiting a set of contiguous properties in single ownership? If the latter, it creates the appearance of cronyism and favoritism on the part of the Board.
2. Likelihood that as worded, the Ordinance invites future commercialisation and significant increase in air traffic at the Sunset Airpark: Surrounding properties remain free to develop home occupations facilitated by their access to the airstrip. Examples could include fly-in B&Bs doing regular business promoting wine country tours and other "Agri-tourism" commercial offerings; Coommissioner Schouten cites other possibilities in his recent letter to your Board.



3. Inappropriateness of the County "outsourcing" protection against significant increases in air traffic -- and consequent decreases in air quality -- to existing and proposed CC&Rs for the properties to which the Residential Airpark Overlay District would immediately apply.

4. Legal problems cited by Oregon Aviation Watch which call into question assumptions and evidence upon which A-Engrossed Ordinance #772 rests, leaving it ripe for legal challenge if adopted.

Respectfully submitted,

Linda Peters  
Chair, WC CAN

4.c.  
#5

**Sean T. Malone**

**Attorney at Law**

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Suite 200-G  
Eugene, OR 97401

Tel. (303) 859-0403  
Fax (650) 471-7366  
seanmalone8@hotmail.com

Via hand delivery

October 22, 2013

Washington County Board of Commissioners  
155 N. First Avenue  
Hillsboro OR 97124-3072, Ste 300  
(503) 846-8681

Re: Oregon Aviation Watch Comments on Proposed Ordinance No. 772

Dear Washington County Board of Commissioners,

On behalf of Oregon Aviation Watch, please accept these comments on proposed Ordinance No. 772. OAW respectfully requests that the County reject Ordinance No. 772 because the Ordinance, as it currently stands, violates state law, is inconsistent with comprehensive plan provisions, and fails to demonstrate compliance with applicable statewide planning goals.

Ordinance No. 772 violates ORS 836.608

Sunset Airport is a private use airport, and is, therefore, governed by state law according to ORS 836.608(2)<sup>1</sup>:

*A local government shall recognize in its planning documents the location of private-use airports and privately owned public-use airports not listed under ORS 836.610(3) if the airport was the base for three or more aircraft, as shown in the records of Department of Transportation, on December 31, 1994. Local planning documents shall establish a boundary showing areas in airport ownership, or subject to long-term lease, that are developed or committed to airport uses described in ORS 836.616(2). Areas committed to airport uses shall include those areas identified by the airport owner that the local*

<sup>1</sup> The county apparently relies on the policy contained in ORS 836.600 because its proposed amendment to the development code to "support the continued operation and vitality" of the Sunset Airstrip is drawn directly from ORS 836.600.

*government determines can be reasonably expected to be devoted to airport uses allowed under ORS 836.616(2).*

(emphasis added). According to LUBA:

[t]he geographic scope of an “airport described in subsection (2)” of ORS 836.608 is defined by the boundary that local governments apply in their planning documents.” That boundary “includes both areas developed with airport uses and areas committed to airport uses, *i.e.*, areas identified by the airport owner that the local government determines “can be reasonably expected to be devoted to airport uses[.]” Areas outside the airport boundary, petitioners argue, are not planned for airport uses and not protected for airport usage under ORS 836.608(2).

*NAAVE v. Washington County*, 2009-019. Here, the proposed residential airpark overlay district is an area that “can be reasonably expected to be devoted to airport uses.” For example, “[t]he Overlay District applies to the rural residential areas adjacent to the Sunset Airstrip” and the “Residential Airpark Overlay District authorizes uses commonly associated with airstrip use....” Ordinance No. 772 allows for residential airpark development, including individual aircraft hangars and paved tie-down areas, and taxiways. Those areas “expected to be devoted to airport uses,” however, must fall within the existing airport boundary, as contemplated in ORS 836.608. The uses contemplated by Ordinance No. 772 must occur within the airport boundary, not an area adjacent to it. The hangars, tie-downs, and taxiways allowed by the proposed overlay district may be located only “at an airport” described in ORS 836.608(2), meaning within the airport boundary established under ORS 836.608.

In *NAAVE*, LUBA determined that “[n]othing cited to us in the statute suggests that existing airport uses or structures may be relocated outside the established airport boundaries *without first amending those boundaries.*” (emphasis added). LUBA went on to find that:

While the “fourth sentence of ORS 836.608(3)(a) does exempt additional hangars and tie-downs from the review criteria in ORS 836.608(4) that would otherwise apply to new or expanded uses, *but exempting such airport uses from those criteria does not necessarily mean an additional hangar may be sited outside the established airport boundary.* To the contrary, as petitioners point out, such hangars are permitted only “at an airport described in” ORS 836.608(2), which appears to restrict the location of the hangar to a geographic area that fits that description. The fourth sentence operates only if the proposed location can accurately be described as “at an airport” described in ORS 836.608(2), as that phrase is used in ORS 836.08(3)(a).

(emphasis added). Here, the County must first amend the airport boundary as that is defined in ORS 836.608(2), and then, if it chooses to do so, create an additional recreational airpark overlay district that is clearly devoted to airport uses. In *NAAVE*, LUBA concluded that:

We agree with petitioners that ORS 836.608(2) requires the local government to establish an airport “boundary” that has the effect of determining the geographic extent of the “airport,” based on areas that are developed or committed to airport uses. Committed areas include areas “identified by the airport owner that the local government determines can be reasonably expected to be devoted to airport uses allowed under ORS 836.616(2).” *By implication, areas outside the boundary are those that are not reasonably expected to be devoted to airport uses allowed under ORS 836.616(2).*

(emphasis added). Because the new district is devoted to airport use, it can only occur within the boundary of the airport. Thus, the Ordinance No. 772 is fundamentally flawed because the airport boundary has not been amended.

Proposed Ordinance No. 772 is Inconsistent with Comprehensive Plan Policies

In amending an acknowledged comprehensive plan, a local government is required by statute to assure the plan as amended complies with the statewide planning goal and the amendment does not create a conflict in the unamended portions of the acknowledged comprehensive plan and land use regulations. ORS 197.175(2); 197.835(4); *Von Lubken v. Hood River County*, 22 Or LUBA 307 (1991); *1000 Friends of Oregon v. Jackson County*, 79 Or App 93, 98, 718 P2d 753 (1987). Here, Rural Natural Resource Policy 4 provides: “It is the policy of Washington County to maintain or improve existing air quality.” Here, the residential airpark overlay district would allow additional aviation activity, and evidence in the record demonstrates that increased aviation leads to increased air pollution, including lead pollution (a neurotoxin) and particulate matter pollution. The County has not yet explained how proposed Ordinance No. 772 maintains or improves air quality. Simply put, increased air pollution does not maintain or improve existing air quality.

Proposed Ordinance No. 772 is inconsistent with Statewide Planning Goal 6

The County has not yet set forth the ordinance’s consistency with the statewide planning goals, as is required when a local government pursues a post-acknowledgment plan amendment. See *Von Lubken v. Hood River County*, 22 Or LUBA 307 (1991). Goal 6 provides:

To maintain and improve the quality of the air, water, and land resources of the state.

All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. With respect to the air, water and land resources of the applicable air sheds and river basin described or included in the state environmental quality statutes, rules, standards and implementation plans, such discharges shall not (1) exceed the carrying capacity of such resources, considering long range needs; (2) degrade such resources; or (3) threaten the availability of such resources.

The County has not yet demonstrated how increasing the amount of hangars, tie-downs, and, presumably, aviation activity over the skies of Washington County maintains, improves, or does not degrade the quality of the air, water, and land resources.

The County must make findings re compliance with Comprehensive Plan and Goal 6

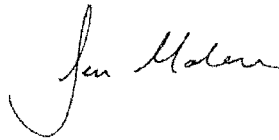
Here, the County must make adequate findings to support its decision: “[a]lthough no statute or appellate court case we are aware of specifically requires that all legislative comprehensive plan amendments be supported by findings, findings may nevertheless be required to allow this Board to determine whether the amended plan remains internally consistent with the statewide planning goals.” *Von Lubken v. Hood river County*, 22 Or LUBA 307 (1991). The county has not shown sufficient findings to support Ordinance No. 772 as it relates to the county’s plan and the applicable statewide planning goals.

Conclusion

Unless the County first amends the airport boundary, Ordinance No. 772 violates ORS 836.608. Ordinance No. 772 similarly violates statewide planning goal 6 and comprehensive plan provisions. Finally, though the County is proposing a legislative decision, the County must still make adequate findings to ensure consistency with statewide planning goals and the existing comprehensive plan. Because of these flaws, the County should reject proposed Ordinance No. 772. If the County presses forward with this ordinance at this time, then it will likely draw an appeal to the Land Use Board of Appeals.

Thank you for this opportunity to submit these comments on behalf of Oregon Aviation Watch.

Respectfully,



Sean T. Malone  
Attorney for Oregon Aviation Watch

cc: client

4. C.  
# 6  
(Ellen Saunders)

October 22, 2013

Subject ORD 772

To: Chair Andy Duyck  
Vice Chair Greg Malinowski  
Commissioner Roy Rogers  
Commissioner Dick Schouten  
Commissioner Bob Terry  
cc: LUT Director Andrew Singelakis  
Senior Planner Paul Shafer  
County Counsel Alan Rappleyea

Home Occupancy Type I are permitted, through a Type 1 Procedure in AF5 and RR5 land use districts.

Ordinance 773 now allows retail sales in Type I Home Occupancies, allows limited business related delivery (See ordinance for exact language) and allows up to 5 on-site customers per day.

These permitted activities show how much expansion could occur if ORD 772 is allowed. These activities would be in direct conflict with the Rural/Natural Resources Plans.

As I have already mentioned in previous testimony this Ordinance 772 constitute a taking from local residence. Since the air traffic from Sunset Airpark would be flying lower than 500 feet in many cases the local noise and lead gas plume will substantially diminish the property values, health, safety and livability of the local area.

To quoit the work of Oregon Aviation Watch President Miki Barnes:

**Possible Takings**

The 1998 Letter of Understanding between the FAA and Roth Development states that "Pilots of aircraft using the Sunset Airport shall remain at or below 500 ft. AGL while in the Hillsboro Class D surface area." (See attached). Hillsboro Airport Class D airspace extends outward in a 4.2 mile radius of the Hillsboro Airport and includes the most densely populated areas over North Plains.

It is worth noting that this FAA directive may well constitute a taking, as individual property owners own the airspace 500 feet above their properties. A case in point is:

**Aaron v. United States (1963)** -- In this action for compensation for the taking of an avigation easement, plaintiffs were entitled to compensation for an easement only with respect to overflights below 500 feet above ground. Plaintiffs lived in an "uncongested" area and the public ("navigable") airspace in uncongested areas commences at 500 feet altitude according to federal aviation regulations. (U.S. Ct. Claims; 160 Ct.Cl. 295, 311 F2d 798)<sup>ii</sup>.

It is important to note in this regard that there are legal cases in which aircraft activity has been determined to be a taking, even in cases where it flies over private property above 500 feet. See *Thornburg v. Port of Portland*.<sup>iii</sup>

On July 13, 2006, in *McCarran International Airport v. Sisolak*, a property owner was awarded over \$16 Million subsequent to a Nevada Supreme Court ruling that, property owners have a right to airspace up to 500 feet and that the use of the airspace is subject to, and subordinate to, the property owner's interests...the court found that the height ordinances caused a taking of the owner's property, because they 'exclude the owners from using their property and, instead, allow aircraft to exclusively use the airspace'... The court based the "use of the airspace" on evidence in the record that aircraft flew within 500 feet of the ground, even though there was no evidence on the frequency or history of such flights. (Noise was not an issue in this case.)...Sisolak also rejected the argument that the Airport held an avigation easement that it had secured in exchange for land use approvals. The Court found that the easement was an unconstitutional exaction, because there was no reasonable nexus between the approval sought and the avigation easement. '[R]equiring an uncompensated easement as a condition to development is improper and cannot be used by the County as a defense to the taking of the landowner's airspace without compensation.'<sup>iv</sup>

The Apple Valley LUBA decision further points to CDC 430-7 as the relevant code in those cases where a "Personal use airport or heliport, including associated hangers, maintenance and service facilities, may be permitted as a special use in certain districts outside of the airport overlay district..."<sup>v</sup> One of the standards involves securing FAA, ODA and DEQ approval, none of which is formally on the record in the case of the Sunset Airpark's proposed RAOD proposal."

## **Rural/Natural Resources Plan**

### **NATURAL AND CULTURAL SETTING**

#### **POLICY 4, AIR QUALITY:**

**It is the policy of Washington County to maintain or improve existing air quality.**

Implementing Strategies

The County will:

- 
- a. Support effective controls on air pollutant emissions and their adverse impacts.
  - b. Work with the State Department of Environmental Quality and the Metropolitan Service District to develop State and Regional air quality programs.
  - c. Assure that land use decisions comply with any applicable Department of Environmental Quality Standards.

#### Summary Findings and Conclusions

The majority of air quality problems in Washington County are the result of activities within the urbanized area in the eastern half of the County which is in the Portland Air Quality Maintenance Area (AQMA). The AQMA contains significant area that is not within the Metropolitan Urban Growth Boundary. The air in this area sometimes exceeds Federal standards for levels of ozone, carbon monoxide and total suspended particulates.

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Washington County Rural/Natural Resource Plan Element Policy 4, Air Quality Page 1

#### **POLICY 5, NOISE:**

**It is the policy of Washington County to support efforts to control noise and attempt to limit the adverse impacts of noise.**

#### Implementing Strategies

The County will:

- a. Support control of excessive or unnecessary noise and efforts to limit its adverse impacts.
- b. Assure that land use decisions will be in compliance with the applicable Department of Environmental Quality Noise Standards.
- c. Evaluate existing noise problems in coordination with the Department of Environmental Quality.
- d. Discourage the location of service facilities such as schools, hospitals, nursing homes, public assembly and high-density residential development within the year 2000 LDN 55 and LDN 60 contours.
- e. Coordinate with the Department of Environmental Quality, Oregon



Department of Transportation and the Port of Portland when establishing land use designations near airports.

#### Summary Findings and Conclusions

Noise can be a significant hazard to health, more serious than usually recognized. Noise is defined as unwanted sound and can result in loss of sleep, general discomfort and a reduction in the quality of life. Source reduction, buffering, and careful location of noise producing and noise-sensitive activities are important methods of minimizing noise-related problems.

I have also spoken in previous testimony and I reiterate here that this Airpark sits in the middle of agricultural land. The expansion of this facility will severely imping on the rural uses of nearby land. This again constitutes a taking. Code states new uses are not allowed if they seriously interfere with already established uses. There are many riding stables within the airparks takeoff and landing patterns. As an equestrian I can attest to the possible harm that can be caused by aviation noise.

Again I quote Oregon Aviation Watch President Miki Barnes:

#### **“Sunset Airpark Restricts Rather Than Protects Traditional Farming Practices**

Though the location of the Sunset Airpark is in a rural area, a review of the Roth Development, Inc. Declaration of Covenant and Restrictions” that apply to the airpark Air Acres Home Owners Association reveals that the current rules place significant restrictions on current farm practices. For instance, Article II of this document entitled Residential Use Only allows outbuildings such as garages, greenhouses, guest houses, servants' quarters and airplane hangars, yet prohibits building a stable. ....”

Under Article III: Prohibited Uses includes the following, “No poultry or other fowl, livestock, horses, or other animals, except dogs, cats, and the usual household pets, shall be kept or permitted upon said premises...”

Mr. Jossy and a number of current Sunset Airpark residents seem much more invested in growing the airport than they are in preserving farmland. In fact, various residents testified that they want future residents to be pilots. In addition, Jossy lobbied to include three Exclusive Farm Use (EFU) parcels and one Agricultural and Forest District (AF-20) parcel in the airport overlay district rather than preserve it for farming.”

Respectfully submitted by,  
Ellen Saunders  
47950 NW Dingheiser Rd  
Manning OR 97125

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<sup>1</sup> Federal Register Volume 78, Number 101 (Friday, May 24, 2013). Pages 31395-31397. Available online at <http://www.gpo.gov/fdsys/pkg/FR-2013-05-24/html/2013-12314.htm>.

<sup>2</sup> Beckman, Howard. Taking of Property: Avigation Easements and Zoning Regulations. Aaron v. U.S. (1963) Airport Noise Law. Website: <http://airportnoiselaw.org/takings.html>.

<sup>3</sup> Ibid. Thornburg v. Port of Portland (1963). Available at <http://airportnoiselaw.org/cases/thorn-1.html>

<sup>4</sup> Las Vegas Height Ordinances Held to Be a Taking of Private Property. Airport Attorneys.com. A Practice of Kaplan, Kirsch and Rockwell, LLP. (7/31/06) Available at [http://www.kaplankirsch.com/files/Airport\\_Law\\_Alert\\_July\\_2006.pdf](http://www.kaplankirsch.com/files/Airport_Law_Alert_July_2006.pdf).

<sup>5</sup> LUBA No. 2009-019 Michael L. Applebee and Jennie M. Applebee vs. Washington County and Neighbors Against Apple Valley Expansion, et al. Final Opinion and Order. (6/16/09) Available at <http://www.oregon.gov/LUBA/docs/opinions/2009/06-09/09019.pdf>. Pg. 18.

<sup>6</sup> Declaration of Covenants and Restrictions Running With Land in North Plains, Washington County, Oregon. Roth Development, Inc. (8/14/71).

4. C .  
# 7

Good Evening

My name is Robert Braze, I live at 264 SE 33<sup>rd</sup> Hillsboro, Oregon. Thank you for the opportunity to speak this evening.

After a review of previous testimony concerning the proposed ordinance No. 772, I wish to clear up some concerns. Since beginning operations more than two decades ago, Sunset Airpark has been an exemplary model of a successful private use airport.

Sunset Airpark operates within Federal Class D airspace controlled by the Air Traffic Control Tower located at the Hillsboro Airport. Operating under a letter of agreement with ATC, the pilots based at this airfield are required to inform the tower of their arrival and departure. This is to allow ATC to do their job and separate aircraft operating within this airspace.

The Code of Federal regulations, Title 14, Part 49 does not limit the number or frequency of aircraft using public or private use airports. All aircraft are required to comply with the regulations contained within these codes.

As a retired Federal Aviation Administration, Aviation Safety Inspector, I served almost 25 years at the local Flight Standards District Office here in Hillsboro. As an Operations Inspector I am intimately familiar with both General aviation and Air Carrier operations.

One of my primary duties as an Operations Inspector was in compliance and enforcement of the Federal Aviation Regulations. Should a Pilot Deviation be filed by Air Traffic Control against an aircraft operating within its jurisdiction or a public complaint be received, it is the responsibility of the Flight Standards District Office to conduct a federal investigation.

During my tenure at the local FAA district office I am aware of no investigations or violations of the FAR's with regard to the pilots operating at Sunset Airpark. In addition, compliance with the letter of agreement with the Hillsboro air traffic control tower has not been a problem.

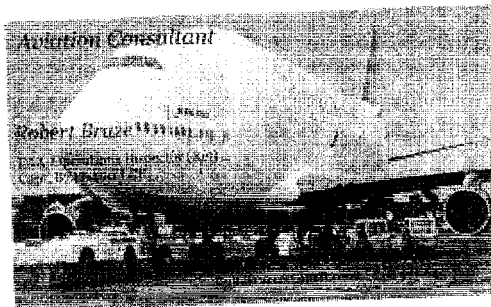
The citizens of Washington County should be pleased that the board has not failed in their attention to detail in this matter and that their final decision will be in the best interest of their constituency.

Prohibiting commercial flight activity within a Residential Airpark Overlay District would ensure that the current Airpark's operational status would remain unchanged. Defining hangar size, tie down space and taxiways currently in use at Sunset Airpark should encourage future success with the addition of the proposed lots.

The homeowners and pilots along with the community surrounding the Sunset Airpark have established a working rapport. Operational safety has not been an issue over the decades and there is no reason to assume it will change.

I recommend passage of the Ordinance and with due diligence by the board it will be the standard by which future residential airpark overlay districts will be judged.

Thank you.



MIKE  
BARNES 4.C.  
#8

Oregon Aviation Watch  
PO Box 838  
Banks, Oregon 97106  
503-324-0291

October 22, 2013

Washington County Board of Commissioners  
155 N. First Ave.  
Hillsboro, Oregon 97124

Re: 10/22/13 Washington County Work Session and Board of Commissioner's Hearing Urging  
the Rejection of Ordinance 772.

Dear Commissioners:

Sunset Airpark was accorded private airport status by the state simply because there were 3 or more aircraft based at that site in 1994. The airpark accepted this designation even though it is now, and has always been, a personal use airpark. The airpark could have lobbied against this designation both on a state and local level, but opted not to, presumably because it aspired to engage in commercial activities at some future date.

Bob Jossy and members of the airpark homeowner's association have now decided that they no longer want to be bound by state and county laws that govern Private Use Airport Districts in Oregon and Washington County. Though they want to retain the rights accorded this designation accords, they want to be absolved from abiding by the laws that govern it. As a result, they have appealed to the county, via Ordinance No. 772, to establish an entirely new set of laws specific to their particular circumstances. If the county commissioners support this effort by passing and codifying the proposed ordinance, it will inevitably open the door for other individuals and airports in Washington County to build aviation related structures on properties zoned for residential uses. Commensurate legal challenges are likely to follow – challenges that can proactively be avoided by rejecting this ordinance.

#### **Location of Airport Structures Off Airport Property**

There are striking parallels between the Apple Valley Airport multi-year legal struggle and the current Ordinance No. 772 Sunset Airpark expansion proposal, especially insofar as Mike and Jennie Applebee owned two adjacent properties one of which, the Apple Valley airstrip, was designated as a Private Use Airport Overlay District while the adjoining parcel included a residential dwelling and an agricultural outbuilding. Similarly, Sunset Airpark is also a Private Use Airport District which is located next to properties zoned for residential uses.

A review of the Final Opinion and Orders in NAAVE vs. Michael and Jennie Applebee LUBA No. 2007-001<sup>1</sup> and LUBA No. 2009-019<sup>2</sup>, reveals that in promoting Ordinance No. 772, Washington County, Roth Development, Bob Jossy, and Sunset Airpark residents are surreptitiously attempting to circumvent existing state statute and established Land Use Board of Appeals (LUBA) precedent. They are essentially trying to create a situation in which property owners can build hangars on their residential parcels outside of an established airport district. This is a dangerous precedent that could potentially trigger countywide reverberations. In addition, Ordinance No. 772 includes no protections whatsoever for neighboring property owners.

A letter submitted by Bob Jossy to the board of commissioners for the 9/24/13 hearing acknowledges that airport activity can be a source of conflict.<sup>3</sup>

Those promoting the Sunset Airpark expansion have the option of using runways and storing aircraft at established airports. There are already more than 450 general aviation airports in Oregon alone. As noted by several pilots during the hearings on this ordinance, a pilot can only fly one aircraft at a time,<sup>4</sup> an obvious fact that mitigates the need to store multiple aircraft on a residential property that is not zoned for airport use.

This ordinance is designed solely to benefit the financial interests and promote the personal development whims of the Jossy family and Roth Development Inc. in conjunction with the personal and financial interests of current and future residents of the Sunset Airpark. Though the county claims there are no noise complaints on record related to the Sunset Airpark, a review of the county file indicates that this is expected to change if the expansion is approved. A letter dated 4/15/09 from Melinda Fahey with the Oregon Department of Aviation (ODA) to Naomi Vogel-Beattie in the Washington County Land Use Division illustrates this point. After a preliminary plat review for the then 15-lot subdivision proposal, she noted that "The ODA recommends the county incorporate a "Declaration of Anticipated Noise" to the adjacent homes." Attached to her correspondence was a copy of a sample noise easement. (See attached)

The ongoing legal conflicts, numerous noise complaints, and concerns about aviation generated environmental impacts, including lead and other pollutants, further attest to the contentious nature of airport expansions and development in Washington County.

#### **A Review of LUBA No. 2009-019 Re: the Apple Valley Airport**

In the 2009 LUBA case cited above, Mike and Jennie Applebee, the owners of the Apple Valley airstrip and the adjoining residential property located next to the airstrip, sought development approval from Washington County to construct three aviation related structures on their residential property adjoining the existing boundary of the private use airport overlay district. Their proposal included the following:

- 1) a new 17,000 square foot aircraft hangar
- 2) a 36,500 square foot concrete helicopter landing pad
- 3) an 18,500 square foot gravel vehicle and aircraft parking/staging area.

In a 1/5/09 decision, Washington County Hearings Officer Pam Beery denied the helicopter landing pad and staging area request because both were located outside the airport overlay district. She did, however, approve the hangar though the proposed location for that structure was also outside the airport overlay district. Her rationale was that she viewed the hangar as a replacement for a barn that was currently located on the property but was being used as a hangar.<sup>5</sup>

Due to a number of concerns related to Beery's final ruling, Neighbors Against Apple Valley Airport Expansion (NAAVE) appealed to LUBA.

LUBA puzzled over Beery's decision to approve a hangar off of airport property and ultimately overturned her ruling on this particular issue,

It is not clear to us why the hearings officer believed that ORS 836.608(3)(a) authorizes location of the proposed hangar outside the overlay district and existing airport boundary. Nothing cited to us in the statute suggests that existing airport uses or structures may be

located outside the established airport boundaries without first amending these boundaries.<sup>6</sup>

...ORS 836.608(2) requires the local government to establish an airport "boundary" that has the effect of determining the geographic extent of the "airport" based on areas that are developed or committed to airport uses. Committed areas include areas "identified by the airport owner that the local government determines can be reasonably expected to be devoted to airport uses allowed under ORS 836.616(2)." By implication, areas outside the boundary are those that are not reasonably expected to be devoted to airport uses allowed under ORS 836.616(2). ORS 836.616(2)(a) lists "aircraft hangars" as an airport use that is allowed "within airport boundaries." That strongly suggests that the boundary of an "airport" is intended to include areas developed with or reasonably expected to be devoted to airport uses, including hangars, and conversely that airport uses including hangars are intended to be located within airport boundaries.

Moreover, that view is consistent with ORS 836.605(2), which defines "airports" as used in ORS 836.600 to 836.630 to mean "the strip of land used for taking off and landing aircraft, together with all adjacent land used in 1994 in connection with aircraft landing or taking off from the strip of land, including but not limited to land used for the existing commercial and recreational airport uses and activities as of December 31, 1994."<sup>7</sup>

...the general thrust of ORS 836.616 is that uses associated with an airport, including hangars, may be approved within airport boundaries. Nothing cited to us in ORS 836.616 suggests that any airport use can be located outside airport boundaries.<sup>8</sup>

There is simply nothing in the text or context of the statute that suggests that it is permissible to establish or relocate airport uses such as hangars outside delineated airport boundaries, and several strong textual indications that the legislature intended airport uses, including hangars, to be located within airport boundaries.<sup>9</sup>

The LUBA decision then offers an explanation on how to proceed, if the Applebee's wish to construct a hangar,

Approval of the proposed hangar will require either an expansion of the overlay district or an amended application to locate the proposed hangar within the existing overlay district.<sup>10</sup>

At no point in their decision did LUBA suggest creating an entirely new zone such as the Residential Airport Overlay District (RAOD) currently under discussion in regards to the Sunset Airpark. It is also worth noting that residential airparks are not authorized uses allowed within airport boundaries under either ORS 836.616 (2)<sup>11</sup> or CDC 385. Indeed, 385-3(A) expressly states that "customary and usual aviation-related activities" do not include residential, commercial, industrial, manufacturing and other uses.

#### **2009 Sunset Airpark Airport Overlay District Expansion Attempt Denied by DLCD**

When the county approved the Sunset Residential Airpark airport overlay district in 2003, it did not include Mr. and Mrs. Jossy's properties. The county record, however, does include documentation on an attempt that was made to amend the Sunset airport overlay boundaries to include Mr. Jossy's properties - Sunset Orchards Estates along with three Exclusive Farm Use (EFU) parcels and one Agricultural and Forest District (AF-20) parcel. Towards this end, in 2009

the Washington County Board authorized Ordinance No. 721, an ordinance that was eventually denied by the county after the Oregon Department of Land Conservation and Development (DCLC) voiced opposition to the expansion of the Sunset Airstrip overlay district boundary.

#### **Sunset Airpark – Personal Use**

Documentation in the record describes Sunset Airpark as a "personal use" airport. Included in the county file on Ordinance 772 was a copy of the Roth Development, Inc. Declaration of Covenant and Restrictions applying to the Sunset Residential Airpark Air Acres Home Owners Association. Article II of this document, entitled Residential Use Only, states, "Each building site, except the airport and taxiway, shall be used and occupied solely for private residential purposes. The covenant also disallows buildings erected "for any business, manufacturing or commercial enterprise of any nature..." (See attached)

Additional evidence of this "personal use" designation is found in a 10/01/98 Letter of Agreement signed by then FAA Hillsboro Airport Tower Facility Manager, Ric Chisholm, and 3 officers from Roth Development Inc. This document states that "Sunset Airport is a personal-use airport used exclusively by the owners, residents and guests of the properties adjoining the Sunset Airport. Sunset Airport is not open to the general public or other pilots." (See attached)

LUBA provided an explanation of the relationship between the "personal use" and the "Private Use Airport" designation as used in Washington County Code. This terminology applies to both Apple Valley and the Sunset Airpark.

CDC 385, the Private Use Airport Overlay District is applied to and governs certain personal use airports in the county that existed on a certain date, had certain characteristics, and are recognized under ORS 836.608(2)...Under the county's scheme, identifying what standards apply to a proposed new hangar that is accessory to a personal use airport would seem to depend on whether the hangar is located within a Private Use Airport Overlay District or not...we are not cited to any authority suggesting that it is permissible to apply CDC 385 standards to airport development on land outside the overlay district, instead of CDC 344 standards that would otherwise apply.<sup>12</sup>

#### **Commercial Activity at Sunset Airpark Violates Law**

The dates recorded in the above documents provide conclusive and irrefutable evidence that the only uses permitted at the Sunset Airpark are exclusively for the personal use of residents, owners and occasional guests. This is critical information on the issue of authorized uses for this airport. Though Sunset Airpark was included on the list of state and county protected private use facilities, per ORS 836.608(3)(a) that protection is extended only to those uses that existed anytime in 1996.<sup>13</sup> CDC 385-3 reflects state law, "Operation of the following uses [see footnote 11 for a list of the allowed uses as per state statute and CDC 385-3] may be continued at their current levels as of the effective date of this ordinance (November 27, 2003) upon demonstration that the use existed at the airport at any time during 1996." As stated in the LUBA 2007-001 ruling,

ORS 836.608(3)(b) provides that "[a] local government may authorize the establishment of a new use described in ORS 836.616(2) at [a listed airport] following a public hearing on the use." ORS 836.608(5) sets out the standards that apply to new uses, which generally require consideration of impacts on public facilities and surrounding uses.<sup>14</sup>



This calls into question the cavalier assertions by county staff in explaining the differences between the proposed RAOD and current uses allowed at the Sunset Airpark.

The proposed Residential Overlay Airpark (RAOD) would allow limited accessory uses commonly associated with the adjacent airstrip...such as aircraft hangars, aviation fuel storage, and aircraft taxiways. These uses would only be allowed when constructed on a lot or parcel with an existing dwelling.

By way of contrast, the existing private airport land use overlay in CDC Section 385, which applies to Sunset Airstrip and Air Acres 1 & 2 and tax lot 1N311AA01200, authorizes a greater number of uses commonly associated with airports. This includes air passenger and air freight services, flight training, aircraft sales and rentals. As stated previously, DLCD objected to expanding this district to include Sunset Orchards Estate.<sup>15</sup>

The above excerpt is shamefully misleading, as Sunset Airpark has never been approved for any uses whatsoever other than personal use. There is nothing in the county file on Ordinance 772 indicating that a public hearing was ever held to consider transitioning the Sunset Airpark from a residential use only facility to an airport that is allowed to engage in commercial activity. If residents at the Sunset Airpark are currently engaged in any of the commercial enterprises listed under CDC385-3 (See footnote 11 for complete list), they are in violation of established law. Thus, charges should be filed and legal proceedings should commence immediately.

If pilots at the Sunset Airpark are found to be in willful violation of state statute and county code, it won't be the first time Washington County aviators have run afoul of the law in an effort to illegally engage in commercial airport activity. The Applebee's accrued a long list of violations while running roughshod over the rights of community residents. (See attached Oregonian articles by Richard Colby from 4/1/05, 6/15/05, 7/22/05 and Kathleen Gorman from 7/27/06 and 12/27/06 for additional historical information on this dispute).

#### **Possible Takings**

The 10/1/98 Letter of Understanding between the FAA and Roth Development states that "Pilots of aircraft using the Sunset Airport shall remain at or below 500 ft. AGL while in the Hillsboro Class D surface area." (See attached). Hillsboro Airport Class D airspace extends outward in a 4.2 mile radius from the Hillsboro Airport and includes the most densely populated areas over North Plains.<sup>16</sup>

It is worth noting that this FAA directive may well constitute a taking, as individual property owners own the airspace 500 feet above their properties. A case in point is:

**Aaron v. United States** (1963) -- In this action for compensation for the taking of an aviation easement, plaintiffs were entitled to compensation for an easement only with respect to overflights below 500 feet above ground. Plaintiffs lived in an "uncongested" area and the public ("navigable") airspace in uncongested areas commences at 500 feet altitude according to federal aviation regulations. (U.S. Ct. Claims; 160 Ct.Cl. 295, 311 F2d 798)<sup>17</sup>.

It is important to note in this regard that there are legal cases in which aircraft activity has been determined to be a taking, even in cases where it flies over private property above 500 feet. See *Thornburg v. Port of Portland*.<sup>18</sup>

On July 13, 2006, in *McCarran International Airport v. Sisolak*, a property owner was awarded over \$16 Million subsequent to a Nevada Supreme Court ruling stating that,

...property owners have a right to airspace up to 500 feet and that the use of the airspace is subject to, and subordinate to, the property owner's interests...the court found that the height ordinances caused a taking of the owner's property, because they 'exclude the owners from using their property and, instead, allow aircraft to exclusively use the airspace'... The court based the "use of the airspace" on evidence in the record that aircraft flew within 500 feet of the ground, even though there was no evidence on the frequency or history of such flights. (Noise was not an issue in this case.)...Sisolak also rejected the argument that the Airport held an avigation easement that it had secured in exchange for land use approvals. The Court found that the easement was an unconstitutional exaction, because there was no reasonable nexus between the approval sought and the avigation easement. '[R]equiring an uncompensated easement as a condition to development is improper and cannot be used by the County as a defense to the taking of the landowner's airspace without compensation.'<sup>19</sup>

The Apple Valley LUBA decision further points to CDC 430-7 as the relevant code in those cases where a "Personal use airport or heliport, including associated hangers, maintenance and service facilities, may be permitted as a special use in certain districts outside of the airport overlay district..."<sup>20</sup> One of the standards involves securing FAA, ODA and DEQ approval, none of which is formally on the record in the case of the Sunset Airpark's proposed RAOD proposal.

#### **Sunset Airpark Restricts Rather Than Protects Traditional Farming Practices**

Though the location of the Sunset Airpark is in a rural area, a review of the Roth Development, Inc. Declaration of Covenant and Restrictions<sup>21</sup> that apply to the airpark Air Acres Home Owners Association reveals that the current rules place significant restrictions on current farm practices. For instance, Article II of this document entitled Residential Use Only allows outbuildings such as garages, greenhouses, guest houses, servants' quarters and airplane hangars, yet prohibits building a stable. The Wikipedia definition for stable is, "a building in which livestock, especially horses, are kept. It most commonly means a building that is divided into separate stalls for individual animals. There are many different types of stables in use today such as the American barn which is a large barn with a door each end and individual stalls inside or free standing stables with the classic top and bottom opening doors. The term "stable" is also used to describe a group of animals kept by one owner, regardless of housing or location."

Under Article III: Prohibited Uses includes the following, "No poultry or other fowl, livestock, horses, or other animals, except dogs, cats, and the usual household pets, shall be kept or permitted upon said premises..."

The evidence suggests that the Jossy's and a number of current Sunset Airpark residents are much more invested in growing the airport than they are in preserving traditional farming practices. In fact, various residents testified that they want future residents to be pilots. In addition, Bob Jossy lobbied to include three Exclusive Farm Use (EFU) parcels and one Agricultural and Forest District (AF-20) parcel in the airport overlay district rather than preserve it for farming.

#### **Concluding Remarks**

It appears that Ordinance 772 is a convoluted effort to expand the existing Sunset Airpark while pretending otherwise. Assurances that future residents of the proposed new residential airport

overlay district will not engage in commercial activities, if approved at some future point, ring hollow. Currently there are no uses approved at this airport other than residential personal use. But county planning documents are intent on preserving the opportunity for Sunset Airpark to become a commercial airpark in the future. If this does indeed occur, the only runway access available to those who purchase property within the proposed residential airport overlay district will be the Sunset Airpark which will then be considered a commercial facility. There is nothing in the ordinance that addresses this ambiguity or that establishes safeguards for a two-tiered system wherein residents within one overlay district can engage in business enterprises that are prohibited for others. For this reason and all the reasons stated above, Oregon Aviation Watch urges the Washington County Board of Commissioners to reject this ordinance.

Thank you for your time and consideration.

Prepared by,



Miki Barnes, LCSW  
President of Oregon Aviation Watch

#### Attachments

<sup>1</sup> LUBA No. 2007-001. Michael L. Applebee and Jennie M. Applebee vs. Neighbors Against Apple Valley Expansion, et al. Final Opinion and Order. (6/8/07) Available at <http://www.oregon.gov/LUBA/docs/opinions/2007/06-07/07001.pdf>.

<sup>2</sup> LUBA No. 2009-019 Michael L. Applebee and Jennie M. Applebee vs. Washington County and Neighbors Against Apple Valley Expansion, et al. Final Opinion and Order. (6/16/09) Available at <http://www.oregon.gov/LUBA/docs/opinions/2009/06-09/09019.pdf>.

<sup>3</sup> Letter from Bob Jossy to Washington County Board of Commissioners. (9/24/13). Included in Washington County Materials Packet for 10/1/13 hearing. Available at [http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/upload/Ord772\\_BCC\\_Packet\\_10-01-13\\_Off-Docket.pdf](http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/upload/Ord772_BCC_Packet_10-01-13_Off-Docket.pdf)

<sup>4</sup> Letter from Cliff Gerber to Washington County Board of Commissioners. (9/22/13). Included in Washington County Materials Packet for 10/1/13 hearing. Available at [http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/upload/Ord772\\_BCC\\_Packet\\_10-01-13\\_Off-Docket.pdf](http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/upload/Ord772_BCC_Packet_10-01-13_Off-Docket.pdf).

<sup>5</sup> LUBA No. 2009-019 Michael L. Applebee and Jennie M. Applebee vs. Washington County and Neighbors Against Apple Valley Expansion, et al. Final Opinion and Order. (6/16/09) Pg. 5. Available at <http://www.oregon.gov/LUBA/docs/opinions/2009/06-09/09019.pdf>.

<sup>6</sup> Pg. 5.

<sup>7</sup> Ibid. Pg. 10.

<sup>8</sup> Ibid. Pg. 11-12.

<sup>9</sup> Ibid. Pg. 12.

<sup>10</sup> Ibid. Pg. 13.

<sup>11</sup> Ibid. Pg. 18-19.

<sup>11</sup> Per Washington County CDC 385-3 Continued Operation and Determination of Existing Uses

Operation of the following uses may be continued at their current levels as of the effective date of this ordinance (November 27, 2003) upon demonstration that the use existed at the airport at any time during 1996.

In response to requests for building permits or other expansions pursuant to Section 385-4 which may or may not otherwise require a Type II or Type III procedure, or in response to citizen complaints, the Review Authority may require a determination regarding the existence and level of a particular listed use in 1996. This determination of an existing use shall be based upon a review of evidence provided by the airport

sponsor, and shall be processed via a Type II Procedure. This determination may be processed independently or concurrently with another Type II or Type III procedure.

- A. Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed based operator facilities; a residence for an airport caretaker or security officer; and other activities incidental to the normal operation of an airport. Except as provided in this ordinance, "customary and usual aviation-related activities" do not include residential, commercial, industrial, manufacturing and other uses.
- B. Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.
- C. Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services include search and rescue operations but do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.
- D. Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.
- E. Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.
- F. Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.
- G. Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personal use, but does not include activities, structures or facilities for the manufacturing of aircraft or aircraft-related products for sale to the public.
- H. Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.
- I. Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft or aircraft-related products for sale to the public.
- J. Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include, but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agricultural, forestry or rangeland management setting.
- K. Agricultural and Forestry Activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 308A.056.
- L. Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight, are permitted subject to the acceptance of the airport sponsor. Aeronautic recreation and sporting activities include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; gyrocopter flights; flights carrying

<sup>12</sup> LUBA No. 2009-019 Michael L. Applebee and Jennie M. Applebee vs. Washington County and Neighbors Against Apple Valley Expansion, et al. Final Opinion and Order. (6/16/09) Available at <http://www.oregon.gov/LUBA/docs/opinions/2009/06-09/09019.pdf>. Pg. 18.

<sup>13</sup> ORS 836.608(3)(a) "A local government shall not impose limitations on the continued operation of uses described in ORS 836.616 (2) that existed at any time during 1996 at an airport described in subsection (2) of this section.

<sup>14</sup> LUBA No. 2007-001. Michael L. Applebee and Jennie M. Applebee vs. Neighbors Against Apple Valley Expansion, et al. Final Opinion and Order. (6/8/07) Available at <http://www.oregon.gov/LUBA/docs/opinions/2007/06-07/07001.pdf>. Pg. 9.

<sup>15</sup> Back, Andy. Washington County Board of Commissioners Staff Report. Ordinance No. 772 (9/16/13) Pg. 5.

<sup>16</sup> Federal Register Volume 78, Number 101 (Friday, May 24, 2013). Pages 31395-31397. Available online at <http://www.gpo.gov/fdsys/pkg/FR-2013-05-24/html/2013-12314.htm>.

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<sup>17</sup> Beckman, Howard. Taking of Property: Avigation Easements and Zoning Regulations. Aaron v. U.S. (1963) Airport Noise Law. Website: <http://airportnoiselaw.org/takings.html>.

<sup>18</sup> Ibid. Thornburg v. Port of Portland (1963). Available at <http://airportnoiselaw.org/cases/thorn-1.html>

<sup>19</sup> Las Vegas Height Ordinances Held to Be a Taking of Private Property. Airport Attorneys.com. A Practice of Kaplan, Kirsch and Rockwell, LLP. (7/31/06) Available at [http://www.kaplankirsch.com/files/Airport\\_Law\\_Alert\\_July\\_2006.pdf](http://www.kaplankirsch.com/files/Airport_Law_Alert_July_2006.pdf).

<sup>20</sup> LUBA No. 2009-019 Michael L. Applebee and Jennie M. Applebee vs. Washington County and Neighbors Against Apple Valley Expansion, et al. Final Opinion and Order. (6/16/09) Available at <http://www.oregon.gov/LUBA/docs/opinions/2009/06-09/09019.pdf>. Pg. 18.

<sup>21</sup> Declaration of Covenants and Restrictions Running With Land in North Plains, Washington County, Oregon. Roth Development, Inc. (8/14/71).



**Oregon**

Theodore R. Kulongoski, Governor



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April 15, 2009

Naomi Vogel-Beattie  
Washington County Dept of Land Use  
155 N. 1<sup>st</sup> Ave, #350-13  
Hillsboro, Oregon 97124

**Subject: Type II Public Notice Casefile #: 09-050-S/PLA**

Ms. Vogel-Beattie,

The Oregon Department of Aviation (ODA) received a notice regarding the above referenced file number for a preliminary plat review for a 15-lot subdivision near Sunset Airstrip in North Plains, Oregon. The Sunset Airstrip is encompassed in the Airport Planning Rule. The purpose of the Airport Planning Rule is to OAR 660-012-0010(2) "Ensuring the vitality and continued operation of Oregon's system of airports is linked to the vitality of the local economy where the airports are located. This division recognizes the interdependence between transportation systems and the communities on which they depend." As such, ODA would like to ensure the safe and efficient use of the Sunset Airstrip.

The ODA recommends the county incorporate a "Declaration of Anticipated Noise" to the adjacent homes. This will ensure the home buyers understand the close proximity of the airport and its associated noise that it can create. Also, by including this document with the closing paperwork will reduce the amount complaints derived from the airport.

Should you have any questions regarding the Oregon Department of Aviation's comments; please do not hesitate to contact me at (503) 378-2894. Thank you for allowing ODA to comment on this land use action.

Best regards,

A handwritten signature in cursive script that reads "Melinda Fahey".

Melinda Fahey  
Aviation Planning Analyst

Enc: Sample Declaration of Anticipated Noise

EXAMPLE 1

NOISE EASEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the \_\_\_\_\_ (Airport Authority), a municipal corporation of the State of Oregon, hereinafter referred to as "Grantee":

The Grantor does hereby grant, in consideration for the right to develop the subject property for residential use, pursuant to City Planning and Zoning Code, Chapter \_\_\_\_\_ (No.), to the Grantee, its successors and assigns, to have and to hold an easement for aircraft noise impact until \_\_\_\_\_ shall be abandoned or shall cease to be used for airport purposes, over the following described parcel of land situated in the County of \_\_\_\_\_, State of Oregon, as follows:

(Legal description and street address of Grantor's parcel of land)

Said Easement shall encompass the right, in the airspace above the surface of the Grantor's property having the same boundaries as the above described property and extending from the surface upwards to the limits of the atmosphere of the earth, to cause in said airspace a maximum of such noise as reflected by the Noise Impact Zone Map adopted by City Ordinance \_\_\_\_\_ (No.). This easement is only applicable to airport noise caused from runway alignments existing in \_\_\_\_\_ (Year). More specifically, the noise created by aircraft now known or hereafter used for navigation of or flight in air, shall not exceed the permitted annual average DNL level obtained by using established measurement standards and procedures. The permitted annual average DNL level shall not be greater than the annual average DNL level established in \_\_\_\_\_ (Year), or the most recent annual average DNL established, pursuant to Section \_\_\_\_\_ (No.), prior to the date of said Easement, whichever is the lesser. If the permitted annual average DNL level can be shown to have been exceeded, as provided for by Section \_\_\_\_\_ (No.), said Easement shall be void.

The granting of said Easement shall establish the Grantor's right to develop the above-described parcel of land for residential use. The Grantor's execution and offering of said Easement is sufficient to fulfill the requirements for the issuing of a building permit if all other zoning requirements have been met.

It is understood and agreed that these covenants and agreements shall run with the land, that notice shall be made to and shall be binding upon heirs, administrators, executors, successors, and assigns of the Grantor.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Grantor

From The Oregonian of Friday, April 1, 2005

Airstrip plans have residents in an uproar. Mike Applebee wants to increase the use of a remote strip near Buxton, but neighbors don't want the added noise

By Richard Colby

BUXTON -- Most passing motorists on U.S. 26 wouldn't notice the grassy strip paralleling the highway just to the north, a place where light airplanes can land and take off. Neighbors of the strip, near the unincorporated Buxton community in the Coast Range foothills, say they want the strip to stay unnoticed, and mostly unheard. With a Washington County regulation backing them, they say the strip is for use only by the property owner flying his own airplane in and out.

But aviator Mike Applebee, who bought the strip late last year, says he wants a lot more from the strip. Doing business as Applebee Aviation, he has posted a sign near the highway advertising helicopter tours.

Applebee also says he plans to give flying lessons in helicopters and light airplanes, launching from the 2,600-foot-long grassy stretch east of Northwest Fisher Road. He also wants to establish the landing field as a fuel stop for pilots flying between the Portland area and the Oregon coast. Describing himself as a "semiretired" steel broker embarking on a second career, Applebee said he would also use the strip to base crop-spraying or firefighting services he plans to offer with his four Hughes 500 helicopters and a Cessna 172 airplane.

All he needs is Washington County's land-use approval to increase the strip's activities from those of the former owner, Portland television personality Rod "Rambling Rod" Anders, who died in 2002. With his plane, Anders set up the strip in 1994 to go with a log cabin-style home on the property.

Jack Harper, the county's code enforcement officer, says Applebee got ahead of the regulations. Harper noticed in November the sign advertising helicopter flights and says he notified Applebee that the county's regulations covering the airstrip didn't allow commercial uses.

Harper says complaints about helicopter noise began arriving from nearby residents in January. He says Applebee subsequently agreed to seek county approval for expanding the strip's uses. Such an application, yet to be filed, must be considered by a county land-use hearings officer. Some Buxton-area residents, savoring a rural environment largely free of aircraft noise, promise to fight Applebee when the matter comes up for a hearing.

Ellen Saunders, who lives three-quarters of a mile up Northwest Dingheiser Road, about a mile east of the strip and south of U.S. 26, says an organizational meeting of Applebee Aviation opponents drew "several dozen" angry residents.

Although she lives in a forested ravine away from the airstrip, Saunders says, she can hear aircraft taking off, like one that zoomed away around 7 a.m. Sunday.

"Basically, it bounces people out of bed on a Sunday morning," she says of the noise. Saunders says she fears a steadier stream of noise wafting up the ravine if Applebee's expansion permit is granted.



Mike Borreson, a retired county engineer who lives on Northwest Pongratz Road north of the airstrip, says he has no objection to Applebee flying a personal aircraft in and out as Anders did. "I do have a problem with him trying to turn it into an airport," Borreson says. "Helicopters are a lot noisier than airplanes."

The strip, Borreson says, lies in the middle of a valley about a mile wide with hills on three sides. That, he says, causes aircraft sounds to reverberate through the area.

Borreson says he also has safety concerns about student pilots using the strip. Applebee says that with farming and forestry-related flying jobs, he wants to offer flight instruction from the strip "to keep it busy and help pay for the place." He says he would be happy to designate "sensitive areas" around the strip that he and other pilots would avoid flying over, being careful to follow federal aviation regulations.

From The Oregonian of Wednesday, June 15, 2005

Washington County hits airstrip owner with citations. Officials accuse Michael Applebee of using his strip for commercial purposes without proper permits

By Richard Colby

BUXTON -- Washington County is taking the owner of a small rural airfield to court and accusing him of using the land to run a flight school and air-tour operation without the proper permits.

A county land-use code enforcer issued three court citations last week to Michael Applebee, owner of a 2,600-foot-long grass airstrip next to U.S. 26.

The citations accuse Applebee of operating a commercial airport without county planners' approval, failing to submit a previously required application for a land-use review and placing an advertising sign on his property without a county sign permit.

Neither Applebee nor his attorney, John Rankin of Sherwood, returned telephone calls Monday or Tuesday. Applebee has owned the strip, which he calls Apple Valley Airport, since late last year. The airfield and Applebee's plans to use it for flight training and other businesses have drawn vehement opposition from neighbors in the rural Buxton area. Neighbors have taken their complaints -- mostly related to noise and safety issues -- to the county Board of Commissioners and land-use staffers.

The three citations, each carrying a \$182 base fine, summon Applebee to appear June 30 at the county's Justice Court.

If he continues to run a business from the airfield, Applebee could face another round of citations and fines levied for each day of its operation.

The airstrip's builder and former owner was Portland television personality Rod "Rambling Rod" Anders, who died in 2002. Anders, who also built a large house on the site just east of Fisher Road and north of U.S. 26, used the landing strip for his personal flying.

Since January, county code enforcement officers have received several complaints from neighbors about helicopter noise and Applebee's announced plans to use the strip as a base for flight training, recreational tours, airplane fuel storage and other commercial activities.

At least 75 residents formed Neighbors Against Apple Valley Expansion to try to halt commercial activity on the grassy strip. They have hired Portland land-use lawyer Ed Sullivan to represent them.

In April, Applebee scheduled a county-required neighborhood meeting to discuss his plans before he could formally apply to change the airstrip's use to a commercial operation. But a few days before the scheduled meeting on April 25, Applebee canceled it.

Reached last week, Applebee said he didn't want to face a gathering that would be hostile to his proposal.

He also said he was offering flight training as advertised daily in a classified newspaper ad and on a Web site but would fly the helicopters or fixed-wing planes to other airports to meet his flight students.

Applebee also said he was using the Buxton strip as a base for other operations, including drying rain-soaked cherries in orchards with helicopter down drafts.

County officials had given Applebee until June 3 to file a land-use application for planners to review the airstrip's status. Last week, Rankin, Applebee's attorney, appeared before county commissioners to request a 30-day extension of the deadline. The commissioners declined to get involved.

David Bratton, who lives across Pongratz Road from the strip, said Tuesday that he had watched helicopters fly over the strip and hover five feet above ground for as long as 30 minutes, two or three times a week.

Bratton, a co-founder of the opposition group, said the helicopter noise distracts him and clients of his freight-hauling brokerage that he operates from his home, even when his windows are closed.

"We've had some conversations with the county about cease and desist," he said. "They've done what we were hoping they'd do."

From The Oregonian of Friday, July 22, 2005

Aviator will hold public meeting on Buxton airstrip

Mike Applebee seeks Washington County's OK to conduct commercial flights from his property

By Richard Colby

BUXTON -- Aviator Mike Applebee said Thursday that he will seek Washington County land-use approval to conduct commercial flight operations from his 2,600-foot-long airstrip off U.S. 26 and Fisher Road.

Applebee has scheduled a public meeting in Buxton next week to present his plans to neighbors of the grass airstrip, 25 miles west of Portland. Some of them recently formed an organization to fight the proposal because they fear noise, danger and environmental damage from helicopter and fixed-wing operations.

The neighborhood meeting, with attendees' comments compiled, is required by the county as part of Applebee's application. The aviator said in a prepared statement that he wants to broaden the strip's use to include flight training, excursion trips and other commercial uses.

Fearing opposition to his expansion plans, Applebee canceled an earlier neighborhood meeting in April.

The county and the expansion's foes contend the field's use is limited to personal flights in and out by the property's owner. The opponents have formed Neighbors Against Apple Valley Expansion and hired land-use attorney Ed Sullivan of Portland to contest the application. Applebee bought the property last year from the estate of Portland television personality Rod "Rambling Rod" Andersen, who built it and an adjoining log house before his death in 2002.

On Thursday, a judge granted Applebee a delay of at least 30 days for his trial on three county-issued citations. The citations allege the aviator violated land-use rules last month by conducting commercial flights, failing to seek formal county review of the property's use and erecting a sign advertising flight tours.

The trial had been scheduled for today in the county's Justice Court in Beaverton. No new trial date was set.

Chris Gilmore, an assistant county counsel assigned to the case, said he agreed to the delay because Applebee had assured the county's Department of Land Use and Transportation he wouldn't do anything outside the rules without a county hearings officer's approval of the application.

Gilmore said the citations, each carrying a maximum \$182 fine, could be dropped entirely if the hearings officer allows the expansion. Such a decision must come five months after the county's staff decides that Applebee's application is complete.

In the prepared statement approved by Applebee's attorney, John Rankin, the aviator said he had covered up a sign that advertised excursion flights and had removed references to the place as "Apple Valley Airport" from his Applebee Aviation Web page.

The statement, on which the aviator wouldn't elaborate, said he and his wife, Jennie, were co-owners of Applebee Aviation. The company "continues to be open for business at several other locations in the local metro area," the statement said.

It also said the Applebees have formed a group, Neighbors for Apple Valley Expansion, to advocate for the expansion application.

From The Oregonian of Thursday, July 27, 2006

Land-use officials review bid to expand airstrip. A couple seek county permission for commercial flights, but neighbors are opposed

By Kathleen Gorman

Buxton landowners Michael and Jennie Applebee have asked Washington County for permission to use a private runway they call Apple Valley Airport for commercial activities.

Neighbors oppose the request, saying it would create noise, pollution and environmental and safety hazards in the rural communities around the 2,470-foot-long turf runway at U.S. 26 and Northwest Fisher Road in the Coast Range foothills.

The Applebees bought the property in 2004 from the estate of Portland TV personality Rod "Rambling Rod" Anders, who built it and an adjoining log house before his death in 2002. In June, the Applebees filed an application with the county's Department of Land Use & Transportation. The application asks permission to base as many as 10 aircraft at the airport; increase flight activity to 3,016 annual departures; provide helicopter and fixed-wing private and commercial flight instruction; offer helicopter scenic flight tours; and provide agriculture-related services. They have not asked to add any buildings to the property.

Besides the request for expansion, the Applebees also are asking the county for a review of the airstrip's operations. The Applebees missed an earlier filing deadline for the review. Calls last week to the Applebees and their attorney were not returned.

The Applebees' neighbors -- who last year formed Neighbors Against Apple Valley Expansion -- plan to fight the proposal. They say Anders used the airstrip strictly for personal use, but the Applebees have greatly expanded its operation.

"We don't object to the original uses," said Ellen Saunders, co-chairwoman of the organization. "It is the expanded uses that we are opposed to." Saunders said noise from the airstrip is already a problem. Because the terrain isn't flat, the sound from planes and helicopters bounces around. "The sound of this is literally like a BB in a boxcar," she said.

The Applebees do business as Applebee Aviation and have been cited by the county in the past for failing to comply with the conditions of approval for the airstrip. The county also cited Applebee Aviation for conducting commercial activities without the proper permits, but that citation did not hold up in court, land-use officials said.

Applebee Aviation also had posted a sign that advertised excursion flights and advertised "Apple Valley Airport" from the Applebee Aviation Web page, which neighbors said was more evidence of commercial use there.

Neighbors complained that the county was allowing Applebee Aviation to continue to violate codes while an earlier application -- eventually found to be incomplete -- was pending. But the county didn't actively pursue more enforcement because the Applebees were working toward getting the necessary permits. County staff members are reviewing the June 9 application and

have tentatively scheduled a public hearing in September. "I expect we will have an extended hearing," said Edward Sullivan, an attorney for the neighbors.

From The Oregonian of Wednesday, Dec. 27, 2006  
County rejects Buxton airstrip's bid to expand  
Neighbors applaud a decision not to allow commercial flights at Apple Valley Airport  
By Kathleen Gorman

A Washington County hearings officer has denied a request from Michael and Jennie Applebee to use their private runway in Buxton for commercial activities.

Nearby landowners were pleased with the Dec. 20 decision by hearings officer Dale M. Hermann. They had campaigned against the Applebees' request to increase flights at the 2,470-foot-long turf runway the couple call Apple Valley Airport.

The neighbors said a higher number of flights would create noise, pollution and environmental and safety hazards in the rural communities around the runway at U.S. 26 and Northwest Fisher Road in the Coast Range foothills. "We're pretty happy with what we got," said David Bratton, the co-chairman of a group called Neighbors Against Apple Valley Expansion.

A call Tuesday to the Applebees was not returned. An attorney representing the Applebees said she had not seen the decision and couldn't say whether the couple would appeal to the state Land Use Board of Appeals.

The Applebees bought the property in 2004 from the estate of Portland TV personality Rod "Rambling Rod" Anders, who built it and a log house before his death in 2002. In June, the Applebees filed an application with the county's Department of Land Use & Transportation. The application asked permission to base as many as 10 aircraft at the airport; increase flights to 3,016 annual departures; provide helicopter and fixed-wing private and commercial flight instruction; offer helicopter scenic flight tours; and provide agriculture-related services. They did not ask to add buildings to the property.

The Applebees, doing business as Applebee Aviation, had been cited by the county in the past for failing to comply with the conditions of approval for the airstrip. The county also cited Applebee Aviation for conducting commercial activities without proper permits, but that citation did not hold up in court, land-use officials said.

Bratton said the neighbors didn't object when Anders used the airstrip strictly for personal use and won't object to the Applebees' private use of it, either.



DECLARATION OF COVENANTS  
AND RESTRICTIONS RUNNING  
WITH LAND IN  
NORTH PLAINS, WASHINGTON COUNTY, OREGON

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS: ROTH DEVELOPMENT, INC., hereinafter called "ROTH", is the owner of all of the real property included within the boundaries of AIR ACRES, a subdivision divided into eleven lots recorded November 27, 1968, in the Plat Records of said County in Book 26 at Page 48 thereof, reference to which now is made, and it desires to establish a general and uniform plan for the development of said property, designed so as to provide, so far as possible, for the construction of residences which will harmonize with other existing structures, each so situated as to give to each other building site owner the maximum of unobstructed view and other advantages, and to provide for airport operation within the plat.

NOW THEREFORE, in view of the premises, ROTH hereby does declare that all of the real property included within the recorded plat of Air Acres and each and every lot and parcel thereof is and shall be owned, held, used and conveyed subject to the following restrictions, conditions, charges, covenants and agreements, to-wit:

ARTICLE I

BUILDING SITE: DEFINED

A "building site", as said term hereinafter is used, shall mean any lot shown on the recorded plat of Air Acres and under no circumstances shall a fraction of a lot be deemed a building site; in those instances where a whole lot and a part of an adjoining lot are held under one ownership, the said whole lot and said part of the adjoining lot together shall be deemed one building site; in those instances where two contiguous lots are held under one ownership and both together are utilized for the construction of one single-family dwelling with appurtenant outbuildings, then said two lots, for the purpose of these restrictions, shall be deemed one building site.

ARTICLE II

RESIDENTIAL USE ONLY

Each building site, except the airport and taxiway, shall be used and occupied solely for private residential purposes; no building shall be erected, maintained or used upon any building site other than a detached single-family dwelling house, with outbuildings appurtenant thereto, such as a private garage, green house, guest house, servants' quarters, airplane hangars or other structure wholly incidental to the residential use of said premises. No stable shall be erected thereon, nor any building used as a stable.

BOOK 726 PAGE 355

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Bill M. Candless  
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Roth Development

POB 1698

N. Plains, OR 97133

503 647 5296

ARTICLE III  
PROHIBITED USES

No building site or building erected thereon shall be used or occupied, in whole or in part, for any business, manufacturing or commercial enterprise of any nature, except that doctors, physicians and dentists resident in or occupying any dwelling in Air Acres may serve patients in any such dwelling in cases of emergency.

No poultry or other fowl, livestock, horses or other animals, except dogs, cats, and the usual household pets, shall be kept or permitted upon said premises; provided that said dogs, cats and other household pets shall not be kept, bred or raised for commercial purposes or in unusual numbers. Pasturing of horses shall be permitted on any lot when it is not used for a building site.

No garage, guest house, tent, trailer, shack or other structure or outbuilding shall be occupied as a temporary dwelling prior to or during construction of the principal dwelling. No mobile home shall be parked on any building site.

No noxious, dangerous or undesirable thing shall be conducted or permitted on any building site, nor shall any-spite or nuisance wall, hedge, fence or tree be permitted on any building site.

No trash or unsightly material shall be dumped, placed upon or stored upon any building site or portion thereof or in any of the roadways or streets in the said plat, except that the storage of compost shall be permissible. No motor vehicles which do not have a current license and no aircraft which do not have a current airworthiness certificate may be kept on any lot except during repair, renovation or rebuilding, and then only within a structure approved under Article V hereof.

ARTICLE IV

SIGNS

No billboard or advertising sign of any kind or description shall be erected, maintained or allowed upon any building site or upon any building thereon, except only:

1. Plates of professional men, not exceeding 144 square inches in size.
2. "For Sale" signs, not exceeding 500 square inches in size. Each such sign shall relate only to the site on which the same is erected, and not more than one such sign shall be permitted on each building site.
3. ROTH may erect, use and maintain on any of said building sites, owned by it, a "For Sale" sign not more than 25 square feet in frontal area; such sign may relate to any or all such sites owned by ROTH.

ARTICLE VMINIMUM LOT SIZE; SUBDIVISION PROHIBITED

No dwelling house shall be erected on any lot which is smaller than three-fourths acre. No lot except for lots 10 and 11, which are held by ROTH for airport and taxiway purposes, may be subdivided into smaller lots or parcels.

ARTICLE VIAPPROVAL OF PLANS; MATERIALS

No dwelling house or other building or structure shall be erected or construction thereof started upon any building site in Air Acres until the plans and specifications for the same shall have been submitted to and approved in writing by a registered architect; all such buildings shall be constructed of first-class materials in a good and workmanlike manner and in accordance with the said plans and specifications as so approved. All outbuildings appurtenant to the dwelling on each building site including (but not by way of limitation) airplane hangars, shall conform to such dwelling in architectural design, exterior materials, color and finish, so as to present a harmonious appearance to public view.

ARTICLE VIIHEIGHT OF BUILDINGS AND STRUCTURES

The peak or highest point of the roof on any dwelling or building in Air Acres shall be no higher than 30 feet above the top of the front foundation level of the ground floor of such dwelling or building.

No building, structure, tree, antenna, flagpole or any other protrusion into the airspace shall be allowed in excess of 50 feet above the finished ground surface on which it is located.

ARTICLE VIIIMINIMUM FLOOR AREA

No dwelling house which contains less than 1,500 square feet of floor area may be erected on any lot. "Floor Area" in the intent of this restriction shall include none of the following enumerated areas, to-wit:

Basement, outbuildings, outside porches, pergolas, terraces, breezeways, garages or hangars, whether or not such garages or hangars are connected with the principal dwelling.

No dwelling house which costs less than \$20,000 to construct may be erected on any lot.

ARTICLE IXSET-BACK LINES  
DRIVEWAYS & PARKING SPACE

The following enumerated set-back lines hereby are established: No building or any part thereof, or any other structure, except fences, may be erected on the following enumerated lots in Air Acres:

On any lot or building site within 25 feet of any street or road.

No building or structure, or any part thereof, except fences, may be erected within 25 feet of the side line of any building site or any line which divides any building site from an adjoining building site.

No structure of any kind may be erected and no growing bush or tree (or similar woody plant) may be permitted on any lot within 25 feet of the property line which adjoins the taxiway or the runway of the airport.

Development of any building site in Air Acres for the erection of a dwelling thereon shall include parking area sufficient in size for the parking of a minimum of four automobiles.

ARTICLE XWALLS, HEDGES, FENCES

No wall hedge or fence shall be erected, permitted or maintained on any building site which is higher than six (6) feet above the finished ground surface on which said wall, hedge or fence is located.

ARTICLE XISEWAGE DISPOSAL & UTILITIES

Until such time as a sanitary sewer system shall have been constructed to serve Air Acres (it being understood that ROTH is under no obligation to construct such a sewer system) a private sewage disposal system constructed in accordance with the requirements of the Washington County and the State of Oregon health authorities shall be installed by the owner of each dwelling. The drains from any septic tank shall be kept within the building limits of each building site as hereinabove described, and the effluent from said tanks shall not be permitted to discharge into a stream, storm sewer, open ditch or drain unless it has first passed through an absorption field approved by the health authorities. All utilities service to any lot and within the lot to any structure shall be of an approved underground type.

ARTICLE XIIAIRPORT UTILIZATION

No owner of any lot shall use or permit the use of the runway easement appurtenant to his lot by any airplane which requires takeoff distance over a 50 foot obstacle or landing distance over a 50 foot obstacle in excess of 2,000 feet, or, if the runway length is changed from 3,000 feet, two-thirds of the then usable runway length. Takeoff or landing distances required shall be as given by the manufacturer of the aircraft for gross weight operation.

No flying club operation is permitted. For the purpose of this restriction, any co-ownership of an airplane by three or more persons shall constitute a flying club.

No commercial flying of any kind is permitted. This restriction encompasses flight instruction in its prohibition. Provided, however, that ROTH may itself, or by concessionaire, provide for private fuel sales for aircraft owned by lot owners, but ROTH is not obligated to do so.

A lot owner may keep and store not in excess of one fifty gallon drum of aviation fuel.

Takeoffs and landings will be conducted only during daylight hours unless the airport has facilities for night operations.

No owner of any lot shall use or permit the use of the runway easement appurtenant to his lot other than by flying a 500 foot above terrain pattern on the southeast side of the airport.

ARTICLE XIIIAIRPORT OPERATION CHARGES

The owner of each lot shall be liable to ROTH for his pro rata share of the annual property tax imposed against the property used for runway and taxiway purposes, and for his pro rata share of the annual expense of operating (including liability insurance premium) and maintaining the runway and taxiway(s).

The owner of each lot shall also be liable to ROTH for his pro rata share of the cost of improvements to the airport and taxiways, and the additional taxes, operating, insurance and maintenance charges caused by such improvements if such improvements are made only after unanimous approval of the proposed improvements in writing by the owners of all lots within this subdivision and of any other lots as to which airport easements have been granted.

The charges hereinabove set forth shall constitute a lien upon the property and, if unpaid, may be foreclosed by ROTH by suit in equity in which ROTH shall also be entitled to recover its costs of collection, including its reasonable actual attorney's fee, including an additional amount for any appeal.

ARTICLE XIV

GENERAL PLAN; ENFORCEMENT

The restrictions hereinabove set forth are part of a general plan and are intended to apply to and be for the benefit and protection of all owners of lots and lands in said Air Acres. Said covenants, charges and restrictions, as well as any amendments thereto made as permitted by the next succeeding clauses of this declaration, shall run with and be binding upon all of the land included within Air Acres and shall be binding upon each and every owner thereof who may obtain title to any part thereof and may be enforced against any one of such owners by any other owner of land within said Air Acres. In the event of any suit to enforce any of the provisions of this declaration, the court having jurisdiction thereof may, in its discretion and as part of the decree rendered therein, allow such attorney's fees to the party or parties prevailing therein as the court may deem right and proper.

ARTICLE XV

DURATION OF THESE RESTRICTIONS; AMENDMENTS

The covenants, conditions and restrictions set forth herein shall run with the land and shall be binding upon the parties hereto and all persons claiming under them until December 31, 1990, at which time said covenants, conditions and restrictions automatically shall be extended for a period of ten (10) years thereafter unless on or before March 31, 1991, a majority of the then owners of lots in Air Acres shall agree to terminate or amend said covenants, conditions and restrictions in whole or in part; any such agreement shall be in writing, signed and acknowledged by the owners of not less than nine lots in Air Acres executed in the manner then required by law and duly recorded in the Deed Records of Washington County, Oregon, all on or before April 1, 1991; provided further that said covenants, conditions and restrictions thereafter and beginning as of January 1, 2000, automatically shall be extended for successive periods of ten years each without limitation, unless terminated or amended, in whole or in part, by a majority of the then owners of lots in Air Acres by a writing executed and recorded in the manner above provided within ninety (90) days subsequent to the expiration of each such ten year period. Upon being recorded within the time stated, the provisions of any such writing or agreement shall bind all owners of building sites in Air Acres irrespective of whether or not they are parties signatory thereto; provided always that at any time hereafter whenever nine or more building sites in said Air Acres have been improved and are occupied by single-family dwellings, then a majority of then owners of said improved and occupied building sites in said plat

BOOK 726 PAGE 360

500  
400  
300  
200

may, in a writing, executed, acknowledged and recorded as provided above, amend (but not terminate) the foregoing restrictions, or any part thereof, and any such amendatory writing so recorded shall bind all owners of building sites in said plat, irrespective of whether or not they are parties signatory thereto. In construing this Article XVI:

1. Any person who then is purchasing a building site under a contract of conditional sale shall be considered the owner thereof, and
2. In those instances where any building site is owned by two or more persons (for example: by husband and wife) such persons shall be considered as but one owner.

ARTICLE XVI

RESTRICTIONS MADE PART OF DEDICATION

This declaration is made a part of the dedication of the said subdivision and is recorded as notice to all the world of the restrictive conditions under which each lot and parcel of land in Air Acres may and shall be sold and conveyed. In the future conveyance of said lots and parcels, it shall not be necessary for the grantor therein to mention or refer to these restrictions and in the event of his failure so to do, the grantee in any deed containing covenants of warranty shall have no right or cause of action against his grantor for a breach of said covenants by reason of these restrictions and all such rights and causes of action arising by reason of these restrictions and failure to mention the same shall be deemed conclusively to have been waived by the grantee by his acceptance of such deed.

ARTICLE XVII

EFFECT OF INVALIDATION IN PART

The invalidation of any one of the foregoing restrictions or of any part of any thereof by judgment of any court shall in no wise affect any of the other provisions thereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the declarants hereto have set their hands and seals on this 6<sup>th</sup> day of December, 1968.

ROTH DEVELOPMENT, INC.

By: [Signature]

By: [Signature]

*Handwritten notes:*  
Roth  
Development

STATE OF OREGON, County of Washington ) ss: December 6, 1968  
Personally appeared John G. Roth and Merrill R. Roth who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the

BOOK 726 PAGE 361

secretary of ROTH DEVELOPMENT, INC., a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

1958



Before me: Janet C. Stewart  
Notary Public for Oregon  
My commission expires: 8-14-71

Pioneer National Title  
148 South Second  
Hillsboro, Oregon  
Attn: Escrow Dept.

INDEXED  
STATE OF OREGON  
County of Washington  
Deeds

I, Roger Thomsen, Director of Records and Elections and Ex-Officio Recorder of Conveyances for said county, do hereby certify that the within instrument of writing was received and recorded in Book of records

No. 726  
of said County

Witness my hand and seal affixed.  
ROGER THOMSEN, Director of Records & Elections

Dec 6 4 29 PM '68  
A. Clinton Deputy

BOOK 726 PAGE 362



## LETTER OF AGREEMENT

EFFECTIVE: 10/01/98

SUBJECT: Sunset Airport Procedures

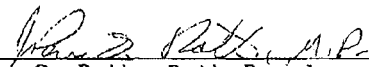
1. **PURPOSE:** This Agreement establishes coordination and special procedures for pilots using the Sunset Airport.
  2. **SCOPE:** Sunset Airport is a personal-use airport used exclusively by the owners, residents and guests of the properties adjoining the Sunset Airport. Sunset Airport is not open to the general public or other pilots. These procedures apply to all owner/operator/resident pilots operating aircraft to and from the Sunset Airport.
  3. **RESPONSIBILITY:**
    - a. Roth Development Inc., will provide owners/residents of property adjoining Sunset Airport with copies of this agreement.
    - b. Roth Development will secure the signature of each present and future owner/resident on this Letter of Agreement, certifying that the owner/residents have read and understand and will comply with the procedures contained herein.
    - c. Based on operational priorities, Hillsboro Tower will provide traffic advisory information on known traffic within the Hillsboro Class D surface area, to pilots operating to and from Sunset Airport.
  4. **PROCEDURES:**
    - a. Pilots of aircraft using the Sunset Airport shall remain at or below 500 ft. AGL while in the Hillsboro Class D surface area. Aircraft on approach will use right traffic patterns to Runway 06. Pilots operating to and from Sunset Airport shall be particularly alert to aircraft using Hillsboro Airport.
    - b. Pilots with radios using the Sunset Airport shall contact Hillsboro Tower prior to departure from or entry into Sunset Airport. Pilots shall maintain two-way radio communications with Hillsboro Tower while in the Hillsboro Class D surface area. Pilots shall obtain Hillsboro Airport ATIS Information on frequency 127.65 prior to departure or arrival at Sunset Airport.
    - c. Hillsboro Tower personnel cannot see the Sunset Airport runway, therefore, they shall not be responsible for controlling landings or takeoffs, or establishing runway priorities at Sunset Airport.
-

Sunset Airport Letter of Agreement

DATE: 10/01/98

Approved:

  
\_\_\_\_\_  
Ric Chisholm, Facility Manager, Hillsboro Tower

  
\_\_\_\_\_  
John S. Roth, Roth Development Inc., President

  
\_\_\_\_\_  
Darryl G. Usher, Roth Development Inc., Vice President

  
\_\_\_\_\_  
Merrill R. Roth, Roth Development Inc., Secretary

**MINUTES**

**WASHINGTON COUNTY BOARD OF COMMISSIONERS**

**October 15, 2013**

**CONVENED:** 10:01 a.m.

**BOARD OF COMMISSIONERS:**

Chairman Andy Duyck  
Vice Chair Greg Malinowski  
Commissioner Bob Terry  
Commissioner Dick Schouten  
Commissioner Roy Rogers

**STAFF:**

Robert Davis, County Administrator  
Bill Gaffi, General Manager, CWS  
Paul Hathaway, County Counsel  
Andrew Singelakis, Director, LUT  
Gary Stockoff, County Engineer, LUT Engineering  
Paul Schaeffer, LUT, Sr. Planner of Long Range Planning  
Diane Taniguchi-Dennis, Deputy General Manager, CWS  
Rod Rice, Deputy County Administrator  
Andy Back, Planning and Development Services Manager  
Anne Kelly, Associate Planner, LUT  
Jacquilyn Saito-Moore, County Counsel  
Stephen Roberts, Communications Coordinator, LUT  
Jonathan Schlueter, Government Affairs Manager  
Ana Noyola, Alternate Clerk of the Board  
Jim Thiessen, Audio Visual Technician

**PRESS:**

Simina Mistreanu, *The Oregonian*

**1. ORAL COMMUNICATION (2 MINUTE OPPORTUNITY)**

- 1) Kay Morse, 430 SW 13<sup>th</sup> Ave, Portland, partner and principal of TakFal Properties LLC with Beth Farity. As co-owner of the Sherwood cinema properties, she requested the Board to reconsider the County staff's decision to remove the traffic light in Tualatin-Sherwood Road. Ms. Morse expressed that the alternative access that is proposed, which is entry through Baler Way, will significantly damage the shopping center and most of the retail tenants. If customers want to enter the center after the signal is removed, they will be forced to bypass the cinema's driveway on Tualatin-Sherwood Road and travel east about 600 feet, turn left on Baler Way, travel north, about 600 feet, pass the Les Schwab tires store, then turn left onto a driveway constructed across the neighboring

Paul Hathaway read A-Engrossed Ordinance No. 771 by title only.

Andy Back provided the staff report. This is the first hearing for A-Engrossed Ordinance No. 771. Staff recommended conducting the first public hearing for this ordinance, and at the conclusion of the testimony, continuing the hearing to October 22, 2013.

Chairman Duyck opened the public hearing and since there was no testimony, continued the hearing to October 22, 2013.

Motion – Rogers  
2<sup>nd</sup> – Malinowski  
Vote – 5-0

4.c.  
MO 13-299  
Proposed A-Engrossed Ordinance No. 772 – An Ordinance Amending the Rural/Natural Resource Plan and the Community Development Code to Develop a Residential Airpark Overlay District (CPO 8)

Commissioner Terry moved to have A-Engrossed Ordinance No. 772 read by title only.

Motion – Terry  
2<sup>nd</sup> – Rogers  
Vote – 5-0

Paul Hathaway read A-Engrossed Ordinance No. 772 by title only.

Paul Schaefer provided the staff report. This is the first reading for A-Engrossed Ordinance No. 772. On October 1, the Board directed engrossment to accomplish 4 things:

1. Remove the three EFU parcels and one AF-20 parcel from the proposed overlay district (map change).
2. Clarify that only one hangar is allowed per lot, but remove the limits on the number of tie-downs per lot.
3. Prohibit commercial aviation activities, except as may be allowed in the AF-5 and RR-5 Districts.
4. Prohibit renting of personal hangars.

Staff provided the required notice and received two written comments; the first one from Mary Rosenblum, President of the Oregon Pilots Association, who wrote in favor of the ordinance; the second one from Miki Barnes, which opposed the ordinance. Lastly, Mr. Schaefer pointed out a typo on page 3 of the staff report. The last sentence under Policy 10 Findings should read “is consistent with Policy 10.”

Chairman Duyck opened the public hearing.

- 1) Henry Oberhelman, 26135 NW Evergreen Rd, Hillsboro, conveyed a motion reached by CPO during its meeting last night, October 14. He read from the written testimony he

submitted for the record on behalf of CPO 8. This statement read:

Community members discussed Ordinance 772 at some length during the October meeting of CPO 8. At the close of the discussion, a motion was put forward by William McCandless and seconded by Richard VanGrunsven with the following wording and with the direction that CPO representatives carry the motion to the BOC meeting on October 15, 2013.

“CPO 8 supports Ordinance 772 Engrossment A”

The motion carried with 12 in favor, 3 opposed and 3 abstentions. The voting was limited to CPO 8 members according to the bylaws of the CPO. Meeting attendance totaled 28, a mix of community members, county staff, as well as other stakeholders.

A special outreach effort for this discussion was made to insure a balance of views and as a result the applicant and a number of residents around the Sunset Air Strip were in attendance.

As a commentary, Mr. Oberhelman shared that he had post-meeting discussions with many of the residents around the airstrip and owners of the airstrip. Based on the tenor and tone of the conversation last night, he expressed that there is no doubt in his mind that they can make workable accommodations that would bring together both sides of the concerns of the ordinance. He added that this will be a complicated ordinance as it goes forward with far-reaching implications. The CPO 8 meeting last night indicated that significant controversy will continue.

- 2) Pat Wolter, 9555 NW 316<sup>th</sup> Place, Hillsboro, informed that she served as secretary of CPO 8 since 1995. She announced that she resigned from that position recently and stated that she is present before the Board to explain how last night's motion came about. Previously, CPO 8 produced a motion that favored the Planning Commission's directive, and now they have a different motion in the opposite direction. She explained that CPO 8 is a democratic organization. The people who voted in both instances were different audiences. Most of the people who voted in favor of the Planning Commission's directive initially did not attend last night's meeting. A different group of CPO 8 members, equally empowered to vote, attended last night's meeting and produced this motion. Nothing in CPO 8 bylaws prevents this from happening. Anyone who lives within CPO 8 boundaries, or owns a business or property in this location, is entitled to vote.

Chairman Duyck commented that the report impressed him. It not only stated the motion, but also provided the attendance and statistics – more background on how expansive it might have been.

Ms. Wolter shared that there were people in attendance who were non members but participated in the discussion. They were members of contiguous CPOs.

- 3) Ellen Saunders, 47950 NW Dingheiser Rd., Manning, discussed the impact that last night's decision will have on other CPOs. She said that she could not vote last night. There were three members from CPO 14 district, which was inactive and others as well. She stated that the entire meeting was stacked very carefully with aviators from the district. CPO 8 is not the only CPO that will be affected by this. Her concern is that

there is a rural dynamic in the planning that is supposed to protect all of western Washington County from air, water and noise pollution. The expansion of aviation in this new overlay district is in direct conflict with those commitments to the community. She said she is also concerned about the lead and the fact that there is only one person in Washington County who checks responds to violations. The County has not been a good supporter of citizen complaint violation processes; there is no real check or balance; and there is a lack of condition of use permit. She suggested that if this goes forward, there should be a condition of use added to the ordinance so people can respond to what is going to be placed as a permanent expansion of aviation over the entire Western Washington County. If everyone does exactly what they insist they will be doing, which is very minimal flying, there will not be a problem. But if there is no conditional use permit added to this particular ordinance, then the outcome may be unlimited flights and an unlimited number of planes. The number of tie downs and size of hangars have now been unlimited. That constitutes the possibility of 100 planes. She concluded that new owners might not be committed to being honorable.

- 4) Jeff Holmes, 47700 NW Chrysler Dr., Banks, asked for a postponement on the Board's decision until more research could be done. He also attended the CPO 8 meeting last night and shared that there is a lot of unanswered questions. This particular instance is not that bad because it will not make that big of an impact. But since the ordinance is County-wide, he asked how that will affect the future. His concern is the greater impact this ordinance will have. He stated that the fact that the ordinance was re-written indicated that there were problems in the original.

Chairman Duyck asked County staff if the ordinance pertains only to Sunset Airstrip and Paul Schaefer answered that it does. Mr. Schaefer explained that Section 389 was written to apply to Sunset Airstrip. Chairman Duyck then addressed Mr. Holmes and clarified that this ordinance deals specifically with Sunset Airstrip only and it is not County-wide; it is a very narrow ordinance.

Vice Chair Malinowski asked if there is a chance that someone in another part of the County will come and cite this ordinance.

Mr. Schaefer explained that if someone wanted to use Section 389 for another airpark that Section would have to be amended through a legislative action in order to reference that new airstrip.

Mr. Holmes asked if that would set precedence another airpark could use.

Chairman Duyck agreed that one could argue that, but since the Sunset airpark is currently in existence, it would be a much heavier lift trying to create a new airpark, especially when Oregon land use law would not allow it in EFU or AF-20, which is the majority of the land, and the County does not have rural planned developments anymore, which is where this airpark is currently built. Chairman Duyck concluded that it would be a bit of a stretch to believe that a new airpark would be created based on Ordinance 772.

Commissioner Schouten added that this ordinance is limited to this geographic area.

- 5) Richard VanGrunsvan, 9899 NW 316<sup>th</sup> Pl., Hillsboro, spoke as a resident of Sunset Airpark for 32 years, and as president of the Air Acres HOA. He stated that he supports adopting Ordinance 772 so that the residents of the Sunset Acres Estates have the authorization to operate hangar aircraft on their property and to use the Sunset Airstrip with the owner's permission. The outcome of the CPO 8 meeting last night was the result of the discussion that was conducted. While it was stated that the vote had been stacked, there were 12 people in favor. Only 8 of those people were airpark residents. Some neutral people (non-residents) voted in favor of the airpark. Mr. VanGrunsvan stated that he is confident that by discussing and reasoning with one another, all can operate congenially in the future with the adoption of this resolution. He addressed another comment regarding the County's resources to handle complaints by expressing that it would be interesting to see how many complaints have been filed over the past 40 years that the airpark has been in operation. It would also be interesting to see if the County had been over-challenged with the ability to handle those complaints, which, as he believed, are non-existent.
  
- 6) Linda Peters, 25440 NW Dairy Creek Rd., North Plains, spoke on behalf of Washington County Citizen Action Network (WC CAN) and submitted her written testimony for the record. WC CAN shares the confusion of what this ordinance actually does and invites for the future. She explained that when the Board creates a new sort of overlay district and adds it to the code, it is something that is expected to be utilized in the future. It normally carries some direction as to what type of application would be used to apply that overlay district to any given property. She stated that this ordinance does not do that. This ordinance creates a newer overlay district and then applies it directly to one particular set of properties. She commented that that is a hybrid inviting the possibility of other properties to use or create a residential airpark, but giving them no avenue for making an application for such. She remarked that this creates the impression that the Board is just doing a work-around so that a small group of people can be granted a special favor when LUBA denied this group's earlier application. WC CAN has not taken a formal position on this issue, but her written testimony captures the sense of discussions. She noted that WC CAN may have a recommendation for the Board at the next public hearing and requested the Board to acknowledge WC CAN as a non-profit group.

Vice Chair Malinowski asked County staff about the bed and breakfast (B&B) business as it relates to commercial activity. He mentioned the rule that prohibits commercial activity in the residential air park and asked if one could technically fly in to the B&B.

Paul Schaefer explained that the B&B for five or fewer would be allowed as a Type I in AF-5 and RR-5 districts. Staff has not defined the connection between commercial aviation activities and the B&B. It would seem that a B&B would not be a commercial aviation activity. Flight training and scenic tours would be more related to a commercial aviation activity, but that is something that County staff can look into further.

Vice Chair Malinowski asked if it were possible to have a B&B and forbid customers to fly in.

Mr. Schaefer said that in AF-5 and RR-5 districts the limit to the number of vehicles that can be stored outside for 48 hours is 5 vehicles. He stated that this limitation would also apply to a B&B.

Vice Chair Malinowski asked that if he owned a B&B, could he advertise that pilots can fly in and leave the next day. He observed that the County is trying to limit commercial activities associated with aircraft, and if this is the case, it would be nice to know how this can be addressed.

Mr. Schaefer offered to bring that up in the next staff report.

Vice Chair Malinowski referred to the conditional use permit mentioned by Ms. Saunders. He asked how tricky would it be to include a conditional use restriction in the ordinance.

Mr. Schaefer opted to check with County Counsel.

Chairman Duyck suspected that it is legal and that this is more of a policy decision on whether the Board wants to require land owners to constantly go through a process every two years for a conditional use permit.

Commissioner Terry pointed out that the ordinance restricts any commercial activity and the B&B would be considered commercial, but this is something that goes on 365 days a year. If one had company flying in and staying through the night and had breakfast the following morning, that would not be considered B&B, but if it is there 365 days a year, he asked if it would be connected to the overlay district in question.

Vice Chair Malinowski stated that as long as the B&B operator did not charge anything to the customers that flew in, that would not be commercial. But if the B&B charged money for people to fly in and stay at the B&B, then that would be commercial.

Chairman Duyck referred to some of the points made during the testimony. He sought confirmation on whether it was a LUBA ruling that prevented the Sunset Airpark expansion in the first place was based on EFU and AF-20, and asked if that is why LUBA rejected it.

Mr. Schaefer answered that regarding the 2009 Ordinance 721, the LCD had issues with the expansion uses onto resource land.

Chairman Duyck asked if this was a LUBA ruling or whether it was an LCD opinion.

Mr. Schaefer said that it resulted from LCD comments during that process.

Chairman Duyck agreed that LUBA made the right decision because EFU and AF-20 are considered sacred in Oregon and therefore would not be covered in this ordinance. He mentioned that the comment was made that this would not necessarily duplicate this type of



situation with other airparks because there is no other AF-5 or rural residential properties around the other airparks. He recalled other airparks that he is aware of as surrounded by EFU, which limits what they can do. He clarified that this ordinance does not create a new airpark. If a new airpark were to be created, that would be a Type III because that entails the creation of a new air strip.

Mr. Schaefer confirmed that airports fall under Type III.

Chairman Duyck addressed the other issues mentioned earlier and stated that they are not real issues to this particular situation.

Ms. Peters commented that these are issues that have been of concern to people who have observed land use laws and try to be protective of air quality and such over a long period of time. The ambiguities that remain in this ordinance still cause hesitation to adopt it. She suggested moving this to the next ordinance season.

Commissioner Schouten addressed the Covenants, Conditions and Restrictions (CC&Rs). He asked if these are attached to the land that must be continued as conditions to restrict commercial use for new property owners, or whether they are contractual arrangements; private contract arrangements with a particular owner and business operator.

Paul Hathaway answered that the CC&Rs generally run with the land and are passed on to the subsequent property owner.

Commissioner Schouten stated that he would like to know for certain.

Paul Hathaway suggested bringing that back at the next hearing as he is stepping in for Alan Rappleyea and is not as familiar with the ordinance as Alan.

- 7) William McCandless, 32905 NW Beach Rd., Hillsboro, offered to answer the question about CC&Rs. He recited two CC&Rs, recorded: book 865 page 410, run with the land, and Air Acres CC&Rs, recorded: book 726 page 355, run with the land. The CC&Rs for the Orchards have not yet been developed. This is Mr. Jossy's property. He shared that he just learned about the political process of the CPO meeting. He provided input during last night's CPO 8 meeting. The non-commercial has now been included in engrossment A and it is also in the CC&Rs for the properties. Eleven residents own Roth Development Corporation, and Mr. McCandless is the president. He informed that the CC&Rs are enforced by the corporation and raised the question as to whether the corporation will persist. He explained that new residents will be required to become shareholders, so there will be more than 11 people, meaning that this is not in control of one individual. The likelihood that one person can propose a commercial development is non-existent because all of the residents have an interest in avoiding that, as the CC&Rs reflect. With regard to the excitement about fuel storage, he polled the existing residents and only one resident claims to have fuel storage now. Pilots and aircraft owners are sensitive about the lead issue. Two aircrafts on the field run car gas, and one person pilots an electric glider. With regard to noise and operations, if there are three or four

aircrafts per day, the total of six take-offs and landings is a lot. Part of the season, when the runway is muddy, pilot residents do not use it. He compared that to the 700 ops per day Hillsboro has, which shows that the Sunset Airpark is not a large contributor to the air space around the area. With regard to guests, people cannot land in the airpark because it is a private and restricted field. They would need to obtain permission from either the airport manager or Mr. McCandless. The training flights are minimal because the airpark tends to have older pilots.

- 8) Tom Black, 870 NW Garibaldi St., Hillsboro, shared that he was also present at the CPO 8 meeting last night. He commented that it was a good exchange of information. He asked if there was some other land use review that could have been done aside from issuing an ordinance. He recalled the conversation about roosters and now sees that Ordinance 777 is actually an ordinance. He also shared that his understanding was that new residents can build hangars, but cannot access the airstrip unless they have a share in the airstrip, which, he believed, is a good control mechanism. He mentioned that there is a maximum of 26 potential homeowners in the future developments, which does not seem like a lot of extra aircraft coming in to the development. He stated that his only concern was the over flights above the brand new overpass in Glencoe, where there is a congestion of businesses. He suggested having more shareholder involvement rather than take the time to write up an ordinance that affects only a particular portion of the county in a similar future process.
- 9) Bob Jossy, 31965 NW Beach Rd., Hillsboro, addressed the B&B issue. He stated that the B&B is a commercial activity. Landing and parking an airplane there, and staying at the B&B are not a commercial activities; neither is driving a car and parking it there. He pointed out that no one has mentioned how many airplanes the B&B will attract and he guessed that it would not be very many. He mentioned that he owns a U-pick farm adjacent to the airstrip and out of the 30 years he has operated there, no one has flown by to buy fruit. He believed that it would not be worth his advertising dollars to begin that now. He said a lot of the issues brought forward today are more akin to scare tactics. The air strip CC&Rs are what regulate the use of the air strip, which forbids commercial activity. He concluded by saying that there is no concern about commercial activity as the air strip is already restricted well enough.

Commissioner Schouten asked what is the maximum number of new residents that could potentially be added.

Mr. Jossy answered that 18 new homes could be associated with a new air strip but he does not have a certain number.

Chairman Duyck observed that this has become a referendum on aviation more than the land use piece of it. He asked Mr. Jossy that if he did not have this ordinance, could he still develop the property anyway.

Mr. Jossy affirmed that development has been approved already. He can sell lots now.

Chairman Duyck remarked that the real question should focus on the most appropriate type of development. He considered two types: development that has no interest in the air strip, which would impact the air strip, and development that is compatible with the air strip. He recalled that in the past, he opposed development that was not compatible with the air strip, and observed that this is a simple call because the ordinance will not stop development.

Chairman Duyck continued the public hearing to October 22, 2013.

Motion – Terry  
2<sup>nd</sup> – Rogers  
Vote – 5-0

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4.d.  
MO 13-300  
Proposed A-Engrossed Ordinance No. 773 – An Ordinance Amending Home Occupation Standards of the Community Development Code (CPO All)

Commissioner Rogers moved to read A-Engrossed Ordinance No. 773 by title only.

Motion – Rogers  
2<sup>nd</sup> – Schouten  
Vote – 5-0

Paul Hathaway read A-Engrossed Ordinance No. 773 by title only.

Anney Kelly of Current Planning provided the staff report. This is the first hearing of A-Engrossed Ordinance No. 773. At the conclusion of the original ordinance hearing, the Board directed engrossment to delete originally filed restrictions against on-site consumption of intoxicants; to double the originally proposed cap on business-related deliveries for Type II and Type III home occupations only; and to simplify existing language governing spaces that are eligible for home occupation use. Staff prepared and mailed notice of these amendments. She concluded by reporting that staff recommends that the Board conduct the first hearing of A-Engrossed Ordinance No. 773, and at the conclusion of the testimony, continue the hearing to October 22, 2013.

Chairman Duyck opened the public hearing and since there was no testimony, continued the hearing to October 22, 2013.

Motion – Rogers  
2<sup>nd</sup> – Malinowski  
Vote – 5-0

4.e.  
MO 13-301  
Proposed A-Engrossed Ordinance No. 774 – An Ordinance Amending the Community Development Code Relating to Accessory Dwelling Units (CPO All)

Chairman Duyck stated that the Board supports that option, but it is a call that ODOT makes.

Andrew Singelakis suggested that Ms. Reid contact Russ Knoebel, Project Manager.

**7. BOARD ANNOUNCEMENTS**

Chairman Duyck announced that the next Board meeting will be on October 22, 2013. This is an evening meeting starting at 6:30 p.m.

Commissioner Schouten announced that he will be out of town attending the Rail-Volution conference in Seattle, WA.

**8. ADJOURNMENT: 11: 25 a.m.**

Motion – Terry  
2<sup>nd</sup> – Rogers  
Vote – 5-0

MINUTES APPROVED THIS 5<sup>th</sup> DAY November 2013

  
RECORDING SECRETARY

  
CHAIRMAN  
*vice*

**AGENDA**

**WASHINGTON COUNTY BOARD OF COMMISSIONERS**

**Agenda Category:** Public Hearing – Third Reading and Third Public Hearing  
Land Use & Transportation; County Counsel (CPO 8)

**Agenda Title:** **PROPOSED A-ENGROSSED ORDINANCE NO. 772 – AN  
ORDINANCE AMENDING THE RURAL/NATURAL RESOURCE  
PLAN AND THE COMMUNITY DEVELOPMENT CODE TO  
DEVELOP A RESIDENTIAL AIRPARK OVERLAY DISTRICT**

**Presented by:** Andrew Singelakis, Director of Land Use & Transportation  
Alan Rapplevea, County Counsel

**SUMMARY:**

A-Engrossed Ordinance No. 772 proposes to add a new section (Section 389) to the county’s Community Development Code relating to a new Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling. A-Engrossed Ordinance No. 772 is posted on the county’s land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm>

The Board conducted its initial hearing for Ordinance No. 772 on September 24, 2013 and continued the hearing to October 1 to allow additional time to consider submitted testimony and recommendations provided by the Planning Commission and staff. On October 1, the Board directed engrossment of the ordinance to include changes described in the October 1 staff report and continued the hearing to October 15.

A staff report for the October 15 hearing will be provided to the Board prior to the hearing and posted on the above land use ordinance web page. Copies of the report will also be available electronically and at the Clerk’s desk prior to the meeting.

Consistent with Board policy, testimony about the ordinance is limited to three minutes for individuals and 12 minutes for a representative of a group.

Clerk’s Desk Item: Staff Report (*click to access electronic copy*)

**DEPARTMENT’S REQUESTED ACTION:**

Read A-Engrossed Ordinance No. 772 by title only and conduct the first public hearing for the engrossed ordinance. At the conclusion of public testimony, continue the public hearing to October 22, 2013.

**COUNTY ADMINISTRATOR’S RECOMMENDATION:**

I concur with the requested action.


APPROVED WASHINGTON COUNTY  
BOARD OF COMMISSIONERS  
MINUTE ORDER # 13-299  
DATE 10/15/13  
BY A. D. Nayda  
CLERK OF THE BOARD

Agenda Item No. **4.c.**  
Date: 10/15/13



**WASHINGTON COUNTY**  
**OREGON**

October 7, 2013

TO: Washington County Board of Commissioners  
FROM: Andy Back, Manager   
Planning and Development Services  
RE: **October 15 Meeting Materials**

The following items are provided for your meeting.

1. **B-Engrossed Ordinance No. 769 – Comprehensive Plan amendments relating to the Religious Land Use and Institutionalized Persons Act (RLUIPA)**
  - Public Hearing agenda
  - Staff Report
  - Engrossment Notices:
    - Individual Notice No. 2013-31
    - Cities and Special Service Districts Notice
  - B-Engrossed Ordinance No. 769 filed on October 2, 2013 with CPO Notice
  
2. **A-Engrossed Ordinance No. 771 – Comprehensive Plan Amendments Related to Implementation of the North Bethany Subarea Plan**
  - Public Hearing agenda
  - Staff Report
  - Engrossment Notices:
    - Individual Notice No. 2013-25
    - Cities and Special Service Districts Notice
  - A-Engrossed Ordinance No. 771 filed on September 27, 2013 with CPO Notice
  
3. **A-Engrossed Ordinance No. 772 – Development of a Residential Airpark Overlay District**
  - Public Hearing agenda
  - Staff Report
  - Testimony
  - Public Notices:
    - Individual Notice No. 2013-26
    - Type III Public Hearing Notice
    - Cities and Special Service Districts Notice
  - A-Engrossed Ordinance No. 772 filed on October 2, 2013 with CPO Notice

**Department of Land Use & Transportation · Planning and Development Services**  
**Long Range Planning**  
155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072  
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · www.co.washington.or.us

4. **A-Engrossed Ordinance No. 773 – CDC amendments relating to Home Occupation Standards**

- Public Hearing agenda
- Staff Report
- Public Notices:
  - Individual Notice No. 2013-27
  - Cities and Special Service Districts Notice
- A-Engrossed Ordinance No. 773 filed on September 27, 2013 with CPO Notice

5. **A-Engrossed Ordinance No. 774 – CDC amendments relating to Accessory Dwelling Units**

- Public Hearing agenda
- Staff Report
- Public Notices:
  - Individual Notice No. 2013-28
  - Cities and Special Service Districts Notice
- A-Engrossed Ordinance No. 774 filed on October 2, 2013 with CPO Notice

6. **A-Engrossed Ordinance No. 775 – Comprehensive Plan changes relating to Area 93**

- Public Hearing agenda
- Staff Report
- Public Notices:
  - Individual Notice No. 2013-29
  - Cities and Special Service Districts Notice
- A-Engrossed Ordinance No. 775 filed on October 2, 2013 with CPO Notice


7. **A-Engrossed Ordinance No. 776 – Housekeeping and General Update changes**

- Public Hearing agenda
- Staff Report
- Public Notices:
  - Individual Notice No. 2013-30
  - Cities and Special Service Districts Notice
- A-Engrossed Ordinance No. 776 filed on October 2, 2013 with CPO Notice



October 7, 2013

To: Washington County Board of Commissioners

From: Andy Back, Manager   
Planning and Development Services

Subject: **PROPOSED LAND USE A-ENGROSSED ORDINANCE NO. 772 - An Ordinance amending the Rural/Natural Resource Plan and the Community Development Code to develop a Residential Airpark Overlay District.**

**STAFF REPORT**

**For the October 15, 2013 Board of Commissioners Hearing**  
*(The public hearing will begin no sooner than 10:00 am)*

**I. STAFF RECOMMENDATION**

Conduct the first required public hearing on the engrossed ordinance. At the conclusion of public testimony, continue the hearing to October 22, 2013.

**II. BACKGROUND AND ISSUES**

The Board considered proposed Ordinance No. 772 at its September 24, 2013 meeting. At the public hearing, the Board received testimony both in support of and in opposition to the proposed Residential Airpark Overlay District. Of the testimony provided, the Board requested staff response to the following topics:

***Compliance with the Rural / Natural Resource Plan Policies:*** Opponents opined that the proposed Residential Airpark Overlay District (on AF-5 and RR-5 exception lands) does not comply with the Rural/Natural Plan, in particular Policies 4 (Air Quality), 5 (Noise), 6 (Water Resources), and possibly 10 (Fish and Wildlife Habitat).

The Rural/Natural Resource Plan is comprised of 29 plan policies, including those noted above. Each policy contains implementing strategies addressing the respective policy; however, not all plan policies may be applicable to a given plan amendment. In addition, policies that apply to a plan amendment may be in conflict (with other plan policies) and as such there should be a balance between conflicting policies that apply to a single plan amendment. Some policies are more applicable than others to a given plan amendment request.

**Department of Land Use & Transportation · Planning and Development Services  
Long Range Planning**

155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072  
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · www.co.washington.or.us



For example, as indicated below, Policy 10 (Fish and Wildlife Habitat) would have less applicability to A-Engrossed Ordinance No. 772 than would Policy 5 (Noise) due to the fact that there are no known or mapped Significant Fish and Wildlife Habitat resources located on any of the parcels proposed to be designated with the Residential Airpark Overlay District. Staff offers the following analysis in support of its overall finding that proposed A-Engrossed Ordinance No. 772 is consistent with the Rural / Natural Resource Plan as it pertains to Policies 4, 5, 6, and 10:

**Policy 4 (Air Quality):** The RAOD does not require the siting of hangars or storage of aircraft on any of the lots within its boundaries. Notwithstanding, the county is not primarily responsible for air quality and property owners will be required to be consistent with requirements of other agencies, such as DEQ.

**Policy 5 (Noise):** Implementing Strategy a. states that the County will ‘Support controls of excessive or unnecessary noise and efforts to limit its adverse impacts.’ Noise complaints are handled by the county Health Department and according to Noise Enforcement staff with Health Department, there are no noise complaints on record with Sunset Airstrip. However, Health Department staff pointed out that aviation is exempt from county noise regulations. Consequently, staff find that noise generated from aircraft stored on lots within the RAOD is consistent with Policy 5.

Additionally, similar to findings made under Policy 4 above, staff finds that it is better from a noise control perspective to locate future noise generators (aircraft) near the existing airstrip rather than locating them elsewhere in rural Washington County and served by a new private airstrip.

**Policy 6 (Water Resource):** The County’s policy under Policy 6 is to maintain or improve surface and ground water quality and quantity. Staff’s opinion is that existing groundwater quality or quantity will not be adversely impacted by the designation of the parcels in question with the Residential Airpark Overlay District.

Regarding potential dumping of fuel by pilots flying in and out of Sunset Airstrip, testimony was provided that small personal aircraft do not have the capability to ‘dump’ aviation fuel in the event of an emergency as do larger commercial aircraft.

Regarding on the ground storage of aviation fuel, any proposed storage containers would be required to comply with all applicable federal, state and local requirements, including the 2010 or most current Oregon Structural Specialty Code and 2010 or most current Oregon Fire Code. Storage of aviation fuel, albeit most likely in small quantities if at all, will be highly regulated in order to ensure safe and secure storage. Additionally, storage of aviation fuel on a per lot basis would be generally comparable to storage of diesel fuel for farm operations. Therefore staff find that the RAOD is consistent with Policy 6.

**Policy 10 (Fish and Wildlife Habitat):** Policy 10 requires protection and enhancement of Significant Fish and Wildlife Habitat. There are no known or mapped Significant Fish and Wildlife Habitat resources located on any of the parcels proposed to be designated with the Residential Airpark Overlay District. In addition, staff's opinion is that common farming practices (e.g., pesticide applications, operation of heavy diesel farm equipment, such as tractors and tillers) could have a similar degree of impact on nearby Significant Fish and Wildlife Habitat resources as air traffic that could result from adoption of the RAOD. Therefore, staff find that the proposed Residential Airpark Overlay District is inconsistent with Policy 10.

***Limitations on the number of residences in a residential airpark:*** Opponents assert that there are state statutes limiting the number of residences that could exist in a residential airpark. According to written correspondence from John Wilson with the Oregon Department of Aviation (ODA), the Oregon Revised Statutes do not contain any limitations or restrictions on the number of allowable lots on an airport (noting that the proposed Residential Airpark Overlay District is not an airport). Mr. Wilson indicated that ODA would defer to the local jurisdiction, in this case, Washington County to establish any lot limitations or restrictions for the RAOD.

As stated in previous staff reports, the county issued preliminary land use approval for a total of 18 lots to be developed as part of the Sunset Orchards Estates. The RAOD would apply to Sunset Orchards Estates; therefore a maximum of 18 lots can be developed within the proposed Residential Airpark Overlay District. Consequently, a maximum of 18 private hangars could be constructed if each lot had an existing dwelling unit and all other applicable requirements were met.

### III. NEXT STEPS

The Board continued the hearing to October 1, 2013 to allow additional time to consider submitted testimony and recommendations provided by the Planning Commission and staff. On October 1, the Board directed engrossment of the ordinance to include changes described in the October 1 staff report and continued the hearing to October 15 and 22, 2013. The Board further directed staff to provide notice of the changes and the schedule for engrossment hearings as required by Chapter X of the County Charter. The Board also directed staff to prepare and mail a Type III Public Hearing Notice to owners of property within 1000 feet of the proposed Residential Airpark Overlay District.

Staff mailed Individual Notice No. 2013-26 which describes the changes to Ordinance No. 772 and lists the two hearing dates for the engrossed ordinance. This notice was mailed to interested parties and individuals on the General Notification List on October 4, 2013. Copies of A-Engrossed Ordinance No. 772 were mailed to the Citizen Participation Organizations (CPOs), and notice of the engrossment was mailed to Washington County cities, special service districts, CPOs and Metro. Notice was also posted on Long Range Planning Division's Land Use

Ordinance web page. A Type III Public Hearing Notice was mailed to all owners of property within 1000 feet of the proposed Residential Airpark Overlay District, also on October 4, 2013. A copy of A-Engrossed Ordinance No. 772 and the Individual Notice are included in the Board's meeting materials for the October 15, 2013 hearing.

#### **IV. SUMMARY OF FILED ORDINANCE NO. 772**

Ordinance No. 772, as filed, would establish a new Residential Airpark Overlay District and associated development regulations. Key provisions of the filed ordinance:

- Add CDC Section 389 (Residential Airpark Overlay District) which contains regulations governing Residential Airpark Development and authorizes limited accessory uses commonly associated with airstrips when constructed on property with an existing dwelling.
- Allow the designation of certain properties located on either side of Sunset Airstrip as Residential Airpark Overlay District lands.

#### **V. SUMMARY OF ENGROSSMENT**

On October 1, the Board directed staff to make several changes to Ordinance No. 772. These changes are generally described below:

- Remove the three EFU parcels and one AF-20 parcel from the proposed overlay district (map change)
- Clarify that only 1 hangar is allowed per lot, but remove the limits on the number of tie-downs per lot.
- Prohibit commercial aviation activities, except as may be allowed in the AF-5 and RR-5 Districts
- Prohibit renting of personal hangars

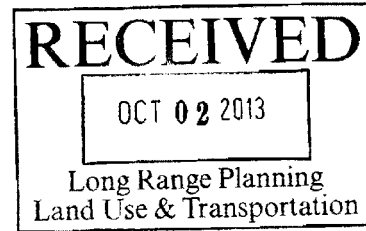
#### **VI. ADDITIONAL TESTIMONY**

Subsequent to the October 1, 2013 hearing, staff has received testimony from the following:

- Harry Farr, in his letter received October 2, 2013, wrote in support of Ordinance No. 772.
- Larry Derr, in his letter received October 4, 2013 on behalf of Bob and April Jossy, responded to two areas of concern: number of aircraft, and possible commercial activity. Mr. Derr contends that the only aircraft on the property will be that of the property owner since renting of hangar space is prohibited under proposed Section 389. Mr. Derr noted

that outside storage of vehicles, including aircraft, is limited to no more than four vehicles and for no longer than 48 consecutive hours per CDC Sections 348-5.8 (AF-5) and 350-5.4 (RR-5) . Further, the proposed overlay district does not authorize any commercial aviation activities except as allowed in the AF-5 and RR-5 Districts. Home Occupations are limited in these two rural districts, with Type II and III Home Occupations include public notice (Type II) and public notice with a public hearing (Type III).

S:\PLNG\WPSHARE\2013ord\Ord772\_AirportOverlay\Staff\_Reports\BCC\101513\A\_EngOrd772\_BCC\_StfRpt\_100713.doc



September 28, 2013

Farr Welding and Equipment Repair  
2545 NW Creekwood Pl  
Forest Grove, Or 97116  
503-201-3240

Washington County, Department of Land Use & Transportation  
Planning and Development Services, Long Range Planning  
155 N First Ave., Suite 350-14

RE: Ordinance 772

To Whom It May Concern:

I would like to offer my Support of Ordinance 772 as it pertains to property owned by Bob Jossey at Sunset Airstrip. I own my airplane and have been flying for 40 years. There is a shortage of land for people that want to live and fly at a residential airstrip in Portland Metropolitan area. Sunset Airstrip is the best residential airstrip in that area. Aviation needs to be supported to keep the public flying.

Thank you,

A handwritten signature in cursive script that reads "Harry Farr".

Harry Farr

Law Offices of  
**JOSSelson & POTTER**  
9400 SW BEAVERTON-HILLSDALE HIGHWAY, SUITE 171-A  
BEAVERTON, OREGON 97005  
TELEPHONE: (503) 228-1455  
FACSIMILE: (503) 228-0171



October 4, 2013

**BY FAX AND EMAIL ATTACHMENT**

Board of County Commissioners  
Washington County

Re: Ordinance No. 772

Dear Chair Duyck and Commissioners Malinowski, Rogers, Schouten and Terry:

I represent Bob and April Jossy. They asked me to respond to two areas of concern expressed in hearings on the proposed Residential Airpark Overlay District (RAOD). Those concerns relate to the number of aircraft that might be tied down at an individual home and lot, and possible commercial activity on the residential lots.

The RAOD indirectly addresses the question of the number of aircraft by prohibiting the rental of hangar space. As a result, the only aircraft on a property will be those of the resident of the property. In the unlikely event that a resident would choose to own more than one or two aircraft, other provisions of the underlying AF-5 and RR-5 Districts provide a limitation.

CDC 348-5.8 of the AF-5 District and CDC 350-5.4 of the RR-5 District prohibit the outdoor storage of five or more operable vehicles on a single lot or parcel for more than forty-eight hours. The term "vehicle" is not defined in the Community Development Code, but dictionary definitions include aircraft. For example, Webster's New World Dictionary defines vehicle as any device or contrivance for carrying or conveying persons or objects, esp. over land or in space. So, whatever type of vehicle an owner may choose to store on the property, the total number outside may not exceed four.

One of the letters received in the record from a recreational pilot noted that, however, many aircraft a person may own, that person can only fly one at a time. That observation appears to best address the apparent concern that there could be a high volume of flight activity without an express limitation on the number of permitted aircraft.

LAWRENCE R. DERR  
OF COUNSEL

Board of County Commissioners  
Washington County  
Page 2 of 2 – October 4, 2013

The RAOD does not authorize any commercial use. In addition, provisions of the underlying Districts expressly prohibit any structures or uses of land not specifically authorized by the terms of those Districts, CDC 348-5.1 and CDC 350-5.1. I understand there was some concern that the meaning of “commercial aviation activities” in the prohibited uses language of proposed section 389-4 might be unclear. I do not think it is, but in any event, the prohibition is largely redundant given the limitations of the underlying Districts.

There appear to be only three possibilities in those Districts for any type of commercial aviation use to be permitted in the absence of the prohibition in section 389-4. They are in connection with an approved personal use airport pursuant to CDC 430-7, an airport in an airport overlay district, or a home occupation.

Approval of a personal use airport is a Type III process and commercial uses are restricted to agricultural operations. The property to which the RAOD will be applied has been subdivided into approximately four acre lots that are too small to accommodate a personal use airstrip. Expansion of the Sunset Airstrip airport overlay has been rejected by DLCD and the County.

That leaves only the possibility of a home occupation. Home occupations are extremely limited. Exempt and Type I home occupations are intended to have almost no external visibility or effect. Type II and III home occupations are also severely limited, with the added protection of a public review process preceding any approval. All home occupations must occur within the dwelling or in some instances associated structures. Flight instruction would not satisfy that restriction. Most important, home occupations are possible in the underlying zones today and nothing in the RAOD would change the approval process or expand the availability of such uses.

Very truly yours,



Lawrence R. Derr

cc: Paul Schaefer  
Bob and April Jossy



OREGON PILOTS ASSOCIATION

Mary Rosenblum, President  
24198 S Skylane Drive  
Canby, OR 97013  
503-896-2470  
[rosenblummary@gmail.com](mailto:rosenblummary@gmail.com)

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October 8, 2013

Board of Washington County Commissioners

Dear Board of Washington County Commissioners,

I'm writing to you regarding Ordinance 772, not only as the president of the Oregon Pilots Association, but also as a resident of Dietz Airpark, situated just outside the Canby city limits in Clackamas County. The proposed airpark overlay has been brought to our attention by a number of members who reside in the area and I am very pleased to see the proposal to expand the properties that may make use of that airstrip. Here at Dietz, our Homeowners Association polices airstrip use, preventing flight training and excessive and noisy use of the strip and pressuring residents to avoid the homes of noise-sensitive neighbors on approach and take-off. We have a number of residents with multiple planes, but the number of monthly flights does not equate to the number of planes owned.

The airpark contributes significantly to the Canby economy as residents shop and eat locally and make use of local services, with no detriment to the community in terms of noise and over-flight. The beneficial economic impact of these small local airparks on their communities should not be underrated. As a group, pilots tend to be in the middle income bracket or higher, they are responsible residents, and tend to spend their money locally. Typically, HOAs at these airparks have strict rules about use and enforce them.

I can see only a benefit to the community in the passage of an unrestricted Ordinance 772. The Oregon Pilots Association supports this type of positive land use resolution. One has only to look to the majority of private Oregon airparks to see the positive impact these residential communities have had on their neighbors.

Respectfully,

Mary Rosenblum  
President, Oregon Pilots Association

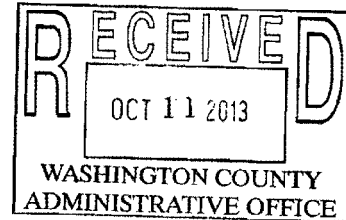




Date: October 10, 2013

To: Washington County Commissioners

From: Miki Barnes, PO Box 838, Banks, Oregon 97106, Ph 503-324-0291



Topic: Testimony opposing Ordinance Number 772 for 10/15/13 Board of Commissioners Hearing

Documentation found on Airport IQ 5010 reveals that the Sunset Residential Airpark is located on 14 acres.<sup>1</sup> It further notes that there are currently 15 aircraft based at this facility – 12 single engine aircraft, 1 multi-engine, 1 helicopter and 1 glider.<sup>2</sup> This totals out to just over 1 aircraft per acre. The county record states that there are currently 16 residential properties included in the current airport overlay zone.

The passage of Ordinance 772 would add an additional 79 acres – a nearly 6-fold increase in aviation related acreage – for a total of 94 acres. With allowances for unlimited based aircraft, tie-downs, and landings and take-offs, it is not unreasonable to expect the number of based aircraft and operations to increase considerably. In keeping with the current pattern of roughly 1 aircraft per acre, the addition of 79 acres could easily bring the total of based aircraft to 95 or more.

As a result, this ordinance could set the stage for upwards of 100, perhaps more, aircraft to be based at this facility. By contrast, a number of established commercial and general aviation airports in Oregon have far fewer based aircraft, including but not limited to, Portland International (87), Southwest Oregon Regional (56), Eastern Oregon Regional (46), Robert's Field (91), Scappoose Industrial Airpark (58), Mulino State Airport (44), Cottage Grove State Airport (47), Lebanon State Airport (55), Albany Municipal Airport (51), Astoria Regional (49), Sportsman Airpark (59), Chehalem Airpark (31), and Tillamook Airport (40).

Several years ago, the Apple Valley airstrip in Buxton, which was also considered a private use airport, attempted to expand. This effort provoked widespread community opposition and led to a protracted, multi-year legal struggle. The Washington County Date of Remand Decision (Casefile: 06-306-SU) regarding the Apple Valley Airport reads as follows: *"The Hearings Officer agrees with opponents that the limitless number of take-offs and landings allowed by statute must be carried forward setting a limitless number of impacts when it comes to roadway usage, water demand, toilet needs, medical attention requirements, airplane crash safety support, fuel storage, and potential environmental contamination.."*<sup>3</sup> Yet there is nothing in the county record on Ordinance 772 that addresses the need for unlimited services to accommodate this major Sunset Airpark expansion.

Also of note, the Airport IQ 5010 site states that the Sunset Residential Airpark is restricted to the personal use of owners and residents.<sup>4</sup> Nonetheless, as noted in my 10/1/13 testimony the county's documents regarding permitted uses at the Sunset Airpark are confusing and misleading. For instance, in an email as recent as 7/24/13, which was included in the county's Ordinance 772 file, from Jeff Caines with the Oregon Department of Aviation to Washington County Planner, Paul Schaefer, Caines disclosed that he was unable to find a list of the activities that existed at the airpark in 1968 when the airpark was established. He went on to note that "New uses can be established via a public hearing." Thus, the claim that the current airpark is authorized by ORS 836.616 to engage in flight instruction and other commercial activity is spurious. In fact, the record indicates that a 2009 effort by Bob Jossey to seek approval for expansions of this nature at the Sunset Airpark was denied by DLCD. In the interest of transparency and accountability, this issue needs to be clarified.

The Washington County Code pertaining to Private Use Airport Overlay Districts applies to seven airports including the Sunset Airstrip.<sup>5</sup> Section 385-3 of the code reads as follows:

Operation of the following uses may be continued at their current levels as of the effective date of this ordinance (November 27, 2003) upon demonstration that the use existed at the airport at any time during 1996.

The Apple Valley airstrip owned by Mike and Jenni Applebee was also subject to 385.3. In their case, a review was required to determine the existing operational level at this airstrip in 1996. In addition, the Applebees were seeking special use approval for new uses beyond 1996 levels to engage in flight instruction, scenic flight tours, and forest fire patrols. The onus was on the Applebees to prove that these uses existed in 1996. Ultimately they failed to prove their case. Both the Washington County Hearings officer and the Land Use Board of Appeals (LUBA) ruled against their expansion plans.

It will be important to determine current uses at the Sunset Residential Airpark prior to approving Ordinance No. 772 as the future property owners in the proposed residential airport overlay will have access to the existing Sunset Airpark and could presumably expect to engage in the types of commercial activities that the county claims are authorized at this facility.

In addition, clarification of 385-3 A stating that 'customary and usual aviation-related activities' including takeoffs and landings, aircraft hangars and tie-downs, and a number of other uses "do not include residential, commercial, industrial, manufacturing and other uses." This language suggests that that current county code does not apply to the Sunset Residential Airpark or to a "residential airport overlay" as the code clearly states that the uses delineated in 385 do not pertain to residential uses.

For all the reasons stated above, I urge you to reject this ordinance.

<sup>1</sup> Airport IQ 5010. Sunset Airpark 10R3. Available at <http://www.gcr1.com/5010web/airport.cfm?Site=1OR3>

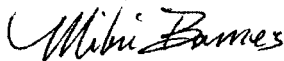
<sup>2</sup> Ibid. Available at <http://www.gcr1.com/5010web/airport.cfm?Site=1OR3&AptSecNum=2>

<sup>3</sup> Remand Notice of Decision of Hearings Officer. Miscellaneous Review to Determine the Operational Level of the Existing Apple Valley Airport in 1996. . Washington County Department of Land Use and Transportation. Casefile: 06-306-SU (Remand). Date of Remand Decision: 9/25/07. Pg. 17-18.

<sup>4</sup> Airport IQ 5010. Sunset Airpark 10R3. Available at <http://www.gcr1.com/5010web/airport.cfm?Site=1OR3&AptSecNum=4>

<sup>5</sup> 385.2 Applicability. This Overlay District applies to the following private use airports: Apple Valley AP, Meyer's Riverside AP, North Plains Gliderport, Olinger Strip, Sunset Airstrip, and to the life flight heliport at Providence St. Vincent Medical Center, pursuant to ORS 836.608(2). This Overlay District additionally applies to Skyport, a public use airport.

Respectfully Submitted by,



Miki Barnes

Attachments

Airport Name	<b>SUNSET AIR STRIP</b>	Associated City	<b>NORTH PLAINS</b>
FAA Site	<b>19544.1*A</b>	Location Identifier	<b>1OR3</b>
Data Effective Date: 08/22/2013		Provided By GCR Inc	



<b>General Information</b>	<b>Services &amp; Facilities</b>	<b>Based Aircraft &amp; Operations</b>	<b>Runway Information</b>	<b>Remarks</b>
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CBD To Airport(NM) & Direction: **01 SW**

County: **WASHINGTON**

FAA Region / ADO Code: **ANM SEA**

Sectional Aeronautical Chart:  
**SEATTLE**

Ownership: **PRIVATE**

Owner:

**ROTH DEVELOPMENT CORPORATION**  
**3450 NW 65TH ST**  
**SEATTLE, WA 98117**  
**206-276-3054**

Manager:

**DAN ROACH**  
**3450 NW 65TH ST**  
**SEATTLE, WA 98117**  
**206-276-3054**

Attendance Schedule:

<b>MONTHS</b>	<b>DAYS</b>	<b>HOURS</b>
<b>UNATNDD</b>		

Airport Use: **PRIVATE**

Airport Latitude: **45-35-29.4140N ESTIMATED**

Airport Longitude: **123-00-34.3800W**

Airport Elevation: **207.0 ESTIMATED**

Acreage: **14**

Right Traffic: **06**

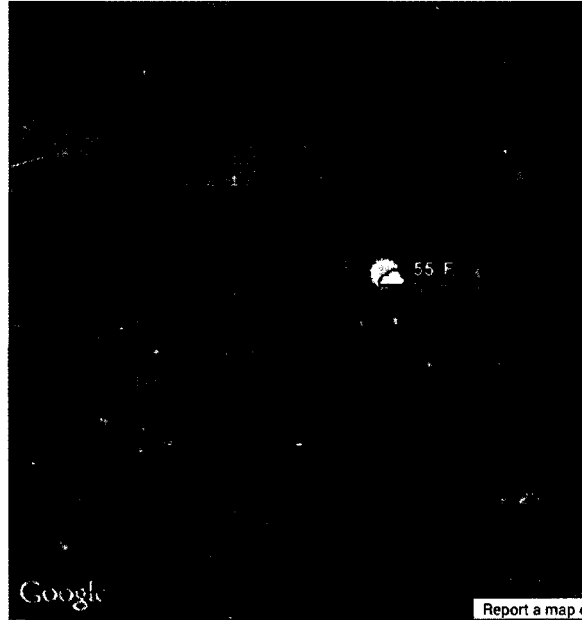
Non-Commercial Landing Fee: **NO**

NPIAS/Federal Agreement:

FAR 139 Index:

Last Inspection Date:

Last Information Request: **12/15/2009**



Click on the weather icons for an additional information  
[Open larger map](#)

Airport Name	<b>SUNSET AIR STRIP</b>	Associated City	<b>NORTH PLAINS</b>
FAA Site	<b>19544.1*A</b>	Location Identifier	<b>1OR3</b>
Data Effective Date: 08/22/2013		Provided By GCR Inc.	



<b>General Information</b>	<b>Services &amp; Facilities</b>	<b>Based Aircraft &amp; Operations</b>	<b>Runway Information</b>
----------------------------	----------------------------------	--	---------------------------

**Based Aircraft**

Single Engine (SE):	12
Multi Engine (ME):	1
Jet (J):	0
<b>TOTAL FIXED WING:</b> (SE + ME + J)	<b>13</b>
Helicopters:	1
Gliders:	1
Military:	0
Ultra-Light:	0

**Operations**

Air Carrier:	0
Air Taxi:	0
General Aviation Local:	0
General Aviation Itinerant:	0
Military:	0
<b>TOTAL OPERATIONS:</b>	<b>0</b>
Operations for 12 Months Ending:	

**National Based Aircraft Inventory**

Update your National Based Aircraft Inventory for more detailed flight activity.

**Airport Data Center**

**Looking for Activity Report**

Check the pulse of your operation, in real time, all one screen.

**Click to learn more!**

**GCR GCR Inc.**

Airport Name **SUNSET AIR STRIP**  
FAA Site **19544.1\*A**

Associated City **NORTH PLAINS**  
Location Identifier **1OR3**

Data Effective Date: 08/22/2013

Provided By GCR Inc



**General Information**

**Services & Facilities**

**Based Aircraft & Operations**

**Runway Information**

CBD To Airport(NM) & Direction: 01 SW

County: **WASHINGTON**

FAA Region / ADO Code: **ANM SEA**

Sectional Aeronautical Chart:

**SEATTLE**

Ownership: **PRIVATE**

Owner:

**ROTH DEVELOPMENT CORPORATION**

**3450 NW 65TH ST**

**SEATTLE, WA 98117**

**206-276-3054**

Manager:

**DAN ROACH**

**3450 NW 65TH ST**

**SEATTLE, WA 98117**

**206-276-3054**

Attendance Schedule:

**MONTHS**

**DAYS**

**HOURS**

**UNATNDD**

Airport Use: **PRIVATE**

Airport Latitude: **45-35-29.4140N ESTIMATED**

Airport Longitude: **123-00-34.3800W**

Airport Elevation: **207.0 ESTIMATED**

Acreage: **14**

Right Traffic: **06**

Non-Commercial Landing Fee: **NO**

NPIAS/Federal Agreement:

FAR 139 Index:

Last Inspection Date:

Last Information Request: **12/15/2009**



Click on the weather icons for an additional information  
[Open larger map](#)

Airport Name **SUNSET AIR STRIP** Associated City **NORTH PLAINS**  
FAA Site **19544.1\*A** Location Identifier **1OR3**  
*Data Effective Date: 08/22/2013* *Provided By GCR Inc.*



**General Information** | **Services & Facilities** | **Based Aircraft & Operations** | **Runway Information**

<b>Element Number</b>	<b>Remark Text</b>
A110-001	ARPT RESTRICTED TO PSNAL USE OF OWNER/RESIDENTS.
A110-002	CONTACT HILLSBORO TOWER PRIOR TO TAKEOFF OR LANDING

O.C.      4.C.

October 15, 2013

To: Washington County Chair Duyck and Commissioners Malinowski, Rogers, Schouten, Terry

Subject: Ordinance 772, CPO 8 Meeting October 14, 2013

Community members discussed Ordinance 772 at some length during the October meeting of CPO 8. At the close of the discussion, a motion was put forward by William McCandless and seconded by Richard VanGrunsven with the following wording and with the direction that CPO representatives carry the motion to the BOC meeting on October 15, 2013.

“CPO 8 supports Ordinance 772 Engrossment A”

The motion carried with 12 in favor, 3 opposed and 3 abstentions. The voting was limited to CPO 8 members according to the bylaws of the CPO. Meeting attendance totaled 28, a mix of community members, county staff, as well as other stakeholders.

A special outreach effort for this discussion was made to insure a balance of views and as a result the applicant and a number of residents around the Sunset Air Strip were in attendance.

Signed:

Henry Oberhelman

Pat Wolter

Cc:

CPO 8 File

10175 CPO 8 Motion Re Ordinance 772, 131014  
10/15/2013 8:21 AM  
1/1

O.C. 4.C.



## Washington County Citizen Action Network

*Washington County Citizen Action Network (WC CAN) is a coalition of grassroots advocates (individuals and groups) dedicated to improving quality of life in Washington County by promoting healthy and sustainable communities, social and economic justice, and open and responsive government.*

October 15, 2013

To: Washington County Board of Commissioners

Re: A-Engrossed Ordinance #772

Although the A-Engrossed form of Ordinance #772 has clarified some of the questions we intended to raise with regard to the original, members of our board remain concerned about the following issues:

1. It remains a hybrid of a county-wide code change -- creating a new type of overlay district -- and a (more typically Type III) change in land use designation applied to a small number of properties that are functionally under single ownership (in this case the Jossy family and their business.) The problems we see with this arrangement include:

a) It sets up a Residential Airpark Overlay District as though it would be applicable in the future to other similar uses, should owners of AF-5 or Rural Residential properties adjacent to a Private Airstrip wish to develop in the same fashion. Yet the Ordinance is silent as to how future applications for such a designation would be received and processed by the County. One presumes the landowner or investor would need either a Type III or a Type IV Comprehensive Plan Amendment, but it would save the County further trouble and possible accusations of favoritism if the Ordinance made clear how another such District

b) If, as Mr. Jossy claims, there are no other airstrips in the County with surrounding undeveloped AF-5 and Rural Residential land, the question arises why the Overlay District was created at all, except as a way to work around the inconvenient LUBA ruling which prevented the Sunset Air Park expansion in the first place. The appearance of favoritism or cronyism in granting code changes is not one I think this Board wishes to create.

2. While purporting to exclude "commercial aviation uses" the Ordinance allows all uses permitted in the underlying districts, which would include Bed & Breakfast uses. Proponents refer to their existing and planned C&R's to prohibit such uses, but the County cannot rely on



current private C&Rs to stand for Community Development Code protections. A residence in this new district could be permitted as a Bed and Breakfast, and host regular fly-ins that would greatly increase the air traffic in and out of Sunset Airstrip.

3. Western Washington County communities have been besieged, in the past decade, with increases in General Aviation air traffic and the increases in both noise and lead pollution which attend them, both from Hillsboro Airport and, notably, in the long battle Manning and Buxton residents have fought to contain Apple Valley Airport's expansion into commercial flight activities. We are sensitive to the likelihood that -- although the current owners of Sunset Air Park and the airstrip are hobby pilots, collectors, and small aircraft innovators, unlikely to increase significantly the volume of fixed wing or helicopter traffic with the addition of this Overlay District -- properties do change ownership.

The relatively general, permissive language and content of Ordinance 772 offers every possibility that future owners could develop Sunset Air Park and its adjoining Sunset Acres into a hub of General Aviation Tourism and/or a satellite of HIO's helicopter and flight training activities. We see no reason to dangle such a plumb before the eyes of a voracious economic sector, when the County's duty is to protect the quality of our air and the integrity of our rural agricultural economy, which includes organic food crops that could be damaged by increased lead pollution.

4. We regret that the Board Chair did not accept our full testimony at the October 1 hearing on this Ordinance, but we trust that these written comments will be entered into the record. We hope that today and in future, the Washington County Board will acknowledge Washington County Citizen Action Network, registered with the State of Oregon as a Private Non-Profit Corporation for Public Benefit and actively working to improve the quality of life in our communities as a "group" for purposes of participating in public hearings. Our goals include citizen empowerment and more open and responsive government. We hope that today we can take a step together toward those goals .

Respectfully submitted,

Linda Peters  
Chair, Washington County Citizen Action Network



WASHINGTON COUNTY  
 DEPARTMENT OF LAND USE  
 & TRANSPORTATION,  
 PLANNING AND DEVELOPMENT SERVICES  
 LONG RANGE PLANNING  
 155 NORTH FIRST AVENUE  
 HILLSBORO, OREGON 97124  
 (503) 846-3519

**SUBJECT: INDIVIDUAL NOTICE  
 MAILING**

- 2013-25 (A-Eng. Ord 771)
- 2013-26 (A-Eng. Ord 772)
- 2013-27 (A-Eng. Ord 773)
- 2013-28 (A-Eng. Ord 774)
- 2013-29 (A-Eng. Ord 775)
- 2013-30 (A-Eng. Ord 776)
- 2013-31 (B-Eng. Ord 769)

**AFFIDAVIT OF MAILING**

STATE OF OREGON  
 COUNTY OF WASHINGTON } SS

**Angela Brown** , declares as follows:

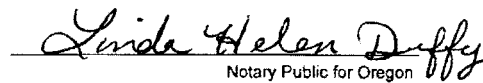
That at all times herein mentioned, she was an employee of the County of Washington; that acting for the County on the **4th** day of **October, 2013**, she did on that date, mail the attached information to the parties so designated.

Attached is a list of the parties to whom the information was sent.

I, **Angela Brown**, being first duly sworn depose and say that I am the party in the foregoing statement and that the same is true.



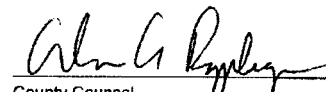
Subscribed and sworn to before me this 9<sup>th</sup> day of **October, 2013**.



Notary Public for Oregon



APPROVED AS TO FORM



County Counsel  
 For Washington County, Oregon



October 4, 2013

**Individual Notice No. 2013-26**

**At your request, Long Range Planning is providing you with Individual Notice No. 2013-26, which describes changes that were made to proposed Land Use Ordinance No. 772.**

**These changes have been incorporated into proposed A-Engrossed Ordinance No. 772.**

**Initial Notice**

On August 1, 2013, persons on the General Notification List were mailed a notice (Notice No. 2013-17) from Washington County Long Range Planning regarding initial public hearings before the Planning Commission and the Board of Commissioners (Board) for proposed Land Use Ordinance No. 772.

After public hearings for Ordinance No. 772, the Board ordered amendments to this ordinance. These changes have been incorporated into proposed **A-Engrossed Ordinance No. 772** and are summarized below. As required by Chapter X of the County Charter, the Board has directed staff to prepare and provide you with notice of these amendments. This notice, which describes the changes to proposed Ordinance No. 772, is the second Individual Notice you have received on this ordinance this year.

**Purpose and Description of Proposed Ordinance**

As originally filed, Ordinance No. 772 proposes to add a new section (Section 389) to the Washington County Community Development Code to create a Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling.

Ordinance No. 772 also proposes to amend Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan to add text relating to the Residential Airpark Overlay District and to replace the existing Sunset Airstrip map with a new map that shows the Residential Airpark Overlay District boundaries.

**Who Is Affected**

Owners of property on either side of Sunset Airstrip, which is located south of North Plains (south side of Highway 26) and west of Glencoe Road.

**What Land Is Affected**

Certain properties located on either side of Sunset Airstrip proposed for designation as Residential Airpark Overlay District lands.

**Summary of Changes to Ordinance No. 772**

- Remove the three EFU parcels and one AF-20 parcel from the proposed overlay district (map change)
- Clarify that only 1 hangar is allowed per lot, but no longer limits the number of tie-downs (per lot)
- Prohibit commercial aviation activities, except as may be allowed in the AF-5 and RR-5 Districts
- Prohibit renting of personal hangars

**Department of Land Use & Transportation · Planning and Development Services**  
**Long Range Planning**

155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072  
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · www.co.washington.or.us

**Public Hearings  
Time and Place**

**Board of Commissioners  
10:00 am  
October 15, 2013**

**Board of Commissioners  
6:30 pm  
October 22, 2013**

Hearings will be held in the Shirley Huffman Auditorium in the Charles D. Cameron Public Services Building, 155 North First Avenue, Hillsboro, Oregon.

On October 22, 2013, the Board may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If it is adopted on October 22, the ordinance would become effective on November 21, 2013.

**How to Submit  
Comments**

Submit oral or written testimony to the Board at one of the public hearings. Written testimony may be mailed or faxed to the Board in advance of the public hearings in care of Long Range Planning. **We are unable to accept e-mail as public testimony.**

Washington County, Department of Land Use & Transportation  
Planning and Development Services, Long Range Planning  
155 N. First Ave., Suite 350-14, Hillsboro, OR 97124-3072  
Fax: 503-846-4412

**Staff Contact**

Paul Schaefer, Senior Planner  
155 N. First Ave., Suite 350-14, Hillsboro, OR 97124-3072  
Telephone: 503-846-8817 Fax: 503-846-4412  
e-mail: paul\_schaefer@@co.washington.or.us

**Proposed Ordinance is  
available at the  
following locations**

- Washington County, Department of Land Use & Transportation Planning and Development Services, Long Range Planning  
155 N. First Ave., Suite 350, Hillsboro, OR 97124-3072  
Telephone: 503-846-3519
- [www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm](http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm)
- Cedar Mill Community Library and Tigard Public Library
- Citizen Participation Organizations (CPOs); Call 503-821-1128 for a directory of CPOs.

<b>Plan Documents Affected by A-Engrossed Ordinance No. 772</b>  <i>For more information about these plan documents, please call Long Range Planning at (503) 846-3519.</i>	WASHINGTON COUNTY COMPREHENSIVE PLAN DOCUMENTS			
	Comprehensive Framework Plan for the Urban Area <input type="checkbox"/>	Rural/Natural Resource Plan <input checked="" type="checkbox"/>	Exceptions Statement Document <input type="checkbox"/>	
	Urban Community Plans: <input type="checkbox"/>			
Community Development Code <input checked="" type="checkbox"/>	Transportation Plan <input type="checkbox"/>	Public Facility Plan <input type="checkbox"/>	Urban Planning Area Agreements <input type="checkbox"/>	

S:\PLNG\WPSHARE\2013ord\Ord772\_AirportOverlay\A-Engrossed Ord 772\_Notices\FINALA-Eng\_ORD772\_IndividualNotice.doc



WASHINGTON COUNTY, OREGON  
Department of Land Use & Transportation  
Long Range Planning Division  
155 N First Avenue, Suite 350, MS 14  
Hillsboro, OR 97124-3072

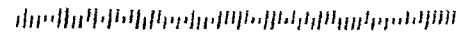


UNITED STATES POSTAGE  
02 1P \$ 00.66<sup>0</sup>  
9002014486 OCT 04 2013  
MAILED FROM ZIP CODE 97124

**RECEIVED**  
OCT 07 2013  
Long Range Planning  
Land Use & Transportation

LINDA SCHROEDER  
WASHINGTON COUNTY LRP  
155 N FIRST AVE, MS 14  
HILLSBORO OR 97124

971243072 0003





**WASHINGTON COUNTY, OREGON**  
 Department of Land Use & Transportation  
 Long Range Planning Division  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072



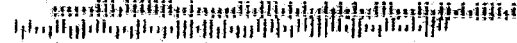
**RECEIVED**  
 OCT 15 2013  
 Long Range Planning  
 Land Use & Transportation

ELEANORA STRASSEL CHAMBERS  
 2901 SOUTH BAYSHORE DR  
 COCONUT GROVE FL 33133

RETURN TO SENDER  
 NOT DELIVERABLE AS ADDRESSED  
 UNABLE TO FORWARD

BC: 97124307299 \*1587-02401-08-3

97124307299  
 0002004488  
 97124307299



Individual Notice Mailing List  
October 4, 2013

First Name	Last Name	Company	Address	City	State	Zip
		CPO 10	9775 SW Clark Hill Rd	Beaverton	OR	97007
		CPO 15	PO Box 330	Cornelius	OR	97113
		CPO 4B	16200 SW Pacific Hwy #H-242	Tigard	OR	97224
		CPO 6	PO Box 5607	Aloha	OR	97006
		CPO 7	Box 173	Portland	OR	97229
		CPO 8	PO Box 890	North Plains	OR	97133
		CPO 9	870 NW Garibaldi St	Hillsboro	OR	97124
		KGRS LLC	12705 SW Beaverdam Rd Ste C	Beaverton	OR	97005
		LMP LLC	163 SW Freeman Ave	Hillsboro	OR	97123
		RLK Smith Orchards, LLC	47500 NW Strohmayer Rd	Forest Grove	OR	97116
Recreation Ctr		CPO 3	7475 SW Oleson Rd	Portland	OR	97223
Clayton	Abel		8610 SW Miller Hill Rd	Beaverton	OR	97007
Brian	Addington		14302 Stonewater Ct	Centreville	VA	20121
Veronica	Aguilar-Guerrero		6518 NW 164th Ave	Portland	OR	97229
Donald L	Alderton		14025 SW 150th Ave	Tigard	OR	97224
Candace	Allison		16395 SW 319th Pl	Hillsboro	OR	97123
Bruce	Anderson		11205 SW Gaarde St	Tigard	OR	97224
A Yvonne	Arnoldi		47155 NW Strohmayer Rd	Forest Grove	OR	97116
Don	Bahnsen		25950 NW Dixie Mtn Rd	Scappoose	OR	97056
Steve R	Bahnson		24220 SW Tile Flat Rd	Hillsboro	OR	97123
Gertrude	Barnard		14260 SW Tonquin Rd	Sherwood	OR	97140
Margot	Barnett	CPO Coordinator	155 N First Ave, MS 48	Hillsboro	OR	97124
Ed	Bartholemy	Planning Commissioner	18485 SW Scholls Fy Rd	Beaverton	OR	97007
Bruce	Bartlett	CPO 1	PO Box 91582	Portland	OR	97291
Michael	Basile		PO Box 394	North Plains	OR	97133
Tony & Barbara	Benjamin		6150 SW 170th Ave	Beaverton	OR	97007
Bonnie L	Berneck		6655 SW 90th Ave	Portland	OR	97223
Larry R & Christine M	Bird		4630 NW Sewell Rd	Hillsboro	OR	97124
Brian	Birmingham		31174 NW Pumpkin Ridge Dr	North Plains	OR	97133
Michael	Blackmon		6625 SW Robbins Rd	Tualatin	OR	97062
Julie	Bradley		15892 White Oaks Dr	Lake Oswego	OR	97035
Jim & Jane	Brown		3410 Grant St	Eugene	OR	97405
William J	Brown		7060 SW Palmer Wy	Beaverton	OR	97007
Lyle & Dianne	Brune		47980 SW Fluke Dr	Gaston	OR	97119

Individual Notice Mailing List  
October 4, 2013

First Name	Last Name	Company	Address	City	State	Zip
Gerald & Bonney	Bryan		10583 S 3200 W	South Jordan	UT	84095
James	Burns		5840 NW Sewell Rd	Hillsboro	OR	97124
Mike & Kate	Byrnes		5430 SW Ames Wy	Portland	OR	97225
James	Cannon		5410 NW 196th Pl	Portland	OR	97229
Debra	Carlson		33640 SW Firdale Rd	Cornelius	OR	97113
Steve	Carpenter		2660 SW 121st Pl	Beaverton	OR	97005
Robert	Chambers - Farm		55205 NW Strassel Rd	Forest Grove	OR	97116
Ken & Susan	Chuck		14989 SW Hillsboro Hwy	Hillsboro	OR	97123
Richard	Chuinaud		40991 SW Dixon Mill Rd	Gaston	OR	97119
Donald L	Clarys		19813 NW Metolius Dr	Portland	OR	97229
Jeff & Pat	Close		250 NW Cornelius Pass Rd	Hillsboro	OR	97124
Jared	Clough		3839 Pacific Ave, #202	Forest Grove	OR	97116
Lyle & Carolynn	Cohrs		PO Box 394	Gaston	OR	97119
Connie	Coleman		7170 SW Lola Ln	Tigard	OR	97223
Kathy	Corbett		20665 SW Johnson St	Aloha	OR	97006
Helen A	Cowan		7803 SE 27th St, #D 501	Mercer Island	WA	98040
Mary E	Cox		222 Via Los Altos	Redondo Beach	CA	90277
Harry G	Cretin		121 SE 54th Ave	Hillsboro	OR	97123
Agnes D	Crocker		4306 SW Spratt Wy #217	Beaverton	OR	97007
David	Crowell		35590 Ladd Hill Rd	Sherwood	OR	97140
Robert M	Cule		8863 SW Becker Dr	Portland	OR	97223
Bennie	Daly		15596 SW Midway Rd	Hillsboro	OR	97123
Richard	Debelkes		PO Box 3385	Yountville	CA	94599
Margaret	Doud		15260 SW 141st Ave	Tigard	OR	97224
Carole	Douglass		27745 NW Truitt Rd	North Plains	OR	97133
Timothy J	Dressel		6706 234th Pl SW	Terrace	WA	98043
William	Drevescraft		PO Box 790	Hillsboro	OR	97123
Minh	Duong		4660 SW 170th Ave	Aloha	OR	97007
Raymond	Eck		19641 SW Boulder Ln	Beaverton	OR	97007
Atsushi	Endo		2010 SE Morgan Rd	Hillsboro	OR	97123
Lois B	Enstrom		1779 SE 73rd Ave	Hillsboro	OR	97123
Kathryn S	Evers		13587 NW Logie Rd	Hillsboro	OR	97214
Jan T	Fancher		PO Box 66028	Vancouver	WA	98666
Elaine Kay	Feather		18365 SW 65th Ave	Lake Oswego	OR	97035



Individual Notice Mailing List  
October 4, 2013

First Name	Last Name	Company	Address	City	State	Zip
Ken & Dolores	Findley		13520 NW Lakeview Dr	Portland	OR	97229
Myrna	Finley		160 Acacia Dr.	Crecent City	CA	95531
Elizabeth	Fischer		15500 SW Farmington Rd	Beaverton	OR	97007
Bruce E	Fitzwater Trust		PO Box 23623	Portland	OR	97281
Susan	Flahler		19550 SW Kruger Rd	Sherwood	OR	97140
Bradford H	Fletcher		01537 SW Comus St	Portland	OR	97219
Les	Fullerton		3145 SW Westwood Dr	Portland	OR	97225
James D	Fulwiler		PO Box 69508	Portland	OR	97239
Bill	Funk		19850 SW Gassner Rd	Beaverton	OR	97007
Carolyn K	Ganger		1640 SW 325th Ave	Hillsboro	OR	97123
Liles	Garcia	Planning Commissioner	20215 SW Carlin Blvd	Aloha	OR	97007
Audrey B	Garmire		10677 Franks Rd	Huntington	PA	16652
Howard L	Gentzkow		PO Box 26	Banks	OR	97106
Martha	Gerrity		8620 SW 80th Ave	Portland	OR	97223
Bob	Goodrich		22033 NW Sellers Rd	Banks	OR	97106
Marvin	Goulet		7285 SW Northvale Wy	Portland	OR	97225
Monique	Goulet		20440 SW Rosa Dr	Aloha	OR	97007
Terry	Graham		235	Beaverton	OR	97007
Gordon	Gredvig		20282 SW Inglis Dr	Beaverton	OR	97007
Michael D	Grote		443 SW Bailey Ave	Hillsboro	OR	97123
Hardy	Gruen		24925 SW Ladd Hill Rd	Sherwood	OR	97140
Donald R	Harvey		PO Box 1072	Beaverton	OR	97075
Gary	Hellwege		11285 SW 92nd Ave	Tigard	OR	97223
Donna	Heppell		13700 SW 114 Ave	Tigard	OR	97223
Jane	Herring		7195 SW Alden	Portland	OR	97223
H Wesley	Herwick		12670 NW Filbert St	Portland	OR	97229
Dave	Hill		825 NW Torrey View Ln	Portland	OR	97229
Herb	Hirst	Planning Commissioner	PO Box 220	North Plains	OR	97133
Dong	Hoang		7223 SE Lindsay Ln	Hillsboro	OR	97123
Ron	Hochstein		38100 SW Gnos Rd	Cornelius	OR	97113
Robert M	Hofer		PO Box 1774	Post Falls	ID	83877
Janet	Hogue		16600 NW Joscelyn St	Beaverton	OR	97006
Michael	Hohnbaum		14160 SW Fern St	Tigard	OR	97223
Jeff	Holmes		PO Box 295	Banks	OR	97106

Individual Notice Mailing List  
October 4, 2013

First Name	Last Name	Company	Address	City	State	Zip
Bob	Horning		21215 NW Brunswick Canyon Rd	North Plains	OR	97133
Sue	Horstmann		2805 SW Maple Ln	Portland	OR	97225
Mr & Mrs E R	Hunziker		14822 NW Logie Tr Rd	Hillsboro	OR	97124
Joyce	Janicke		18345 SW Neugebauer	Hillsboro	OR	97123
Darwin	Jansen		PO Box 151	Banks	OR	97106
David	Jay		16215 SW 319th Pl	Hillsboro	OR	97123
David E	Jeans		17616 SW 192nd Ave	Sherwood	OR	97140
Mr & Mrs Donald Louis	Jenkins		14225 NW Pioneer Rd	Beaverton	OR	97006
Dave	Jepsen		22846 SW Lodgepole Ave	Tualatin	OR	97062
Shelley S	Johansen		57705 NW Johansen Ln	Gales Creek	OR	97117
Carl H	Johnson		16030 SW Queen Victoria Pl	King City	OR	97224
Lawrence	Johnson		PO Box 331	Forest Grove	OR	97116
Debbie	Judy		1995 SW Chapman Rd	Sherwood	OR	97140
Nancy	Keenan		9454 SW Washington St	Portland	OR	97225
Richard	Kell		PO Box 798	Seaside	OR	97138
Ila V	Kendler		19733 Volare Ln	Bend	OR	97702
Don & Hannelore	Kenner		24040 SW Durdei Dr	Sherwood	OR	97140
Joy	Kind		24925 NW Sky Ranch Rd	North Plains	OR	97133
Mike	Klackle		10910 SW Gram St	Tualatin	OR	97062
John & Nina	Knight		48285 SW Morel Ln	Forest Grove	OR	97116
Lou Ella	Knight		5719 NW 205th Ter	Portland	OR	97229
Richard & Adela	Knight		15218 SW Pleasant Valley Rd	Beaverton	OR	97007
Robert	Koiler		4874 NW Rainier Ter	Portland	OR	97229
Lloyd H	Krause		2130 SW Briggs Ct	Beaverton	OR	97005
Mark & Patti	Lackner		4221 NW Silverleaf Dr	Portland	OR	97229
Kathleen C	LaFlamme		1701 SE Oak St	Hillsboro	OR	97123
Richard	Laws		761 NE Sunrise Ln	Hillsboro	OR	97124
Sarah	Lawton		1985 NW 156th Ave	Beaverton	OR	97006
L	Leake		11655 SW 11th St	Beaverton	OR	97005
Paul	Lee		10683 NW Valley Vista Rd	Hillsboro	OR	97124
Jan	Lehmann		PO Box 1602	Beaverton	OR	97075
Robert H	Lidfors		PO Box 1129	Beaverton	OR	97075
Frank	Little		20770 SW Schollis-Sherwood Rd	Sherwood	OR	97140
Carina	Liu		12948 NW Tigon Ln	Portland	OR	97229

Individual Notice Mailing List  
October 4, 2013

First Name	Last Name	Company	Address	City	State	Zip
Deborah	Loers		192 Augusta Cir	Waverly	OR	50677
Jim	Long	CPO 4M	10730 SW 72nd Ave	Portland	OR	97223
Sharlene	Ludwig		6475 SW 90th Ave	Portland	OR	97223
Pamela	MacLellan		30850 SW Laurelview Rd	Hillsboro	OR	97123
Mary	Manseau	Planning Commissioner	5230 NW 137th Ave	Portland	OR	97229
Rex	Markley		12215 SW 158th Ave	Beaverton	OR	97007
Glenn	Marques		16532 SW Holly Hill Rd	Hillsboro	OR	97123
Francis A	Marta		9779 SW Day St	Sherwood	OR	97140
Kathleen	Mattern		10500 NW Greenview Ln	Portland	OR	97229
Thomas H	McCready		23711 SW 195th Pl	Sherwood	OR	97140
Nancy	McGillivray		363 Turnberry Ave	Woodburn	OR	97071
J A	McKie		PO Box 91023	Portland	OR	97291
Joy	McNeal		3265 NE Glencoe Oaks Pl	Hillsboro	OR	97124
Tom	Merrels		PO Box 1499	Lake Oswego	OR	97035
Patrick	Merritt		10475 SW Mockingbird Wy	Beaverton	OR	97007
John A	Michel Jr		21272 NW Miriam Wy	Hillsboro	OR	97124
Franklin	Middleton		13790 SW Far Vista St	Beaverton	OR	97005
Donald Wm	Miner		PO Box 129	Sherwood	OR	97140
Jake	Mintz		9849 SW Spring Crest Dr	Portland	OR	97225
Virginia G	Mitchell		706 SW Miller Hill Rd	Beaverton	OR	97007
Samir	Mokashi		12613 NW Ally Elizabeth Ct	Portland	OR	97229
Joseph C	Molinari		9777 SE 36th Ave	Milwaukie	OR	97222
Malcolm	Moreno		12405 SW Poppy Dr	Gaston	OR	97119
Claire & Allen	Morgan		16564 NW Vetter Dr	Portland	OR	97229
Phillip S	Morgan		8639 SW Hamlet Ct	Tigard	OR	97224
Laurence A	Morin		8760 SW Jamieson Rd	Portland	OR	97225
Michael	Moscarelli		1130 NW 91st Ave	Portland	OR	97229
Matha H	Moyer		16638 NW Graf St	Portland	OR	97229
Regine	Neiders		14517 SE 178th Pl	Renton	OR	98058
David	Nemarnik		22075 SW LeBeau Rd	Sherwood	OR	97140
Verne W	Newcomb		11500 SW Lynnr ridge Ave	Portland	OR	97225
Lillian	Nofziger		16290 NW Bronson Rd	Beaverton	OR	97006
Harry Brown &	Noreen Metzger		18511 Forest Park Rd	Hillsboro	OR	97123
John	O'Connor		10370 SW Century Oak Dr	Tigard	OR	97224

Individual Notice Mailing List  
October 4, 2013

First Name	Last Name	Company	Address	City	State	Zip
Michelle	Oleson		PO Box 203	Gleneden Beach	OR	97388
Lloyd	Olson		13141 SW Teufel Hill	Beaverton	OR	97007
Ralph	Olson	AIA LLC	7150 SW Upper Boones Fy Rd	Durham	OR	97224
Lillian M	Ooley		3027 Raymond St	Forest Grove	OR	97116
Jack	Orchard		15126 SW Trenton Ct	Beaverton	OR	97006
Verlena	Orr		1907 NW Hoyt St	Portland	OR	97209
Thomas & Ingrid	Palm		18700 SW Hart Rd	Beaverton	OR	97007
John M	Pangborn		23805 NW Dierdorff Rd	Hillsboro	OR	97124
Andreas	Pavlatos		3300 NW 185th #135	Portland	OR	97229
Tim & Anne	Perri		4975 SW 65th Ave	Portland	OR	97221
Jeff	Petrillo	Planning Commissioner	16965 NW Bernietta Ct	Portland	OR	97229
Cody	Philpot		3484 NW 313th Ave	Hillsboro	OR	97124
Lauritz P	Pillers		10285 SW 77th Ave	Portland	OR	97223
Ted	Pinkert		PO Box 310	Hillsboro	Or	97123
Jim	Pointer		8755 NW Irving St	Portland	OR	97229
Julia	Pomeroy		1711 NW Hoyt	Portland	OR	97209
George E & Donna Lee	Poole		3960 NW Ridgewood Ave	Portland	OR	97225
William	Powell		18240 SW Horse Tale Dr	Beaverton	OR	97007
Norman	Preston		12 W Main St / Box 20	Brookside	NJ	07926-0020
Owen	Redabaugh		16500 SW Myrtle Ave	Tigard	OR	97224
Traci & Julia	Reisinger		5946 NW 181st Ave	Portland	OR	97229
John	Resko		1787 SW Brookwood Ave	Hillsboro	OR	97123
Frank D	Richardson		15055 Waseca Ln	Apple Valley	CA	92307
Scott	Rickard	Planning Commissioner	13890 SW Bull Mtn	Tigard	OR	97224
Wayne E	Roberts		19828 SW Tile Flat Rd	Beaverton	OR	97007
Joe	Rodriguez		13200 SW Whitmore Rd	Hillsboro	OR	97123
Clarence D	Rose		30101 SW Grabel Rd	Hillsboro	OR	97123
Gary	Ross		11455 NW McDaniel Rd	Portland	OR	97229
Marc & Susan	Rothe		16664 SW Jordan Wy	Tigard	OR	97224
Elizabeth	Rudy		15175 NW West Union Rd	Portland	OR	97229
Cindy & Virgil	Ruiz		PO Box 1013	Forest Grove	OR	97116
Deanna M	Salisbury		44232 NW Breezy Ln	Forest Grove	OR	97116
Joseph E	Salta Jr		21180 SW Johnson St	Aloha	OR	97006
Marc	San Soucie	Planning Commissioner	17970 NW Rapid St	Beaverton	OR	97006

Individual Notice Mailing List  
October 4, 2013

First Name	Last Name	Company	Address	City	State	Zip
Patricia	Sawyer		2804 NE 40th Ave	Portland	OR	97212
Dan	Schaur	CPO Coordinator	155 N First Ave, MS 48	Hillsboro	OR	97124
Darmalee & Richard	Schmidt		11860 SW Walker Rd	Beaverton	OR	97005
Steve & Jo Ann	Schmitz		12261 NW Welsh Dr	Portland	OR	97229
Linda	Schroeder	Washington County LRP	155 N First Ave, MS 14	Hillsboro	OR	97124
Douglas & Beverly	Seet		18333 SW Pheasant Ln	Beaverton	OR	97006
Betty L	Shannon		5932 NE Harvest St	Hillsboro	OR	97124
Norma	Shaw		18125 NW Dixie Mtn Rd	North Plains	OR	97133
Tom	Sheridan		17780 SW 111th Ave	Tualatin	OR	97062
Anne	Siebel		12745 SW Scout Dr	Beaverton	OR	97008
Erick	Siffert		12808 NW Diamond Dr	Portland	OR	97229
Steve	Skaggs		3221 NW 123rd Pl	Portland	OR	97229
Michael C	Slack		1380 SE Oak St	Hillsboro	OR	97123
Vincent	Slyngstad		18205 SW Rigert Rd	Beaverton	OR	97007
Lei A	Smith		2980 SW 120th Ave	Beaverton	OR	97005
Susan Y	Smith		2760 SW 119th Ave	Beaverton	OR	97005
W Boyce F	Smith		9851 SW Stonecreek Dr	Beaverton	OR	97007
Linda L	Springer		2944 NW Norwalk Pl	Beaverton	OR	97006
Kathy	Stalkamp	CPO 4K	17635 131st Ave	Tigard	OR	97224
Steven & Nancy	Starkel		10825 SW Grabhorn Rd	Beaverton	OR	97007
Dale Otto	Stollsteimer		2448 Turner	West Bloomfield	MI	48323
Eleanora	Strassel Chambers		2901 South Bayshore Dr	Coconut Grove	FL	33133
Jon	Tang		4720 NW Malhuer Ave	Portland	OR	97229
Cindy	Thomas		16811 NW Avondale Dr	Beaverton	OR	97006
Elizabeth June	Thompson		2888 NW Beuhia Vista Ter	Portland	OR	97210
Lily	Todd		902 SE Handel Pl	Hillsboro	OR	97123
Mike & Sharon	Totman		1724 18th Ave	Forest Grove	OR	97116
Alison M	Utzinger		20330 SW Avon Ct	Aloha	OR	97007
Patricia A	Van Dyke		11370 SW Berkshire St	Portland	OR	97225
Paul	Vargo		125 NW 139th Ave	Portland	OR	97229
Richard	Vial	Planning Commissioner	7000 SW Varns St	Portland	OR	97223
Marilyn	Wagoner		17765 SW Cooper Mtn Ln	Beaverton	OR	97007
Lewis O	Walker		24100 SW Rosa Rd	Hillsboro	OR	97123
Darla	Wall		7310 SW Florence Ln	Portland	OR	97223

Individual Notice Mailing List  
October 4, 2013

First Name	Last Name	Company	Address	City	State	Zip
J Douglas	Watson		18081 SW Pacific Hwy	Tualatin	OR	97062
Richard & Mary	Watson		17165 NE Countyridge Dr	Portland	OR	97229
Matt	Wellner	Planning Commissioner	2758 NE Charlois Dr	Hillsboro	OR	97124
Robert	Wellton		40250 NW Bledsoe Creek Ln	Banks	OR	97103
Stan	Williams		14 Cuvier St	San Francisco	CA	94112
Lonnie Rae	Winter		1350 SW Woodward Wy	Portland	OR	97225
Marvin	Winters		18265 SW McCormick Hill	Hillsboro	OR	97123
Harriet	Wiser		7740 SW West Slope Dr	Portland	OR	97225
Walt & Mariyn	Wittke		19820 SW Gassner Rd	Beaverton	OR	97007
Susan	Yamanaka		8350 Joy Haven	Salem	OR	97317
Liz S	Young		13380 SW Butner Rd	Beaverton	OR	97005
Robert	Young		856 SE 62nd Ave	Hillsboro	OR	97123
Mrs R A	Zandonatti		9360 Reiser Ln SE	Stayton	OR	97383
Barbara	Zellner		21340 SW Green Slope Rd	Beaverton	OR	97007



WASHINGTON COUNTY  
 DEPARTMENT OF LAND USE  
 & TRANSPORTATION  
 PLANNING AND DEVELOPMENT  
 SERVICES DIVISION -  
 LONG RANGE PLANNING  
 155 NORTH FIRST AVENUE  
 HILLSBORO, OREGON 97124  
 (503) 846-3519

CASE FILE: **A-Engrossed Ordinance No. 772**  
**Type III Hearing Notice**

## AFFIDAVIT OF MAILING

STATE OF OREGON  
 COUNTY OF WASHINGTON } SS

**Linda Schroeder**, declares as follows:

That at all times herein mentioned, she was an employee of the County of Washington; that acting for the County on the **4th** day of **October, 2013**, she did on that date, mail notice to the landowners (on Assessment and Taxation Computer Printout) within 1000 feet of the property described in **A-Engrossed Ordinance No. 772**, in accordance with the requirements of the Washington County Community Development Code.

Attached is a copy of the notice mailed and a list of the property owners and/or other affected parties to whom the notice was sent.

I, **Linda Schroeder**, being first duly sworn depose and say that I am the party in the foregoing statement and that the same is true.

*Linda Schroeder*

Subscribed and sworn to before me this 23<sup>RD</sup> day of **October, 2013**.



*Traci Shirley*

Notary Public for Oregon

My Commission Expires: Sept. 30, 2015

APPROVED AS TO FORM

*Alan G. Ruppberg*

County Counsel  
 For Washington County, Oregon



WASHINGTON COUNTY  
DEPARTMENT OF LAND USE & TRANSPORTATION  
PLANNING AND DEVELOPMENT SERVICES  
LONG RANGE PLANNING  
155 NORTH FIRST AVENUE, ROOM 350-14  
HILLSBORO, OREGON 97124  
(503) 846-3519 fax: (503) 846-4412  
www.co.washington.or.us

# NOTICE OF PUBLIC HEARINGS

PROCEDURE TYPE III

CPO: 8

COMMUNITY PLAN: Rural/Natural Resource Plan

EXISTING LAND USE DISTRICT(S):  
AF-5 – Agriculture and Forest 5 Acre  
RR-5 – Rural Residential 5 Acre

**CHANGES TO THE PROPOSED PLAN AMENDMENT:**

The Board of Commissioners directed that the proposed Residential Airpark Overlay District be removed from four tax lots surrounding the Sunset Airstrip, three of which are designated Exclusive Farm Use (EFU) and one designated Agriculture and Forest (AF-20). The Board also directed that proposed CDC 389 be revised to no longer limit the number of tie-downs per lot with a dwelling unit, to clarify that only one hangar will be allowed per lot with an existing dwelling, and that commercial aviation activities will be prohibited.

Public hearings on A-Engrossed Ordinance No. 772 will be held in the auditorium of the Washington County Public Services Building, located at 155 North First Avenue, Hillsboro OR 97124.

**Hearings before the Board of County Commissioners:**

October 15, 2013 at 10:00 AM

October 22, 2013 at 6:30 PM

The decision of the Board is final unless appealed. All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to a hearing). Only those making an appearance of record shall be entitled to appeal. The public hearings will be conducted in accordance with the rules of procedure as adopted by the Board of County Commissioners. Reasonable time limits will be imposed.

Assistive Listening Devices are available for persons with impaired hearing and can be scheduled for this meeting by calling 503-846-8611 (voice) or 503-846-4598 (TDD – Tele-communications Devices for the Deaf) no later than 5:00 pm on the Monday preceding the meeting date.

The County will also upon request endeavor to arrange for the following services to be provided: qualified sign language interpreters for persons with speech or hearing impairments; and qualified bilingual interpreters. Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the County of your need by 5:00 pm on the Monday preceding the meeting date.

CASE FILE NO.: A-Engrossed Ordinance No. 772

**APPLICANTS:**

Robert & April Jossy  
31965 NW Beach Road  
Hillsboro OR 97124

**APPLICANT'S REPRESENTATIVE:**

Larry Derr, Attorney

**OWNERS:**

Applicants

**PROPERTY DESCRIPTION:**

ASSESSOR MAP AND TAX LOT NO(S): 1N3 12, TLs 1900, 3400, 3500, 3600, 3700, & 3800; 1N3 11, TLs 1400, 1900, 1200 & 1300

SITE SIZE: Approximately 87 acres

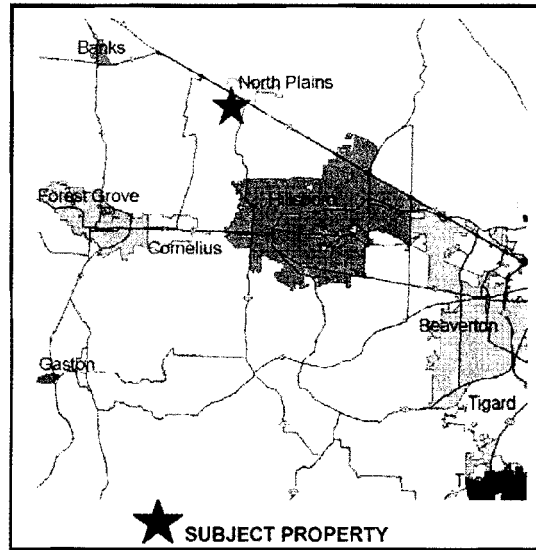
ADDRESS: (Various site addresses)

LOCATION: South of the city of North Plains and north of NW Beach Road

FOR FURTHER INFORMATION, PLEASE CONTACT:

Paul Schaefer, Senior Planner, at 503-846-8817

**AREA MAP**



**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.**



All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to the hearing but not after the conclusion of the hearing). Only those making an appearance of record (those presenting oral or written testimony) shall be entitled to appeal. Failure to raise an issue in the hearing, in person or by letter, or failure to provide sufficient specificity to afford the Review Authority (Planning Commission and/or Board of County Commissioners) an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on the issue.

The public hearing will be conducted in accordance with the following rules of procedure as adopted by the Board of County Commissioners. Reasonable time limits may be imposed.

#### **RULES OF PROCEDURE**

1. The staff will summarize the applicable substantive review criteria
2. A summary of the staff report is presented.
3. The applicant's presentation is given.
4. Testimony of others in favor of the application is given.
5. Testimony of those opposed to the application is given.
6. Applicant's rebuttal testimony is given.

Unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall be subject to the limitations of ORS 215.428 or 227.178.

When the Review Authority reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

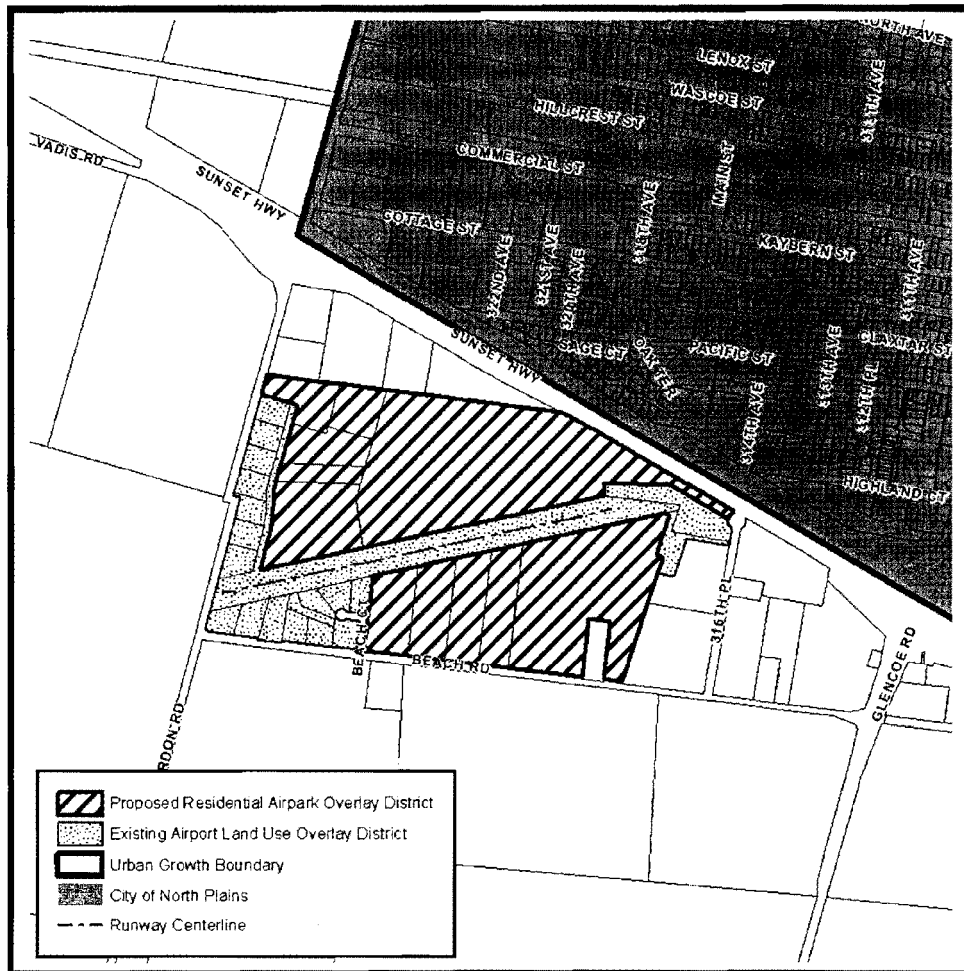
A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost at the Department of Land Use & Transportation. A copy of this material will be provided at reasonable cost.

A copy of the staff report will be available for inspection at no cost at the Department of Land Use & Transportation at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.

For further information, please contact **Paul Schaefer, Senior Planner**, Department of Land Use & Transportation, at 503-846-3961.

Tax Map/Lot Number: 1N3 12, Tax Lots 1900, 3400, 3500, 3600, 3700, 3800  
1N3 11, Tax Lots 1400, 1900, 1200, 1300

Case File Number: A-Engrossed Ordinance No. 772



Applicable Land Use Districts:

RR-5 AF-5

Applicable Goals, Policies & Regulations:

- A. LCDC Statewide Planning Goals 1, 2, 3, 9, 10, 12
- B. Oregon Revised Statute 836.600
- C. Oregon Administrative Rule 660-013 (Airport Planning)
- D. Washington County Rural/Natural Resource Plan Policies 1, 2, 15, 17, 18, 28
- E. Washington County Transportation Plan

S:\PLNG\WPSHARE\2013ord\Ord772\_AirportOverlay\A-Engrossed Ord 772\_Notices\Type III Notice\Mailing\A-Engr\_Ord772\_TypeIII Notice.doc

WASHINGTON COUNTY, OREGON  
Department of Land Use & Transportation  
Planning and Development Services Division  
Long Range Planning  
155 N First Avenue, Suite 350, MS 14  
Hillsboro, OR 97124-3072



**RECEIVED**  
OCT 15 2013  
Long Range Planning  
Land Use & Transportation

1N301CD04200  
Current Resident Or  
SHEETS, STEPHEN R &  
SHEETS, ANGELIA L  
PO BOX 656  
NORTH PLAINS, OR 97133

NIXIE 970 DE 1009 0010/12/13

RETURN TO SENDER  
VACANT  
UNABLE TO FORWARD

97133 00656 BC: 97124307299 \*0229-03819-04-41  
97133 00656 72003



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 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072

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 OCT 10 2013  
 Long Range Planning  
 Land Use & Transportation

TN311AA02100  
 Current Resident Or  
 CHAREST, ROBERT D  
 32715 NW BEACH RD  
 HILLSBORO, OR 97124



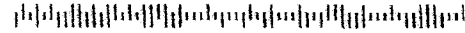
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NIXIE 970 DE 1009 0010/08/13

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 UNABLE TO FORWARD

BC: 97124307299 \*0229-03882-04-41

216 97124307299



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 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
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 Hillsboro, OR 97124-3072

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 Long Range Planning  
 Land Use & Transportation

TN301CD04700  
 Current Resident Or  
 COX, LINDA  
 10282 NW OAK TER  
 NORTH PLAINS, OR 97133



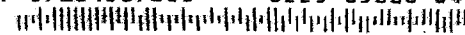
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 MAILED FROM ZIP CODE 97123

NIXIE 970 DE 1009 0010/08/13

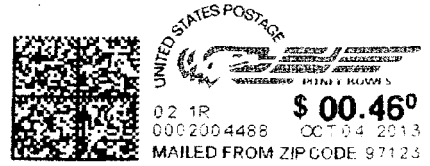
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 NO MAIL RECEIPTABLE  
 UNABLE TO FORWARD

BC: 97124307299 \*0229-03866-04-41

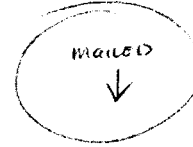
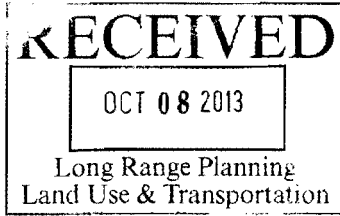
97124307299



WASHINGTON COUNTY, OREGON  
Department of Land Use & Transportation  
Planning and Development Services Division  
Long Range Planning  
155 N First Avenue, Suite 350, MS 14  
Hillsboro, OR 97124-3072

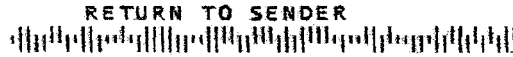


1N301CD09400  
Current Resident Or  
WILCOX, MERLENE  
PO BOX 1062  
NORTH PLAINS, OR 97133



X 970 NFE 1009412F0010/06/13  
FORWARD TIME EXP RTN TO SEND  
WILCOX  
15155 SW DAPHNE CT  
BEAVERTON OR 97007-5075

97100010020009





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 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072



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 OCT 07 2013  
 Long Range Planning  
 Land Use & Transportation

1N301CD08500  
 Current Resident Or  
 BYBEE, RANDALL W &  
 BYBEE, VERNAL  
 PO BOX 1488  
 NORTH PLAINS, OR 97133

Re-marked to  
 ↓

X 970 NFE 100971210010/04/13  
 FORWARD TIME EXP RTN TO SEND  
 BYBEE  
 31815 NW MEADOW DR  
 NORTH PLAINS OR 97133-2010

971331488 2013

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**WASHINGTON COUNTY, OREGON**  
 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072



**RECEIVED**  
 OCT 07 2013  
 Long Range Planning  
 Land Use & Transportation

1N301CD06000  
 Current Resident Or  
 CARLSON, RICHARD A &  
 CARLSON, LINDA L  
 PO BOX 1893  
 NORTH PLAINS, OR 97133

mailed to  
 ↓

X 970 NFE 100981210010/04/13  
 FORWARD TIME EXP RTN TO SEND  
 CARLSON  
 11169 SE CAUSEY CIR  
 PORTLAND OR 97036-4709

971331893 2013

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**WASHINGTON COUNTY, OREGON**  
 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072



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 OCT 08 2013  
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1N301CD05700  
 Current Resident Or  
 SAGAR, JAMES &  
 ROSSETTI-SAGAR, CHRISTINE K  
 PO BOX 719  
 NORTH PLAINS, OR 97133

NIXIE 970 DE 1009 0010/06/13

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97124307299 97124307299 BC: 97124307299 \*0229-03853-04-41



**WASHINGTON COUNTY, OREGON**  
 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072



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 OCT 08 2013  
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 Land Use & Transportation

1N301CD07700  
 Current Resident Or  
 LYTLE, TOMMY D &  
 LYTLE, PUALETTE  
 PO BOX 783  
 NORTH PLAINS, OR 97133

NIXIE 970 DE 1009 0010/06/13

RETURN TO SENDER  
 NOT DELIVERABLE AS ADDRESSED  
 UNABLE TO FORWARD

97124307299 97124307299 BC: 97124307299 \*0229-03913-04-41



**WASHINGTON COUNTY, OREGON**  
 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072



**RECEIVED**  
 OCT 08 2013  
 Long Range Planning  
 Land Use & Transportation

1N301DC09400  
 Current Resident Or  
 AMORINE, MATTHEW R &  
 RICHARDSON, QUINN N  
 10230 NW 313TH AVE  
 NORTH PLAINS, OR 97133

NIXIE 970 DE 1999 0010/08/13

RETURN TO SENDER  
 NO MAIL RECEIPTABLE  
 UNABLE TO FORWARD

BC: 97124307299 \*0229-04840-04-41  
 97124307299



**WASHINGTON COUNTY, OREGON**  
 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072



**RECEIVED**  
 OCT 08 2013  
 Long Range Planning  
 Land Use & Transportation

1N301CD05300  
 Current Resident Or  
 CLITES, DARREN R  
 PO BOX 10  
 NORTH PLAINS, OR 97133

NIXIE 970 DE 1999 0010/08/13

RETURN TO SENDER  
 NOT DELIVERABLE AS ADDRESSED  
 UNABLE TO FORWARD

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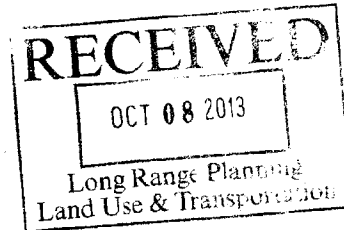




WASHINGTON COUNTY, OREGON  
 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072



1N301CD01605  
 Current Resident Or  
 HUYNH, JUNIA &  
 HUYNH, BEN  
 31570 NW CLAXTAR ST  
 NORTH PLAINS, OR 97133



NIXIE 970 DE 1999 0010/06/13

RETURN TO SENDER  
 NO MAIL RECEIPTABLE  
 UNABLE TO FORWARD

BC: 97124307299 \*0229-03861-04-41

97124307299



WASHINGTON COUNTY, OREGON  
 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072



1N301CD01606  
 Current Resident Or  
 RANES, RONALD L &  
 KOLAR-RANES, ANDREA J  
 31597 NW PACIFIC ST  
 NORTH PLAINS, OR 97133



NIXIE 970 DE 1999 0010/06/13

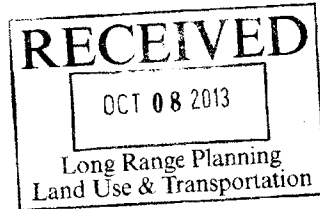
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WASHINGTON COUNTY, OREGON  
 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072



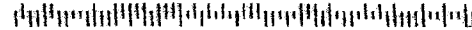
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 Current Resident Or  
 BRECKEL, ANGELA K &  
 BRECKEL, DAVID A  
 32182 NW PACIFIC ST  
 NORTH PLAINS, OR 97133

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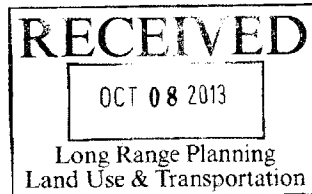
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WASHINGTON COUNTY, OREGON  
 Department of Land Use & Transportation  
 Planning and Development Services Division  
 Long Range Planning  
 155 N First Avenue, Suite 350, MS 14  
 Hillsboro, OR 97124-3072



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 Current Resident Or  
 CRONK, CHRISTOPHER EUGENE  
 10238 NW 314TH AVE  
 NORTH PLAINS, OR 97133

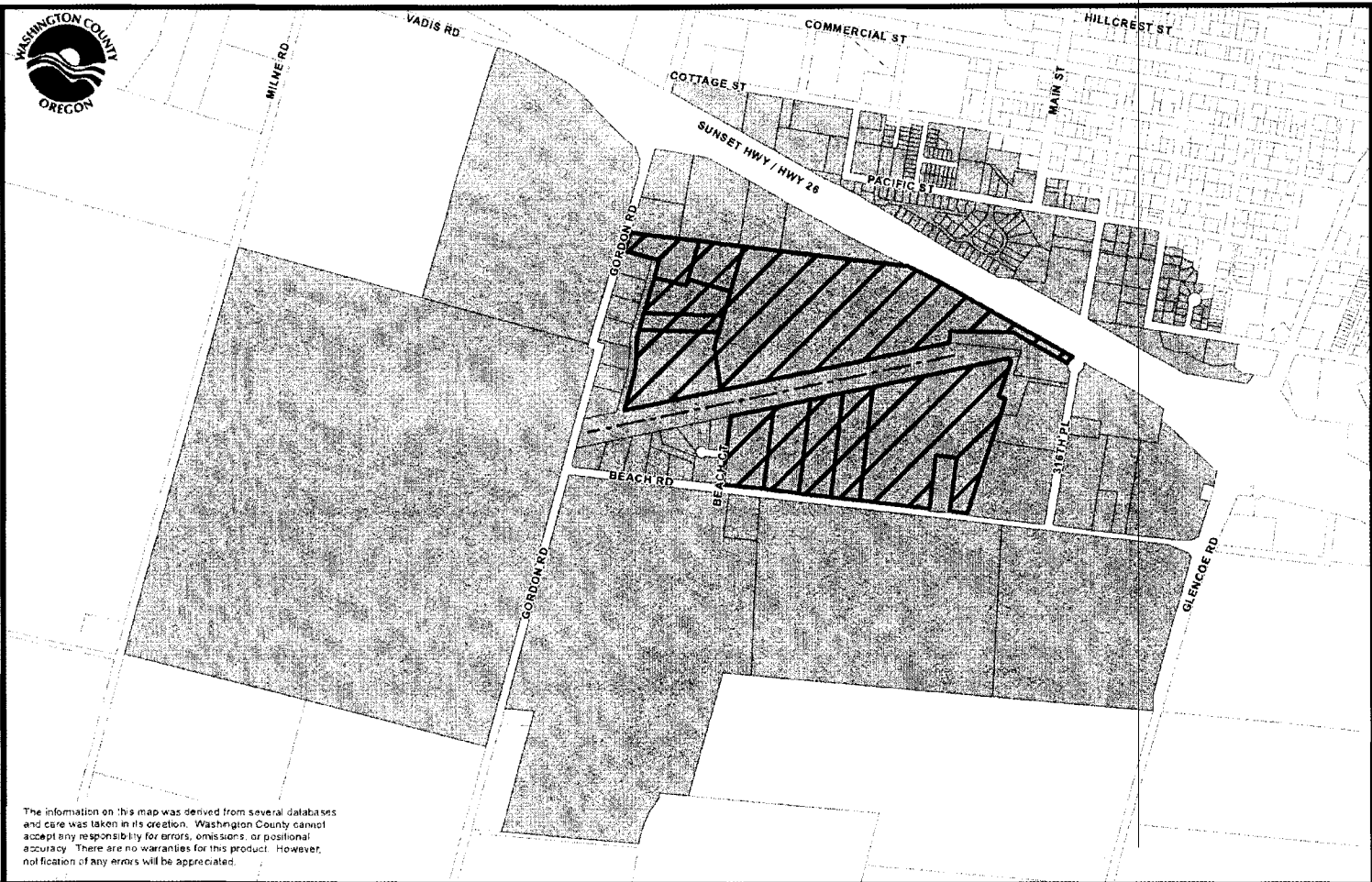
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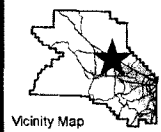
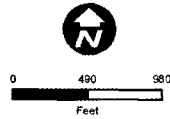


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Washington County - Long Range Planning Division

A-Engrossed Ordinance 772 - Sunset Airstrip - 1000' Mailing Area Buffer

- Parcels to receive notice
- Runway Centerline
- Proposed Residential Airpark Overlay District



Path: S:\PLNG\WP\SHARE\2013\ord\Ord772\_AirportOverlay\A-Engrossed Ord 772\_Notice\Map\NoticeMailing\Sunset\_Airpark\_mailing\_AEg772.mxd 9/20/2013

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*Current Resident Or*  
2000-071 PARTITION PLAT  
OWNERS OF LOTS 1-3  
00000

1N301DC09400  
*Current Resident Or*  
AMORINE, MATTHEW R &  
RICHARDSON, QUINN N  
10230 NW 313TH AVE  
NORTH PLAINS, OR 97133

1N301CD01600  
*Current Resident Or*  
ARNOLD, SHAUN & AMBER  
PO BOX 1046  
NORTH PLAINS, OR 97133

1N301CD13000  
*Current Resident Or*  
BAKER, VALERIE M  
31893 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301DC12300  
*Current Resident Or*  
BIERMAN, THOMAS L  
PO BOX 917  
NORTH PLAINS, OR 97133

1N3120000701  
*Current Resident Or*  
BLAZEVSKI, JAMES N & MARIKA  
20252 SW ANGIE LN  
ALOHA, OR 97006

1N301CD12900  
*Current Resident Or*  
BRANDT, ERIC &  
BRANDT, KRISTA V  
31899 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CC01600  
*Current Resident Or*  
BRECKEL, ANGELA K &  
BRECKEL, DAVID A  
32182 NW PACIFIC ST  
NORTH PLAINS, OR 97133

1N301CD08500  
*Current Resident Or*  
BYBEE, RANDALL W &  
BYBEE, VERNA L  
PO BOX 1488  
NORTH PLAINS, OR 97133

1N301DC04401  
*Current Resident Or*  
CANNON, TAMMERA J &  
CANNON, JOHN J  
PO BOX 953  
NORTH PLAINS, OR 97133

1N301CD01900  
*Current Resident Or*  
ADAMS, JAMES & SUZANNE  
LIVING TRUST  
87 S 20TH AVE #B  
CORNELIUS, OR 97113

1N301CD08300  
*Current Resident Or*  
ANDERSON, PAUL A &  
ANDERSON, VICTORIA N  
PO BOX 720  
NORTH PLAINS, OR 97133

1N301CD11900  
*Current Resident Or*  
BAGGENSTOS, CHRISTOPHER T & ANNE  
THURMAN, RANDY N & LOUISE G  
31850 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CD10300  
*Current Resident Or*  
BARRAZA, MANUEL C &  
BARRAZA, SUSAN Q  
88 JEANETTE WAY  
WATSONVILLE, CA 95076

1N301CD01100  
*Current Resident Or*  
BIGGI CONSTRUCTION LLC  
11605 SW NORMANDY LN  
WILSONVILLE, OR 97070

1N301CD03500  
*Current Resident Or*  
BOYLE, JOSEPH T &  
ROSADO, KREANNA K  
10560 NW 321ST AVE  
NORTH PLAINS, OR 97133

1N301CD10700  
*Current Resident Or*  
BRASSEUR, JONAH  
10497 NW 320TH AVE  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
BREESE, CAROLE V &  
BREESE, DONALD G  
2950 SE 64TH AVE  
PORTLAND, OR 97206

1N311AA01200  
*Current Resident Or*  
CALARCO, RICHARD A &  
CALARCO, SALLY A  
32785 NW BEACH RD  
HILLSBORO, OR 97124

1N301CD06000  
*Current Resident Or*  
CARLSON, RICHARD A &  
CARLSON, LINDA L  
PO BOX 1893  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
AMARO, BRENDEN J  
10155 NW 312TH PL  
NORTH PLAINS, OR 97133

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ARNOLD, BILL J  
PO BOX 833  
NORTH PLAINS, OR 97133

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BAILEY, MATTHEW T  
9930 NW GORDON RD  
CORNELIUS, OR 97113

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BENALLY, BENJAMIN  
31927 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

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BLACKWOOD, JACK F &  
BLACKWOOD, PAMELA K  
10305 NW 317TH AVE  
NORTH PLAINS, OR 97133

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BRAL, PETER J/TERESA M  
PO BOX 183  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
BRAUKMAN, KATHERINE ANN  
PO BOX 195  
NORTH PLAINS, OR 97133

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BUSSOM, WILLIAM C &  
BUSSOM, EVA M  
10574 NW 320TH AVE  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
CANNON, TAMMERA J &  
CANNON, JOHN J  
PO BOX 953  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
CHAD E DAVIS CONSTRUCTION LLC  
2420 PACIFIC AVE  
FOREST GROVE, OR 97116

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*Current Resident Or*  
CHAREST, ROBERT D  
32715 NW BEACH RD  
HILLSBORO, OR 97124

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*Current Resident Or*  
CLARE, JAMES S &  
CLARE, AGNES J  
9980 NW GORDON ROAD  
CORNELIUS, OR 97113

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CLITES, DARREN R  
PO BOX 10  
NORTH PLAINS, OR 97133

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COOK, WADE T  
PO BOX 549  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
COX, LINDA  
10282 NW OAK TER  
NORTH PLAINS, OR 97133

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COX, ZACHARY T  
10550 NW 321ST AVE  
NORTH PLAINS, OR 97133

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CRONK, CHRISTOPHER EUGENE  
10238 NW 314TH AVE  
NORTH PLAINS, OR 97133

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CUMMO, COURTNEY A &  
CHAMBERS, MARSHALL F  
10552 NW 320TH AVE  
NORTH PLAINS, OR 97133

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DASKALOS, CARMEN A  
10600 NW 321ST AVE  
NORTH PLAINS, OR 97133

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DAVIS, CHAD E  
2420 PACIFIC AVE  
FOREST GROVE, OR 97116

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DAVIS, RONNIE L & DIANE M  
PO BOX 483  
TROUT LAKE, WA 98650

1N311AA01100  
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DEBORDE, ROBERT M LIVING TRUST &  
DEBORDE, BERNADINE C LIVING TRUST  
PO BOX 238  
NORTH PLAINS, OR 97133

1N301DC11500  
*Current Resident Or*  
DEMARIS, ANNA MARIE &  
DEMOURA, GAIL IRENE  
10150 NW 312TH PL  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
DICKSON, WALTER C GALETTA  
PO BOX 292  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
DIMEO, TERRY I  
2576 NW SAVIER ST  
PORTLAND, OR 97210

1N301DC09200  
*Current Resident Or*  
DIMEO, VICTORIA  
10005 NE IRON RIDGE PL  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
DUYCK, KATHLEEN  
31825 NW MEADOW DR  
NORTH PLAINS, OR 97133

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EAGLE, RAVEN COLLEEN  
31859 NW PACIFIC ST  
NORTH PLAINS, OR 97133

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EAST ORCHARDS LLC  
31965 NW BEACH RD  
HILLSBORO, OR 97124

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EAST ORCHARDS LLC  
31965 NW BEACH RD  
HILLSBORO, OR 97124

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EDWARDS, VANESSA  
10215 NW 313TH AVE  
NORTH PLAINS, OR 97133

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ELKINS, YVONNE E  
10303 NW OAK TER  
NORTH PLAINS, OR 97133

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EWING, DERRIC A &  
EWING, AMANDA L  
10580 NW 321ST AVE  
NORTH PLAINS, OR 97133

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FLEMMING FAMILY TRUST  
PO BOX 781  
NORTH PLAINS, OR 97133

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FOGG, RAYMOND C/DIANE M  
10020 NW GORDON RD  
CORNELIUS, OR 97113

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FORD, JANET MARIE  
31975 NW MEADOW DR  
NORTH PLAINS, OR 97133

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FREDERIKSEN, JONATHAN M &  
FREDERIKSEN, SHAANETTE RAE  
31330 NW PACIFIC ST  
NORTH PLAINS, OR 97133

1N301CD10200  
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FRENCH, JOSEPH J  
10569 NW 320TH AVE  
NORTH PLAINS, OR 97133

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FULLER, JOSEPH A &  
KATHERINE A  
10122 SW MORRISON ST  
PORTLAND, OR 97225

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FUNK, MERLIN J JR  
PO BOX 963  
NORTH PLAINS, OR 97133

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GALAWAY FAMILY TRUST  
12130 NW LOVEJOY  
PORTLAND, OR 97229

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GALAWAY FAMILY TRUST  
BY ALBERTA K GALAWAY TR  
12130 NW LOVEJOY ST  
PORTLAND, OR 97229

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GANTENBEIN, ERIC L &  
GANTENBEIN, PAMELA A  
10583 NW 320TH AVE  
NORTH PLAINS, OR 97133

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GONZALES FAMILY LLC  
PO BOX 187  
NORTH PLAINS, OR 97133

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GREEN RIVER PROPERTIES &  
NORTH PLAINS HOLDINGS LLC  
6770 SW CANYON DR  
PORTLAND, OR 97225

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GROBE, ROBERT W &  
GROBE, O NADINE &  
GROBE, JAMES W  
4316 GOLDEN OAK  
SCHERTZ, TX 78154

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HALL, JAMES T &  
HALL, TARA J  
31860 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

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HANSEN, GORDON J & TAMELA G  
PO BOX 792  
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HARRIS, MELANIE L &  
HARRIS, TYLER J  
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NORTH PLAINS, OR 97133

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HAYDEN, DONALD A & PATRICIA L  
PO BOX 64  
NORTH PLAINS, OR 97133

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HAYS, TIMOTHY ANDREW  
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NORTH PLAINS, OR 97133

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HUYNH, BEN  
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NORTH PLAINS, OR 97133

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JACKSON, WM A BETTE  
9615 NW BEACH COURT  
HILLSBORO, OR 97124

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JEWELL, DEBRA L  
PO BOX 962  
NORTH PLAINS, OR 97133

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JEWETT-CAMERON LUMBER CORP  
ATTN: DONALD BOONE  
PO BOX 816  
NORTH PLAINS, OR 97133

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JEWETT-CAMERON LUMBER CORP  
ATTN: DONALD BOONE  
PO BOX 816  
NORTH PLAINS, OR 97133

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JONES, JEFFREY MICHAEL &  
JONES, CRYSTAL ANN  
PO BOX 122  
NORTH PLAINS, OR 97133

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JOSSY, APRIL J REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

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HILLSBORO, OR 97124

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31965 NW BEACH RD  
HILLSBORO, OR 97124

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31965 NW BEACH RD  
HILLSBORO, OR 97124

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31965 NW BEACH RD  
HILLSBORO, OR 97124

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JOSSY, APRIL J REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

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JOSSY, APRIL J REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

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JOSSY, ROBERT D  
31965 NW BEACH RD  
HILLSBORO, OR 97124

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31965 NW BEACH RD  
HILLSBORO, OR 97124

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31965 NW BEACH RD  
HILLSBORO, OR 97124

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JOSSY, ROBERT D  
REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

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JOSSY, ROBERT D REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

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JOSSY, ROBERT D REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

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JOSSY, ROBERT D REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N3120000501  
*Current Resident Or*  
KELLY, BRIAN W AND NANCY B  
9765 NW 316TH PL  
HILLSBORO, OR 97124

1N301CD05900  
*Current Resident Or*  
KIDDER, SEAN &  
KIDDER, VILLA  
PO BOX 462  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
KIGER, LAWRENCE/FREDA  
32490 NW BEACH RD  
HILLSBORO, OR 97124

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KINDEL, BRANDI  
31795 NW SAGE CT  
NORTH PLAINS, OR 97133

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KNIGHT, ROSS K &  
KNIGHT, RACHELLE K  
31849 NW PACIFIC ST  
NORTH PLAINS, OR 97133

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KONOPASEK, KAREN  
10541 NW 320TH AVE  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
KRAUSEL, GRACE D  
PO BOX 235  
NORTH PLAINS, OR 97133

1N301DC05602  
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KRUG, DARRELL L & JUDITH E  
PO BOX 402  
NORTH PLAINS, OR 97133

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KRUG, DARRELL L & JUDITH E  
PO BOX 402  
NORTH PLAINS, OR 97133

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KRUG, DARRELL L AND  
JUDITH E  
PO BOX 402  
NORTH PLAINS, OR 97133

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LABONTE, LEE M &  
LABONTE, HEATHER M  
32000 NW MEADOW DR  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
LANDCASTER DEVELOPMENT CORPORATI  
6770 SW CANYON DR  
PORTLAND, OR 97225

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*Current Resident Or*  
LARSON, STEPHANIE R &  
CURRY, SHAWN  
21163 NW GALICE LN #305  
PORTLAND, OR 97229

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LEN WAI, BRIDGETTE K  
10595 NW 321ST AVE  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
LILLIE, JOHN T  
10190 NW 312TH PL  
NORTH PLAINS, OR 97133

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LYTLE, TOMMY D &  
LYTLE, PUALETTE  
PO BOX 783  
NORTH PLAINS, OR 97133

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MACKRIS, RONALD P  
PO BOX 218  
NORTH PLAINS, OR 97133

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MACY, RUSSELL A &  
MACY, LISA D  
10618 NW 320TH AVE  
NORTH PLAINS, OR 97133

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MANUEL, DONALD L  
PO BOX 605  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
MARCO, PATRICIA E REVOC LT  
9875 NW 316TH PL  
HILLSBORO, OR 97124

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MAY, JOY L &  
WIREN, CHARLES A JR  
PO BOX 243  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
MCCANDLESS, WILLIAM H &  
MCCANDLESS, HELEN I  
32905 NW BEACH RD  
HILLSBORO, OR 97124

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MEAD, CHARLES D  
32025 NW MEADOW DR  
NORTH PLAINS, OR 97133

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MILLER, ALYCE  
31883 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

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MOSELEY, JEAN REYNOLDS  
REVOCABLE LIVING TRUST  
9870 NW GORDON RD  
CORNELIUS, OR 97113

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MUNOZ, ROSALINDA &  
WILLIAMS, MARCUS J  
10020 NW 312TH PL  
NORTH PLAINS, OR 97133

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*Current Resident Or*  
NAVA, JULIO C & MARIA J  
PO BOX 176  
NORTH PLAINS, OR 97133

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NELSON, BRENT R  
10225 NW 312TH PL  
NORTH PLAINS, OR 97133

1N301CD12200  
*Current Resident Or*  
NORMANDIN, MEGAN J  
31888 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CC00400  
*Current Resident Or*  
NORTH PLAINS FOREST PRODUCTS INC  
PO BOX 279  
NORTH PLAINS, OR 97133

1N301CC00300  
*Current Resident Or*  
NORTH PLAINS FOREST PRODUCTS INC  
PO BOX 279  
NORTH PLAINS, OR 97133

1N301CC00200  
*Current Resident Or*  
NORTH PLAINS FOREST PRODUCTS INC  
PO BOX 279  
NORTH PLAINS, OR 97133

1N301CC00900  
*Current Resident Or*  
NORTH PLAINS FOREST PRODUCTS INC  
PO BOX 279  
NORTH PLAINS, OR 97133

1N301CC01000  
*Current Resident Or*  
NORTH PLAINS FOREST PRODUCTS INC  
PO BOX 279  
NORTH PLAINS, OR 97133

1N301CC01800  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CC01700  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD07000  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD06700  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD07300  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD07400  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD08000  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD04400  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD08700  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD06200  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD09000  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
ATTN: BARTHOLEMY, EDMUND  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD09100  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD09200  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD05800  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD05600  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD02000  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
19495 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD05100  
*Current Resident Or*  
NORTH PLAINS HOLDINGS LLC  
ATTN: BARTHOLEMY, EDMUND  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD04100  
*Current Resident Or*  
NORTH PLAINS, CITY OF  
31360 NW COMMERCIAL ST  
NORTH PLAINS, OR 97133

1N301CD02001  
*Current Resident Or*  
NORTH PLAINS, CITY OF  
31360 NW COMMERCIAL ST  
NORTH PLAINS, OR 97133

1N312AB00300  
*Current Resident Or*  
NORTH PLAINS, CITY OF  
31360 NW COMMERCIAL ST  
NORTH PLAINS, OR 97133



1N301CD09600  
*Current Resident Or*  
OAK MEADOW PARK HOMEOWNERS ASSN  
31905 NW MEADOW DR  
NORTH PLAINS, OR 97133

1N301DC12000  
*Current Resident Or*  
PACIFIC MEADOWS NO.2  
OWNERS OF LOTS 7-12  
, 00000

1N301DC05501  
*Current Resident Or*  
PETITJEAN, BONNIE GENE  
PO BOX 793  
NORTH PLAINS, OR 97133

1N301CD10500  
*Current Resident Or*  
PRINCE, BRADLEY  
10527 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301CD12100  
*Current Resident Or*  
PROPECK, JAMES &  
PROPECK, HILARY  
31880 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CD08200  
*Current Resident Or*  
RALPH, RONALD &  
RALPH, ALICE  
PO BOX 1895  
NORTH PLAINS, OR 97133

1N311AA02200  
*Current Resident Or*  
ROTH DEVELOPMENT, INC  
3450 NW 65TH ST  
SEATTLE, WA 98117

1N301CD05700  
*Current Resident Or*  
SAGAR, JAMES &  
ROSSETTI-SAGAR, CHRISTINE K  
PO BOX 719  
NORTH PLAINS, OR 97133

1N301DC10600  
*Current Resident Or*  
SCHELLENGER, DANIEL D & LISA A  
10135 NW 312TH PL  
NORTH PLAINS, OR 97133

1N301CD07800  
*Current Resident Or*  
SEGGERMAN, DENISE  
PO BOX 121  
NORTH PLAINS, OR 97133

1N301CD02200  
*Current Resident Or*  
OCHOA, RODRIGO A & PATRICIA J  
PO BOX 1580  
NORTH PLAINS, OR 97133

1N301DC10900  
*Current Resident Or*  
PATTERSON, MATTHEW W  
10165 NW 312TH PL  
NORTH PLAINS, OR 97133

1N301CD04900  
*Current Resident Or*  
PIERCE, LOIS J &  
PIERCE, BILLY  
PO BOX 762  
NORTH PLAINS, OR 97133

1N301CD13500  
*Current Resident Or*  
PRINCE, DENISE REVOCABLE  
LIVING TRUST  
17150 SW ELDORADO DR  
TIGARD, OR 97224

1N3110000100  
*Current Resident Or*  
R & R COUSSENS, INC  
18009 NW ANASTASIA DR  
PORTLAND, OR 97229

1N301CD01606  
*Current Resident Or*  
RANES, RONALD L &  
KOLAR-RANES, ANDREA J  
31597 NW PACIFIC ST  
NORTH PLAINS, OR 97133

1N301CD13800  
*Current Resident Or*  
RSP DEVELOPMENT LLC  
17150 SW ELDORADO DR  
TIGARD, OR 97224

1N301CD08100  
*Current Resident Or*  
SAGAR, THOMAS M &  
SAGAR, CYNTHIA K  
10365 NW 317TH AVE  
NORTH PLAINS, OR 97133

1N3120000700  
*Current Resident Or*  
SCHLOTTMANN, CRAIG J & DARCEY M  
PO BOX 606  
NORTH PLAINS, OR 97133

1N301CD04200  
*Current Resident Or*  
SHEETS, STEPHEN R &  
SHEETS, ANGELIA L  
PO BOX 656  
NORTH PLAINS, OR 97133

1N301CC01300  
*Current Resident Or*  
OCHS, LEWIS M &  
OCHS, LINDA C  
10380 NW GORDON RD  
CORNELIUS, OR 97113

1N311AA02000  
*Current Resident Or*  
PEDERSON, WM K JR SUSAN  
32655 NW BEACH RD  
HILLSBORO, OR 97124

1N301CD13100  
*Current Resident Or*  
PLUMLEY, ROBERT G &  
DOROHA, STANCY  
31891 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CD12400  
*Current Resident Or*  
PRINCE, STEVEN M &  
PRINCE, DENISE A  
17150 SW ELDORADO DR  
TIGARD, OR 97224

1N3120001800  
*Current Resident Or*  
R & R COUSSENS, INC  
18009 NW ANASTASIA DR  
PORTLAND, OR 97229

1N311AA00200  
*Current Resident Or*  
ROBINSON, DAN C & NIKKI N  
PO BOX 2000  
NORTH PLAINS, OR 97133

1N301CD13700  
*Current Resident Or*  
RSP DEVELOPMENT LLC  
17150 SW ELDORADO DR  
TIGARD, OR 97224

1N301CD11600  
*Current Resident Or*  
SANDOW, THADDAEUS D  
4255 NW COLUMBIA AVE  
PORTLAND, OR 97229

1N301CD09900  
*Current Resident Or*  
SCHMIDT, WILLIAM C &  
CAREY, PAMELA  
10613 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301DC11600  
*Current Resident Or*  
SHEPHERD, MELODY A &  
SHEPHERD, KERRY J  
10140 NW 312TH PL  
NORTH PLAINS, OR 97133

1N301DC11900  
*Current Resident Or*  
SIMMONS, KIM M &  
COOK, TOBBY L  
31125 NW HIGHLAND CT  
NORTH PLAINS, OR 97133

1N301CD12300  
*Current Resident Or*  
SLOPER, KELLI &  
SLOPER, GERALD D &  
SLOPER, CONNIE D  
31890 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CD12600  
*Current Resident Or*  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11100  
*Current Resident Or*  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11400  
*Current Resident Or*  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD07600  
*Current Resident Or*  
SWANEY, RAMONA A  
3312 VALLEY CREST WAY  
FOREST GROVE, OR 97116

1N301DC04100  
*Current Resident Or*  
THOMPSON, ANNIE L AND  
MEYERS, ANDREW J  
P O BOX 372  
NORTH PLAINS, OR 97133

1N3020000290  
*Current Resident Or*  
TONGES FARMS LLC  
PO BOX 807  
NORTH PLAINS, OR 97133

1N301CD05500  
*Current Resident Or*  
UMLANDT, MICHAEL W &  
UMLANDT, JARED BENJAMIN  
14575 SW WALKER RD #D24  
BEAVERTON, OR 97006

1N311AA00700  
*Current Resident Or*  
USHER, DARRYL G LIVING TRUST &  
USHER, BARBARA L LIV TRUST  
9810 NW GORDON RD  
CORNELIUS, OR 97113

1N301CD01101  
*Current Resident Or*  
SKIPPER, WILLIAM E AND MARY L  
TRUSTEES  
4174 NE JACKSON STREET  
HILLSBORO, OR 97124

1N301CC00100  
*Current Resident Or*  
SPIERING, ROGER E AND  
ALECIA J  
PO BOX 417  
NORTH PLAINS, OR 97133

1N301CD12500  
*Current Resident Or*  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11200  
*Current Resident Or*  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11000  
*Current Resident Or*  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD13400  
*Current Resident Or*  
TERESI, LAURIE A  
10586 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301CD03000  
*Current Resident Or*  
THOMPSON, STEVEN J &  
THOMPSON, CYNTHIA A  
3130 E 4TH AVE  
HILLSBORO, OR 97124

1N3110001600  
*Current Resident Or*  
TONGES FARMS LLC  
PO BOX 807  
NORTH PLAINS, OR 97133

1N301CC01301  
*Current Resident Or*  
LINGER, NICHOLAS A & JEANNIE L  
10300 NW GORDON RD  
CORNELIUS, OR 97113

1N301CD08900  
*Current Resident Or*  
VANDERZANDEN, MICHELLE D &  
VANDERZANDEN, STEVE J  
PO BOX 691  
NORTH PLAINS, OR 97133

1N301CD01202  
*Current Resident Or*  
SLIVINSKI, JOSEPH A & SHARALYN K  
PO BOX 251  
NORTH PLAINS, OR 97133

1N301CD03600  
*Current Resident Or*  
SPRAGUE, SHARON L  
15070 NW 321ST AVE  
NORTH PLAINS, OR 97133

1N301CD10900  
*Current Resident Or*  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11300  
*Current Resident Or*  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11500  
*Current Resident Or*  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD10800  
*Current Resident Or*  
TESSIER, CLAIRE L &  
KRAGT, JASON M  
10483 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301DC03900  
*Current Resident Or*  
THURBER, TIM R & ROBERTA M  
PO BOX 273  
NORTH PLAINS, OR 97133

1N3120002000  
*Current Resident Or*  
TWIN CEDARS LLC  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N311AA01700  
*Current Resident Or*  
USHER FAMILY TRUST  
BY KARL & SANDRA USHER TRS  
9650 NW BEACH CT  
HILLSBORO, OR 97124

1N301CD07500  
*Current Resident Or*  
VANDYKE, JAY A  
31895 NW SAGE CT  
NORTH PLAINS, OR 97133

1N3120002601  
*Current Resident Or*  
VANGRUNSVEN, RICHARD E &  
DIANE E  
9899 NW 316TH PL  
HILLSBORO, OR 97124

1N301CD04800  
*Current Resident Or*  
VICE, LORELLA M  
PO BOX 194  
NORTH PLAINS, OR 97133

1N301DC12400  
*Current Resident Or*  
VINCENT, ANDREW J  
PO BOX 1044  
NORTH PLAINS, OR 97133

1N301CD01203  
*Current Resident Or*  
VUYLSTEKE, JOHN & ALVINA  
PO BOX 661  
NORTH PLAINS, OR 97133

1N301CD06500  
*Current Resident Or*  
WEBB, PATSY C TRUST  
31960 NW MEADOW DR  
NORTH PLAINS, OR 97133

1N311AA02300  
*Current Resident Or*  
WEITMAN, JIM G  
9690 NW BEACH CT  
HILLSBORO, OR 97124

1N311AA01500  
*Current Resident Or*  
WEITMAN, JIM G &  
WYLDER, TAYNA  
9690 NW BEACH CT  
HILLSBORO, OR 97124

1N301CD05400  
*Current Resident Or*  
WHEELER, WAYNE S  
PO BOX 171  
NORTH PLAINS, OR 97133

1N301CD09400  
*Current Resident Or*  
WILCOX, MERLENE  
PO BOX 1062  
NORTH PLAINS, OR 97133

1N301CD10000  
*Current Resident Or*  
WILLSON, BRANDON C &  
WILLSON, KAYLA I  
10597 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301CD09300  
*Current Resident Or*  
WILSON, STEVEN E  
10245 NW OAK TER  
NORTH PLAINS, OR 97133

1N301CD02400  
*Current Resident Or*  
WING, DENNIS L & ALEXIS V  
PO BOX 285  
NORTH PLAINS, OR 97133

1N301CD02500  
*Current Resident Or*  
WING, DENNIS L & ALEXIS V  
PO BOX 285  
NORTH PLAINS, OR 97133

1N301CD02600  
*Current Resident Or*  
WING, GARY & STEPHANIE  
PO BOX 303  
NORTH PLAINS, OR 97133

1N301CD01603  
*Current Resident Or*  
WING, KENNETH D &  
FRANCES MAUREEN  
PO BOX 302  
NORTH PLAINS, OR 97133

1N301CD01500  
*Current Resident Or*  
WING, KENNETH D & FRANCES M  
PO BOX 302  
NORTH PLAINS, OR 97133

1N301CD01700  
*Current Resident Or*  
WING, KENNETH D/FRANCES M  
PO BOX 302  
NORTH PLAINS, OR 97133

1N311AA00100  
*Current Resident Or*  
WITTENBERG, DENNIS EDWIN  
10160 NW GORDON RD  
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1N3120000600  
*Current Resident Or*  
WOLTER, CHESTER A & PATRICIA C  
9555 NW 316TH PL  
HILLSBORO, OR 97124

1N301DC04102  
*Current Resident Or*  
WOODWARD, MICHAEL J & DIANE M  
PO BOX 663  
NORTH PLAINS, OR 97133

1N301CD06300  
*Current Resident Or*  
YOUNG, JERRY T &  
YOUNG, BE  
PO BOX 479  
31920 NW MEADOW DR  
NORTH PLAINS, OR 97133

1N301CD03200  
*Current Resident Or*  
ZIELSDORFF, CASEY & AUNDREA K  
10575 NW 321ST AVE  
NORTH PLAINS, OR 97133

*Current Resident Or*

*Current Resident Or*

*Current Resident Or*

*Current Resident Or*

*Current Resident Or*

*Current Resident Or*

*Current Resident Or*

*Current Resident Or*

1

- DLCD Notice of Proposed Amendment or**
- Periodic Review work Task Proposed Hearing or**
- Urban Growth Boundary or Urban Reserve Area**

**THIS COMPLETED FORM**, including the text of the amendment and any supplemental information, must be submitted to DLCD's Salem office at least **35 DAYS PRIOR TO THE FIRST EVIDENTIARY HEARING** ORS 197.610, OAR 660-018-0020 and OAR 660-025-0080

Jurisdiction: **Washington County**

Date of First Evidentiary Hearing: **09/04/2013**

Local File Number: **A-Engrossed Ordinance No. 772**

Date of Final Hearing: **10/22/2013**

Is this a **REVISION** to a previously submitted proposal?  No  Yes Original submittal date: **07/19/2013**

- Comprehensive Plan Text Amendment(s)
- Land Use Regulation Amendment(s)
- Transportation System Plan Amendment(s)
- Periodic Review Work Task Number \_\_\_
- Other (please describe):
- Comprehensive Plan Map Amendment(s)
- Zoning Map Amendment(s)
- Urban Growth Boundary Amendment(s)
- Urban Reserve Area Amendment(s)

**Briefly Summarize Proposal in plain language IN THIS SPACE (maximum 500 characters):**

**Ordinance 772 would add CDC Section 389 relating to Residential Airpark Overlay District. The district authorizes hangars, tie-downs, and taxi-ways on parcels with an existing dwelling. Rural/Natural Resource Plan Policy 28 would be amended to add text relating to Residential Airpark Overlay District and to update the Sunset Airstrip map to show the proposed overlay district boundaries. A-Engrossed Ordinance 772 differs in that four resource parcels were removed from the proposed Residential Airpark Overlay District and there are no limits to the number of tie-downs.**

Has sufficient information been included to advise DLCD of the effect of proposal?  Yes, text is included  
 Are Map changes included: minimum 8½"x11" color maps of Current and Proposed designations.  Yes, Maps included  
 Plan map change from: **N/A** To: **N/A**  
 Zone map change from: **N/A** To: **N/A**  
 Location of property (Site address and TRS): **N/A**  
 Previous density range: **N/A** New density range: **N/A** Acres involved: **N/A**

Applicable statewide planning goals:

- |                                     |                                     |                                     |                          |                          |                          |                          |                          |                                     |                                     |                          |                                     |                          |                          |                          |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                            | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                            | <b>10</b>                           | <b>11</b>                | <b>12</b>                           | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Is an exception to a statewide planning goal proposed?  YES  NO Goal(s):  
 Affected state or federal agencies, local governments or special districts (It is jurisdiction's responsibility to notify these agencies).

**Washington County, Oregon Department of Aviation, Federal Aviation Administration, Port of Portland (Hillsboro Airport), City of North Plains**

Local Contact person (name and title): **Paul Schaefer, Senior Planner**

Phone: **503-846-8817**

Extension:

Address: **155 N 1<sup>st</sup> Ave, Suite 350-14**

City: **Hillsboro**

Zip: **97124-**

Fax Number: **503-846-4412**

E-mail Address: **paul\_schaefer@co.washington.or.us**

- FOR DLCD internal use only -

DLCD File No \_\_\_\_\_



October 4, 2013

To: Citizen Participation Organizations and Interested Parties

From: Andy Back, Manager  
Planning and Development Services *AB for AB*

Subject: **PROPOSED A-ENGROSSED ORDINANCE NO. 772**

On August 1, 2013, you were notified about initial public hearings for proposed Land Use Ordinance No. 772 before the Planning Commission on September 4, 2013 and the Board of Commissioners (Board) on September 24, 2013. On September 24, the Board continued the hearing to October 1, 2013. The Board ordered amendments to this ordinance on October 1, 2013. These changes have been incorporated into proposed **A-Engrossed Ordinance No. 772** and are summarized below.

**Ordinance Purpose and Summary**

Ordinance No. 772 proposes to add a new section (Section 389) to the Washington County Community Development Code (CDC) to create a new Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling.

Ordinance No. 772 also proposes to amend Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan to add text relating to the Residential Airpark Overlay District and to replace the existing Sunset Airstrip map with a new map that shows the Residential Airpark Overlay District boundaries.

**Who Is Affected**

Owners of property on either side of Sunset Airstrip, which is located south of North Plains (south side of Highway 26) and west of Glencoe Road.

**What Land is Affected**

Certain properties located on either side of Sunset Airstrip proposed for designation as Residential Airpark Overlay District lands.

**Original Ordinance No. 772 Provisions**

- Adds new CDC Section 389 (Residential Airpark Overlay District) which contains regulations governing Residential Airpark Development and authorizes limited accessory uses commonly associated with airstrips when constructed on property with an existing dwelling.
- Allows the designation of certain properties located on either side of Sunset Airstrip as Residential Airpark Overlay District lands.

**Proposed A-Engrossed Ordinance No. 772 Provisions**

**A-Engrossed Ordinance No. 772** incorporates the above-described amendments plus the following proposed amendments:

- Removes the three EFU parcels and one AF-20 parcel from the proposed overlay district (map change).
- Clarifies that only 1 hangar is allowed per lot, but no longer limits the number of tie-downs (per lot).

**Department of Land Use & Transportation · Planning and Development Services  
Long Range Planning**

155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072  
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · [www.co.washington.or.us](http://www.co.washington.or.us)

## Proposed A-Engrossed Ordinance No. 772 Provisions, continued

- Prohibits commercial aviation activities, except as may be allowed in the AF-5 and RR-5 Districts.
- Prohibits renting of personal hangars.

### Public Hearings - Time and Place

#### Board of Commissioners

**October 15, 2013**  
**10:00 am**

**October 22, 2013**  
**6:30 pm**

Hearings will be held in the Shirley Huffman Auditorium in the Charles D. Cameron Public Services Building, 155 North First Avenue, Hillsboro, Oregon.

On October 22, 2013, the Board may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If it is adopted on October 22, the ordinance would become effective on November 21, 2013.

#### **Community Development Code Section Added**

- Section 389, Residential Airpark Overlay District

#### **Rural/Natural Resource Plan Policy Amended**

- Policy 28, Airports

#### **How to Submit Comments**

Submit oral or written testimony to the Board at one of the public hearings. Written testimony may be mailed or faxed to the Board in advance of the public hearings in care of Long Range Planning. **We are unable to accept e-mail as public testimony.**

Washington County, Department of Land Use & Transportation  
Planning and Development Services, Long Range Planning  
155 N. First Ave., Suite 350-14, Hillsboro, OR 97124-3072  
Fax: 503-846-4412

#### **Staff Contact**

Paul Schaefer, Senior Planner  
155 North First Ave., Suite 350-14, Hillsboro, OR 97124-3072  
Telephone: 503-846-8817 Fax: 503-846-4412  
e-mail: paul\_schaefer@co.washington.or.us

#### **Proposed Ordinance is available at the following locations:**

- Washington County, Department of Land Use & Transportation Planning and Development Services, Long Range Planning 155 North First Ave., Suite 350 Hillsboro, OR 97124-3072 Telephone: 503-846-3519
- [www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm](http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm)
- Cedar Mill Community Library and Tigard Public Library
- Citizen Participation Organizations (CPOs); Call 503-821-1128 for a directory of CPOs.

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**PROPOSED ENGROSSED LAND USE ORDINANCE(S) A-Eng. Ord 772  
DISTRIBUTION AFFIDAVIT**

**I = Immediately after filing**

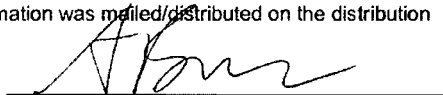
**\* P = After completion of CPO Notice & printing**

WHEN	WHO	DATE
I	Long Range Planning Section – Ordinance Planner (1)	10/04/13
I	DLCD – (1) [only if Revised Form 1 Notice of Proposed Amendment is needed]	10/08/13
P	Post on Land Use Ordinance web page [Broadcast email will be sent to e-subscribers, which include Planning Commission & Board of Commissioners]	10/04/13
P	CPOs (11)	10/04/13
P	CCI Steering Committee (1)	10/04/13
P	OSU Extension Service – Dan Schauer / Margot Barnett (will share 1 copy)	10/04/13
P	Cedar Mill Community Library (1) and Tigard Public Library (1)	10/04/13
P	Metro – Ray Valone (1)	10/04/13
P	ODOT – Planning and Development Manager, Region 2 Headquarters – prefers notice via email to: <a href="mailto:ODOTR2PLANMGR@ODOT.STATE.OR.US">ODOTR2PLANMGR@ODOT.STATE.OR.US</a>	10/04/13
P	DLCD, Metro Regional Representative – Anne Debbaut (1)	10/04/13
P	City Planning Directors (14) [send memo only that describes ordinances and that they are available upon request]	10/04/13
P	Special Service Districts (14) [send memo only that describes ordinances and that they are available upon request]	10/04/13
P	Homebuilders Association – Justin Wood [city/service district memo only]	10/04/13
P	Beaverton School District – Richard Steinbrugge & Jennifer Garland [city/service district memos only]	10/04/13
P	Hillsboro School District – Mike Scott [city/service district memo only]	10/04/13
P	DLUT Director - Andrew Singelakis (1)	10/04/13
P	DLUT Planning and Development Services Manager – Andy Back (1)	10/04/13
P	DLUT Current Planning Section – Nadine Cook & Sr. Current Plng Staff (6)	10/04/13
P	DLUT Engineering & Construction Services – Gary Stockhoff (1)	10/04/13
P	DLUT Operations - Dave Schamp (1)	10/04/13
P	Long Range Planning Staff [Doria, Angela, Linda + others if applicable]	10/04/13
P	Board of Commissioners (6) [to Ordinance Coordinator for meeting packets]	10/08/13

*\* Except for immediate copies, all ordinances should include CPO Notice when printed.*

*Total ordinance copies needed = 50 + extras.*

I, Angela Brown, certify the above information was mailed/distributed on the distribution days specified.



Subscribed and sworn to before me on this 31<sup>st</sup> day of October, 2013.



Traci Shirley  
Notary Public for Oregon

My Commission expires: September 30, 2015

**PROPOSED ENGROSSED  
ORDINANCE DISTRIBUTION  
LABELS**

Updated 9/10/13 (LCS)

[CPOs updated as of 8/1/13]

CPO 4B  
Suite H, Box 242  
16200 SW Pacific Hwy  
Tigard, OR 97224-3494

CPO 6  
P.O. Box 5607  
Aloha, OR 97006

Tom Black, CPO 9  
870 NW Garibaldi Street  
Hillsboro, OR 97124

**Inactive CPOs:**

CPO 5: Sherwood Tualatin  
CPO 11: Gaston, Cherry Grove  
CPO 12C: Cornelius

**Inactive CPOs, contd.:**

CPO 12F: Forest Grove  
CPO 13: Roy, Verboort, Gales Creek  
CPO 14: Banks, Buxton, Manning, Timber

Ray Valone (1)  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

Community Dev./Planning Director  
City of Banks  
P. O. Box 428  
Banks, OR 97106-0428

Ben Altman (Cornelius)  
RKA  
29515 SW Serenity Way, Apt. D  
Wilsonville, OR 97070-9538

Community Dev./Planning Director  
City of Gaston  
P.O. Box 129  
Gaston, OR 97119-0129

Virginia Bruce, CPO 1  
P.O. Box 91061  
Portland, OR 97291

Kathy Stallkamp, CPO 4K  
17635 131st Ave.  
Tigard, OR 97224

Kevin O'Donnell, CPO 7  
Suite I-2, Box 173  
4804 NW Bethany Blvd.  
Portland, OR 97229

Lars Wahlstrom, CPO 10  
9775 SW Clark Hill Road  
Beaverton, OR 97007

CCI Steering Committee (1)  
c/o OSU Extension Service  
MS 48

Cedar Mill Community Library (1)  
12505 NW Cornell Road  
Portland, OR 97229-5688

Anne Debbaut (1)  
Metro Regional Representative  
DLCD  
1600 SW Fourth Ave., Suite 109  
Portland, OR 97201

Community Dev./Planning Director  
City of Cornelius  
1355 N. Barlow Street  
Cornelius, OR 97113-8912

Community Development Director  
City of Forest Grove  
P.O. Box 326  
Forest Grove, OR 97116

Community Dev./Planning Director  
City of King City  
15300 SW 116th  
King City, OR 97224-2693

CPO 3  
Garden Home Recreation Center  
7475 SW Oleson Road  
Portland, OR 97223

Jim Long, CPO 4M  
10730 SW 72nd Avenue  
Portland, OR 97223

CPO 8  
P.O. Box 890  
North Plains, OR 97133

CPO 15  
P.O. Box 330  
Cornelius, OR 97113

Margot Barnett/Dan Schauer (1)  
CPO Coordinators  
OSU Extension Service  
MS 48

Tigard Public Library (1)  
Attn: Technical Services  
13125 SW Hall Blvd.  
Tigard, OR 97223

Planning and Development Mgr.  
ODOT Region 2 Headquarters  
Prefer notice sent via email to:  
[ODOTR2PLANMGR@ODOT.STATE.  
OR.US](mailto:ODOTR2PLANMGR@ODOT.STATE.OR.US)

Community Dev./Planning Director  
City of Beaverton  
PO Box 4755  
Beaverton, OR 97076-4755

Community Dev./Planning Director  
City of Durham  
17160 SW Upper Boones Ferry Rd.  
Durham, OR 97281

Community Dev./Planning Director  
City of Hillsboro  
MS 60



Community Dev./Planning Director  
City of Lake Oswego  
PO Box 369  
Lake Oswego, OR 97034

Community Dev./Planning Director  
City of North Plains  
31360 NW Commercial Street  
North Plains, OR 97133

Community Dev./Planning Director  
City of Rivergrove  
PO Box 1104  
Lake Oswego, OR 97034

Community Dev./Planning Director  
City of Portland  
1120 SW 5th, Rm. 1002  
Portland, OR 97204-1966

Community Dev./Planning Director  
City of Sherwood  
22560 SW Pine Street  
Sherwood, OR 97140

Community Dev./Planning Director  
City of Tigard  
13125 SW Hall Blvd.  
Tigard, OR 97223

Community Dev./Planning Director  
City of Tualatin  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062-7092

Community Dev./Planning Director  
City of Wilsonville  
29799 SW Town Center Loop E  
Wilsonville, OR 97070

Fire Chief  
Banks Fire Protection District  
300 Main Street  
Banks, OR 97106

Fire Chief  
Cornelius Rural Fire District  
1355 N. Barlow Street  
Cornelius, OR 97113-8912

Fire Chief  
Forest Grove Fire & Rescue  
1919 Ash Street  
P.O. Box 326  
Forest Grove, OR 97116

Fire Chief  
Gaston Rural Fire District  
102 E. Main Street  
Gaston, OR 97119

Fire Chief  
Tualatin Valley Fire & Rescue  
20665 SW Blanton Avenue  
Aloha, OR 97007

Fire Chief  
Washington Co. Fire District #2  
31370 NW Commercial Street  
North Plains, OR 97133

Diane Taniguchi-Dennis  
Clean Water Services  
MS 10

General Manager  
Raleigh Hills Water District  
5010 SW Scholls Ferry Road  
Portland, OR 97225

General Manager  
Rivergrove Water District  
17661 Pilkington Road  
Lake Oswego, OR 97035

General Manager  
Tualatin Valley Water District  
1850 SW 170<sup>th</sup> Avenue  
Beaverton, OR 97006-4211

Tigard Water District/  
Tigard Water Service Area  
P.O. Box 230281  
Portland, OR 97281-0281

General Manager  
West Slope Water District  
P. O. Box 25140  
Portland, OR 97225

Jillian Detweiler  
TriMet  
710 NE Holladay  
Portland, OR 97232

General Manager  
Tualatin Hills Park & Rec. District  
15707 SW Walker Road  
Beaverton, OR 97006

Justin Wood, Govt. Affairs Director  
Home Builders Association  
15555 SW Bangy Road, Suite 301  
Lake Oswego, OR 97035

Jennifer Garland  
Facilities Planning Coordinator  
Beaverton School District  
16550 SW Merlo Road  
Beaverton, OR 97006-5152

Dick Steinbrugge  
Executive Administrator/Facilities  
Beaverton School District  
16550 SW Merlo Road  
Beaverton, OR 97006-5152

Mike Scott, Superintendent  
Hillsboro School District  
3083 NE 49<sup>th</sup> Place, #200  
Hillsboro, OR 97124-6008

ANDREW SINGELAKIS (1)

ANDY BACK (1)

KAREN SAVAGE (1)  
Long Range Planning

GARY STOCKHOFF (1)  
MS 18

DAVE SCHAMP (1)  
MS 51

NADINE COOK and  
Sr. Current Planning Staff (6)

DORIA MATEJA (1)  
Long Range Planning

ANGELA BROWN (1)  
Long Range Planning

LINDA SCHROEDER (1)  
Long Range Planning

ALAN RAPPLEYEA (1)  
[distribute in BCC meeting notebook]

**BOARD OF COMMISSIONERS**  
(6)  
[to Ordinance Coordinator for meeting  
packets]

**Linda Schroeder**

---

**From:** Linda Schroeder  
**Sent:** Friday, October 04, 2013 5:08 PM  
**To:** 'ODOTR2PLANMGR@ODOT.STATE.OR.US'  
**Subject:** Washington Co. Engrossed Land Use Ordinances for review  
**Attachments:** B-EngOrd769\_wCPOnotice\_Web.pdf; A-EngOrd771\_wCPO\_notice\_web.pdf; A-EngOrd772\_wCPOnotice\_web.pdf; A-EngOrd773\_wCPOnotice\_web.pdf; A-Eng\_Ord774\_wCPOnotice.pdf; A-EngOrd775\_wCPOnotice.pdf; A-EngOrd776\_wCPOnotice.pdf


**TO: Planning and Development Manager – ODOT, Region 2 Headquarters**

The following proposed engrossed ordinances are attached for your review. Public hearings for the engrossed ordinances are scheduled for October 15 and October 22, 2015.

B-Engrossed Ordinance No. 769  
A-Engrossed Ordinance No. 771  
A-Engrossed Ordinance No. 772  
A-Engrossed Ordinance No. 773  
A-Engrossed Ordinance No. 774  
A-Engrossed Ordinance No. 775  
A-Engrossed Ordinance No. 776

Regards,  
Linda Schroeder

Linda Schroeder, Assistant Planner  
Washington County  
Dept. of Land Use & Transportation  
Planning and Development Services  
Long Range Planning  
(503) 846-3962

 Save paper, toner, and energy. Avoid printing emails whenever possible!

10/22/2013



# WASHINGTON COUNTY OREGON

October 4, 2013

To: Washington County Cities and Special Service Districts

From: Andy Back, Manager  
Planning and Development Services

*AS for AB*

**Subject: A-Engrossed Land Use Ordinance Nos. 771, 772, 773, 774, 775, 776  
and B-Engrossed Land Use Ordinance No. 769**

After initial public hearings for Ordinance Nos. 771, 772, 773, 774, 775, 776 and A-Engrossed Ordinance No. 769, the Washington County Board of Commissioners (Board) ordered substantive amendments to these ordinances. These changes have been incorporated into proposed **A-Engrossed Ordinance Nos. 771, 772, 773, 774, 775, 776 and B-Engrossed Ordinance No. 769** and are summarized below. The engrossed ordinances are available on the Washington County web site at:

[www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm](http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm)

If you would like copies of these ordinances or additional information, please contact Long Range Planning at (503) 846-3519.

The public hearings before the Board are listed below. The hearings will be held in the Shirley Huffman Auditorium in the Charles D. Cameron Public Services Building, 155 North First Avenue, Hillsboro, Oregon.

## Public Hearings

### Board of Commissioners

**October 15, 2013  
10:00 am**

**October 22, 2013  
6:30 pm**

### A-Engrossed Ordinance No. 771

**A-Engrossed Ordinance No. 771** proposes to amend Washington County Community Development Code (CDC) Section 390 to allow for the location of public utilities (with the exception of electrical substations) within the North Bethany Subarea. The ordinance also proposes a variety of clarification amendments to CDC Sections 390 and 405, Policy 18 of the Comprehensive Framework Plan for the Urban Area (CFP), and Chapter 2: North Bethany Subarea Plan of the Bethany Community Plan.

The engrossed ordinance incorporates most of the above-described amendments, but removes proposed amendments to clarify types of development proposals for which construction of adjacent street and sidewalk improvements is required.

### Department of Land Use & Transportation · Planning and Development Services Long Range Planning

155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072  
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · [www.co.washington.or.us](http://www.co.washington.or.us)

The engrossed ordinance adds the following proposed amendments:

- Adds language authorizing development on lands with slopes greater than 25 percent that are located outside of the Natural Features Buffer, subject to specific requirements.
- Amends the Urban/Rural Edge Standards in CDC Section 390-19.2 to allow private street stubs or driveways to North Bethany boundaries that abut rural lands with Rural Reserves designations under specific circumstances.

### **A-Engrossed Ordinance No. 772**

**A-Engrossed Ordinance No. 772** proposes to add a new section (Section 389) to the Washington County CDC to create a new Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling.

A-Engrossed Ordinance No. 772 also proposes to amend Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan to add text relating to the Residential Airpark Overlay District and to replace the existing Sunset Airstrip map with a new map that shows the Residential Airpark Overlay District boundaries.

A-Engrossed Ordinance No. 772 would affect certain properties located on either side of Sunset Airstrip proposed for designation as Residential Airpark Overlay District lands. Sunset Airstrip is located south of North Plains (south side of Highway 26) and west of Glencoe Road.

The engrossed ordinance incorporates all amendments originally proposed in Ordinance No. 772 and includes the following additional changes:

- Remove the three EFU parcels and one AF-20 parcel from the proposed overlay district (map change)
- Clarify that only 1 hangar is allowed per lot, but no longer limits the number of tie-downs (per lot)
- Prohibit commercial aviation activities, except as may be allowed in the AF-5 and RR-5 Districts
- Prohibit renting of personal hangars

### **A-Engrossed Ordinance No. 773**

**A-Engrossed Ordinance No. 773** proposes to amend CDC Section 430-63, primarily to remove Home Occupation standards that currently prevent retail sale of pre-manufactured products, storage, and distribution. To avoid added impacts to surrounding residential uses in connection with new home occupation allowances, no increases are proposed to existing limits on employee numbers, customer visits to the site, vehicles, parking, or signage. As further protection, caps on business-related deliveries are proposed.

The engrossed ordinance incorporates amendments originally proposed in Ordinance No. 773 and includes the following changes:

- Deletes text of originally-filed language prohibiting onsite consumption of intoxicants.

- Amends filed language to increase maximum business-related deliveries allowed for Type II and III home occupations (to a weekly average of two per day).
- Simplifies existing language regarding home occupation space restrictions.

**A-Engrossed Ordinance No. 773** would affect home occupation standards that apply throughout unincorporated areas of Washington County.

#### **A-Engrossed Ordinance No. 774**

**A-Engrossed Ordinance No. 774** amends the CDC by changing the land use review process for Accessory Dwelling Units (ADUs) to a Type I process in the R-5 and R-6 Districts.

The engrossed ordinance incorporates amendments originally proposed in Ordinance No. 774 and includes the following changes:

- Increases the maximum allowed floor area for ADUs from a maximum of 600 square feet to a maximum of 800 square feet.
- Amends the ADU requirements to allow up to a 15% additional increase in floor area (up to an additional 120 square feet) for ADA-compliant units.

#### **A-Engrossed Ordinance No. 775**

**A-Engrossed Ordinance No. 775** proposes to amend the Washington County CFP to identify service providers for Area 93 when transfer of jurisdiction to Washington County is effective, and to identify Area 93 as a new Area of Special Concern that shall be designated Future Development 20-Acre (FD-20). The ordinance also updates applicable maps in the Washington County Transportation Plan to include Area 93, and to apply appropriate Washington County road designations.

The engrossed ordinance incorporates amendments originally proposed in Ordinance No. 775 and includes the following changes:

- Adds the Urban Road Maintenance District (URMD) as an Area 93 service provider when the Area 93 transfer to Washington County is effective.
- Adds amendments to CDC Sections 201, 308, and 422 to address tree removal requirements in Area 93 when its transfer to Washington County is effective.

#### **A-Engrossed Ordinance No. 776**

**A-Engrossed Ordinance No. 776** amends the Rural/Natural Resource Plan Element of the Comprehensive plan, the Aloha-Reedville Cooper Mountain Community Plan, and the CDC relating to Housekeeping and General Update changes.

The engrossed ordinance incorporates amendments originally proposed in Ordinance No. 776 and includes the following changes:

- Removes the proposed amendment to CDC Section 203-3.2, Neighborhood Meeting, as recommended by the Planning Commission.
- Removes the proposed amendment to CDC Section 209-3.1 D, regarding appeals, and re-instates the existing language of that section. The existing text is correct and therefore no amendment is needed.
- Rewords the proposed amendments to CDC Sections 320-3.17 and 330-4.4 for consistency with the wording of CDC 320-3.19.
- The cross reference to CDC Section 430-73 (Kennel) in CDC Sections 340 and 344 is amended to reflect the correct CDC section. Other amendments to these sections are made for clarity.
- Clarifies the language in CDC Section 418, Setbacks, to address the unaffected setbacks of the existing structure as recommended by the Planning Commission.
- Amends CDC Sections 605 and 610, Land Division and Property Line Adjustments (PLA) Inside and Outside a UGB, to clarify that PLAs are allowed through a Type I or Type II procedure if they meet the minimum lot size standard.
- For consistency, amendments are also proposed throughout Exhibit 3, to reflect the ampersand instead of the word "and" in the title for Land Use & Transportation.

### **B-Engrossed Ordinance No. 769**

**B-Engrossed Ordinance No. 769** proposes to amend the CFP and the CDC to comply with the Religious Land Use and Institutionalized Persons Act (RLUIPA). The state's final amendments to OARs 660-033-0120 and 0130 (RLUIPA rulemaking) occurred in February 2012, so the county is now updating its Comprehensive Plan to implement the new OARs.

As originally filed, **Ordinance No. 769** proposed the following amendments:

- Limits certain public or quasi-public uses within three miles of the urban growth boundary (UGB) to all uses to which the state now applies the rule. The prior state law and the county's CDC applied the "three mile" rule only to churches.
- Removes the term "churches" and replaces it with "religious institutions" in the CFP and the CDC.
- Changes the procedure type for development review of churches to match the review type of similar uses, such as membership organizations and other places of assembly.
- Expands the number of uses subject to additional restrictions outlined in OAR 660-033-0120. These uses include parks, community centers, cemeteries, schools, campgrounds, golf courses, living history museums, and public buildings.

**A-Engrossed Ordinance No. 769** incorporated all of the above-described amendments plus the following changes to Exhibit 2:

- Amends the proposed definition of "Religious Institution" in CDC Section 106, Definitions.
- Retains cemeteries as a use which may be permitted through a Type III development procedure.

**B-Engrossed Ordinance No. 769** incorporates all of the above-described amendments plus the following new change to Exhibit 2:

- Amends the proposed definition of "Religious Institution" in CDC Section 106, Definitions, to note that schools are not included as accessory uses in the Exclusive Farm Use (EFU) and Agriculture and Forest (AF-20) Districts.

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FILED

OCT 02 2013

Washington County  
County Clerk

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BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR WASHINGTON COUNTY, OREGON

A-ENGROSSED ORDINANCE 772

An Ordinance Amending the Rural/Natural Resource Plan Element of the Comprehensive Plan and the Community Development Code to Develop a Residential Airpark Overlay

The Board of County Commissioners of Washington County, Oregon ("Board")  
ordains as follows:

SECTION 1

A. The Board recognizes that the Rural/Natural Resource Plan Element of the Comprehensive Plan (Volume III) was readopted with amendments, by way of Ordinance No. 307, with portions subsequently amended by Ordinance Nos. 342, 383, 411, 412, 458, 459, 462, 480, 482, 499, 539, 547, 572, 574, 578, 588, 598, 606, 609, 615, 628, 630, 631, 637, 643, 648, 649, 653, 662, 671, 686, 733, 740, 753, and 764.

B. The Board recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, and subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674,

1 676, 677, 682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 722, 725, 730, 732,  
2 735, 739, 742-745, 754-758, 760, 762, 763, and 765-766.

3 C. Notwithstanding the rejection of Washington County's efforts to expand the  
4 Private Airport Use Overlay to properties adjacent to the Sunset Airstrip located south of the  
5 city of North Plains in 2009, subsequent planning efforts of the County, in part in response to  
6 a request to develop a residential airpark overlay near the Sunset Airstrip, indicate this  
7 concept of a residential airpark overlay is warranted for further review and development.  
8 Such changes to the planning documents, the Board recognizes, are necessary from time to  
9 time for the benefit of the residents of Washington County, Oregon.

10 D. Under the provisions of Washington County Charter Chapter X, the  
11 Department of Land Use and Transportation has carried out its responsibilities, including  
12 preparation of notices, and the County Planning Commission has conducted one or more  
13 public hearings on the proposed amendments and has submitted its recommendations to the  
14 Board. The Board finds that this Ordinance is based on those recommendations and any  
15 modifications made by the Board are a result of the public hearings process;

16 E. The Board finds and takes public notice that it is in receipt of all matters and  
17 information necessary to consider this Ordinance in an adequate manner, and finds that this  
18 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan  
19 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington  
20 County Charter, the Washington County Community Development Code, and the Washington  
21 County Comprehensive Plan.  
22

1     SECTION 2

2             The following exhibits, attached hereto and incorporated herein by reference, are  
3     adopted as amendments to the designated documents as follows:

- 4             A.     Exhibit 1 (2 pages), amending the Community Development Code by adding  
5                     a new section (Section 389, Residential Airpark Overlay District); and  
6             B.     Exhibit 2 (6 pages), amending Policy 28, AIRPORTS, of the Rural/Natural  
7                     Resource Plan to add certain text relating to the new Residential Airpark  
8                     Overlay District.

9     SECTION 3

10            All other Comprehensive Plan provisions that have been adopted by prior ordinance,  
11     which are not expressly amended or repealed herein, shall remain in full force and effect.

12    SECTION 4

13            All applications received prior to the effective date shall be processed in accordance  
14     with ORS 215.427.

15    SECTION 5

16            If any portion of this Ordinance, including the exhibits, shall for any reason be held  
17     invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be  
18     affected thereby and shall remain in full force and effect.

19    SECTION 6

20            The Office of County Counsel and Department of Land Use and Transportation are  
21     authorized to prepare planning documents to reflect the changes adopted under Section 2 of  
22     this Ordinance, including deleting and adding textual material and maps, renumbering pages

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or sections, and making any technical changes not affecting the substance of these amendments as necessary to conform to the Washington County Comprehensive Plan format.

**SECTION 7**

This Ordinance shall take effect on November 21, 2013.

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013, being the \_\_\_\_\_ reading and \_\_\_\_\_ public hearing before the Board of County Commissioners of Washington County, Oregon.

BOARD OF COUNTY COMMISSIONERS  
FOR WASHINGTON COUNTY, OREGON

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
RECORDING SECRETARY

**READING**

**PUBLIC HEARING**

First \_\_\_\_\_  
Second \_\_\_\_\_  
Third \_\_\_\_\_  
Fourth \_\_\_\_\_  
Fifth \_\_\_\_\_

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Third \_\_\_\_\_  
Fourth \_\_\_\_\_  
Fifth \_\_\_\_\_

VOTE: Aye: \_\_\_\_\_

Nay: \_\_\_\_\_

Recording Secretary: \_\_\_\_\_ Date: \_\_\_\_\_

WASHINGTON COUNTY COUNSEL  
155 N. FIRST AVENUE, SUITE 340  
HILLSBORO, OR 97124-3072  
PHONE (503) 846-8747 - FAX (503) 846-8636

Amend the Community Development Code to include a new section (Section 389, Residential Airpark Overlay District):

**389 RESIDENTIAL AIRPARK OVERLAY DISTRICT**

**389-1 Intent and Purpose**

The intent of the Residential Airpark Overlay District is to support the continued operation and vitality of the Sunset Airstrip and the uniqueness of residential airpark-type development. The Residential Airpark Overlay District authorizes uses commonly associated with airstrip use and accessory to residential uses and ensures compatibility with the continued operation of Sunset Airstrip.

**389-2 Applicability**

This Overlay District applies to the rural residential areas adjacent to the Sunset Airstrip identified in Policy 28 of the Rural/Natural Resource Plan. This overlay district allows limited accessory uses commonly associated with adjacent airstrip use. Residential uses are not authorized by the Residential Airpark Overlay District and are subject to the standards of the underlying land use districts.

The provisions of Section 386, Private Use Airport Safety Overlay District, continue to apply to lots and parcels within the Residential Airpark Overlay District that are also designated with the Private Use Airport Safety Overlay District.

Designation of the Residential Airpark Overlay District authorizes Residential Airpark Development (RAD) but does not allow access to the existing private airstrip. Access to the airstrip must be obtained from airstrip owner prior to accessing the airstrip from a RAD.

**389-3 Uses Permitted Through a Type I Procedure**

The use of land and buildings must be in compliance with the underlying land use district as established by the Rural/Natural Resource Plan, and is further limited to the following permitted uses on lands designated as Residential Airpark Overlay District:

A. Residential Airpark Development (RAD) may be authorized to allow for the addition of an individual aircraft hangar and paved tie-down area(s) on the same lot or parcel as an existing detached single family dwelling unit as the primary use. Each lot or parcel may be provided with a hangar and paved tie down area(s). The hangar can be attached or detached to the dwelling unit. No more than one hangar may be allowed on a lot or parcel with an existing dwelling unit. Hangars shall not be rented out.

B. Accessory uses and structures on a lot or parcel with an existing dwelling unit:

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- (1) Aircraft Hangar. An aircraft hangar cannot be used as a residence.
- (2) Aviation fuel storage consistent with all applicable federal, state and local requirements, including the 2010 or most current Oregon Structural Specialty Code and 2010 or most current Oregon Fire Code.

C. Aircraft taxi ways.

**389-4 Prohibited Uses**

Unless authorized by the process outlined for the AF-5 and RR-5 Districts, all commercial aviation activities, including but not limited to flight training, commercial aircraft sales and repairs, commercial fueling operations, are prohibited.

**389-5 Property Owner Notification**

Prior to the issuance of a building permit for a single family dwelling unit the property owner shall submit to the Review Authority a copy of a signed and recorded waiver of the right to remonstrate against customarily accepted airstrip and airpark uses.

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1. Amend Policy 28, AIRPORTS, of the Rural / Natural Resource Plan to add the following text relating to the new Residential Airpark Overlay District set forth in Exhibit 1 of this ordinance:

#### **POLICY 28, AIRPORTS:**

**It is the policy of Washington County to protect the function and economic viability of existing public use airports, while ensuring public safety and compatibility between airport uses and surrounding land uses for public use airports identified by the Oregon Department of Aviation (DOA).**

##### Introduction

Changes in state law passed in 1995 and 1997 require local jurisdictions to adopt an airport planning program for certain airports described in ORS 836.600 et. Seq. The Aeronautics Division of the Oregon Department of Transportation (now the Department of Aviation/DOA) and the Department of Land Conservation and Development together developed Airport Planning Rules (OAR 660-013) and identified certain public and private use airports that would be subject to these rules, based on the parameters set forth in the statute. The DOA manages the list of identified airports, which is subject to amendment through a review and decision process by the state Aviation Board, pursuant to OAR 738-090. Procedures for amendment of the state airport list include public notice procedures. As necessary, the County will initiate Comprehensive Plan amendment proceedings to remain current with DOA list of all airports.

Policy 17 of the Washington County 2020 Transportation Plan identifies and outlines transportation-related policies for the County's three public use airports. The Rural/Natural Resource Plan and the Comprehensive Framework Plan for the Urban Area each outline land use related policies that address only those airports within the Washington County jurisdiction that are identified by the DOA list, with the addition of Skyport, a small public use facility located north of Cornelius.

Policy 28 outlines implementing strategies which, in part, set forth Airport Overlay Districts to regulate safety concerns, land uses and land use compatibility issues on airport properties and within surrounding area. These are structured to address state-recognized airports in two categories, generally referred to herein as Public Use Airports and Private Use Airports. Where the Airport Overlay Districts are concerned, references to airports and airport facilities generally includes heliports as well.

Several other airport facilities exist throughout the County that are not a part of this airport planning program and thus not recognized by the established Airport Overlay Districts. In general, these include personal use airports, heliports and agriculturally related landing strips. With the exception of agriculturally related landing strips, these facilities are regulated as special uses in specified land use districts pursuant to standards outlined in the Community Development Code. Where personal use facilities are concerned, the Community Development Code make a distinction between the terms and heliport, as they are permitted equally in all land use districts.

Outside the UGB, land use districts which allow personal use airports as a special use generally include all rural districts except rural commercial (RCOM) and rural Industrial (RIND); inside the land use district which allow personal use heliports as a special use include the rural residential districts (AF-5, AF-10 and RR-5), and the special industrial overlay district (SID). Urban land use districts that permit personal use

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heliports include all residential districts (R-5, R-6, R-9, R-15, R-24, and R-25+), the commercial and business districts with the exception of the neighborhood commercial district (allowed in OC, CBD, and GC districts), and the industrial district (IND).

Policy 28 allows Residential Airpark Development (RAD) within a Residential Airpark Overlay District. The Residential Airpark Overlay District authorizes aircraft hangars, paved tie down areas and taxiways as accessory uses.

#### Implementing Strategies

The County will:

- a. Adopt and implement Airport Overlay Districts consistent with LCDC Airport Planning Rules and ORS Chapter 836 in order to:
  1. Protect public use airports by regulating land uses in designated areas surrounding the Portland-Hillsboro and the Stark's Twin Oaks airports based on adopted airport master plans or evidence of each airport's specific level of risk and usage. Prevent the installation of airspace obstructions, additional airport hazards, and ensure the safety of the public and guide compatible land use. Limit uses in specific noise impact and crash hazard areas that have been identified for each specific airport. To a lesser degree, protect the function and economic viability of the Skyport airport, which was not identified pursuant to ORS 836.600 but which the County recognizes as an established privately owned public use airport and thus requiring regulatory measures to promote safety.
  2. Protect privately owned, private use airports identified by the DOA. Each airport's specific level of risk and usage shall be used to guide the continued safe aeronautical access to and from these airports, considering the type of aircraft approved to use the field.
- b. Recognize the Portland-Hillsboro airport as the major aviation facility in Washington County and an airport of regional significance. To promote its operation, the County shall coordinate with the City of Hillsboro to help ensure compatibility with surrounding land uses. The Comprehensive Plan will be updated to reflect any necessary changes resulting from this process.
- c. Work with airport sponsors to coordinate with the Federal Aviation Administration (FAA) in promoting FAA-registered flight patterns and FAA flight behavior regulations in order to protect the interests of County residents living near airports;.
- d. Maintain geographic information system (GIS) mapping of the Airport Overlay Districts and provide timely updates;.
- e. Participate in and encourage the adoption of master plans for all public use airports and, at a minimum, an airport layout plan for the remaining DOA recognized airfields in Washington County;.
- f. Discourage future development of private landing fields when they are in proximity to one another, or where they are near other public airports and potential airspace conflicts are determined to exist by the FAA or the DOA.

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- g. Allow Residential Airpark Development in a Residential Airpark Overlay District.
- h. Ensure that future Residential Airpark Development is compatible with the continued operation of adjacent private airstrips.

Summary Findings and Conclusions

In Washington County, the LCDC Airport Planning Rules apply to the following facilities, which are included in the County's airport planning program.

- 1. Public Use Airports – Publicly Owned:
  - a. Portland-Hillsboro (KH10)
- 2. Public Use Airports – Privately Owned:
  - a. Stark's Twin Oaks Airpark (7S3)
- 3. Private Use Airports – Privately Owned (recognized by DOA as having 3 or more based aircraft in 1994):
  - a. Apple Valley (1/2 mile S of Buxton) (OR61)
  - b. Meyer's Riverside (2 miles SW of Tigard) (OG34)
  - c. North Plains Gliderport (2 miles W of North Plains) (1OR4)
  - d. Olinger Strip (3 miles NW of Hillsboro) (OR81)
  - e. Providence St. Vincent Medical Center Heliport (2.5 miles NE of Beaverton) (53OR)
  - f. Sunset Airstrip (1/2 mile SW of North Plains) (1OR3)

In addition to the above, the Skyport Airport (4S4) (located 3 miles N of Cornelius) is a privately owned public use facility that was not identified by the DOA because of its relatively small size and low level of activity. However this facility has been included in the County's airport planning program because of its status as a public use airport. The level of protection provided for this facility is similar to that ~~required provided~~ for the privately owned private use airports identified in List 3, above.

The Portland-Hillsboro Airport, owned by the Port of Portland, is located within the city limits of Hillsboro. However land use and noise impact areas associated with this airport affect County lands. The County's planning efforts for rural lands around the Portland-Hillsboro airport therefore will be coordinated with the City of Hillsboro ~~after the current (2003) master plan update process is complete.~~

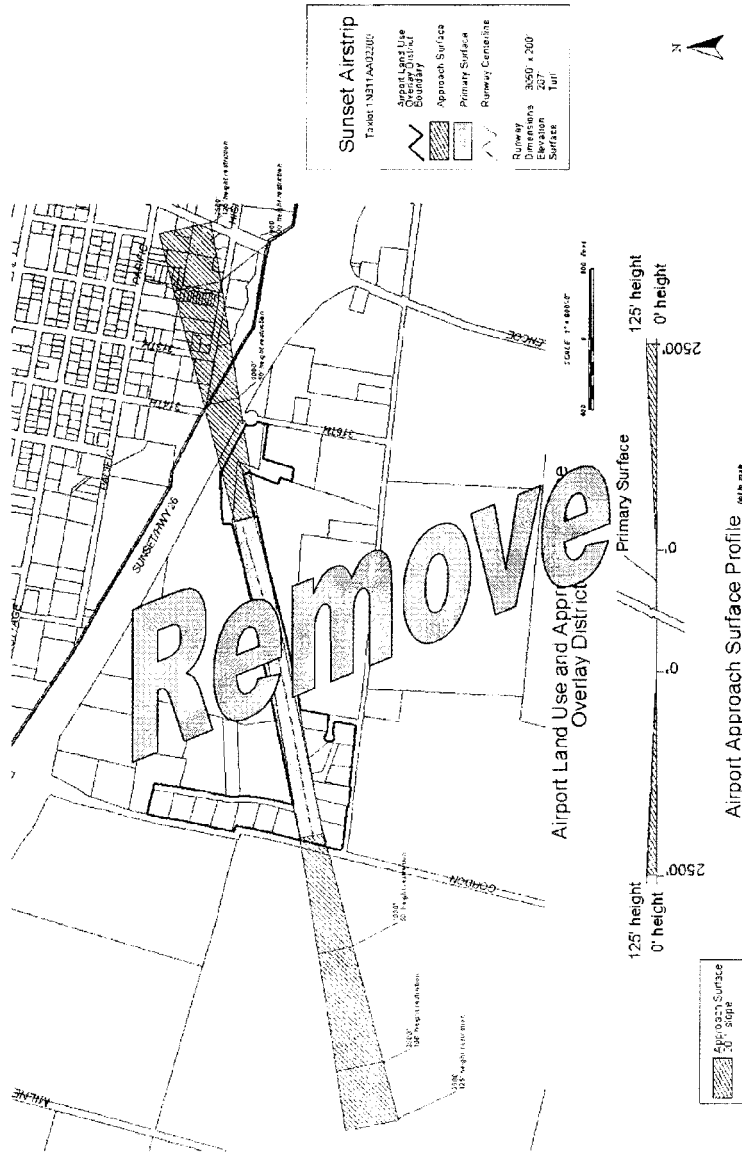
LCDC's Airport Planning Rules prescribe different levels of protection for the listed airports, depending on the nature of use and the size of the facility. In general, state requirements are applied to facilities within the County's jurisdiction through the application of Airport Overlay Districts to regulate land uses. ~~There county utilizes~~ are two sets of overlays: one set applies to Public Use Airports (Portland-Hillsboro and Stark's Twin Oaks), and one set applies to Private Use Airports, including all of those identified in List 3, above. For each airport category (public and private), the overlay district set consists of 1) a land use overlay district to regulate airport related land uses at the airport site, and 2) a safety and/or land use compatibility overlay district to mitigate land uses and height of structures and objects on properties immediately surrounding airports. For the Private Use Airports, the protection of the safety overlay district is limited to graduated height restrictions along approach corridors. For the Public Use Airport (i.e., Stark's Twin Oaks), the second overlay district is more elaborate and mitigates land uses and safety hazards in a broader area surrounding the airport. This overlay includes boundaries to identify areas subject to noise impacts, bird strike hazards, and protection measures for imaginary surfaces for airborne aircraft.

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Policy 28 identifies an additional overlay, the Residential Airpark Overlay District. The Residential Airpark Overlay District applies to certain rural lands adjacent to Sunset Airstrip. This district supports the continued operation of the Sunset Airstrip and the uniqueness of Residential Airpark Development by authorizing limited accessory uses commonly associated with airstrip use. This district also promotes public health and safety in the vicinity of Sunset Airstrip by ensuring that Residential Airpark Development complies with the provisions of the Private Airport Safety Overlay District and the standards of the Residential Airpark Overlay District.

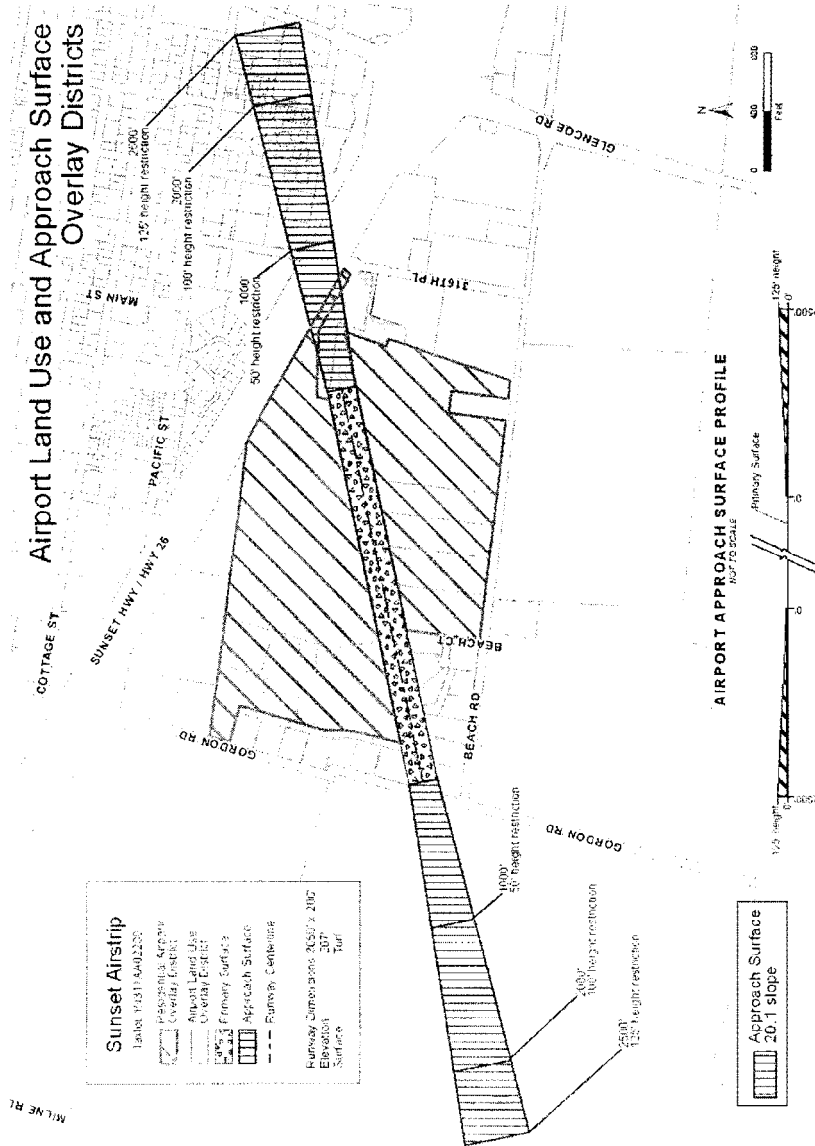
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2. Amend Policy 28, AIRPORTS, of the Rural / Natural Resource Plan to remove the Sunset Airstrip map shown below:



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3. Amend Policy 28, AIRPORTS, of the Rural / Natural Resource Plan to add the Sunset Airstrip map shown below:



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**AGENDA**

**OFF DOCKET**

Continued from September 24, 2013

**WASHINGTON COUNTY BOARD OF COMMISSIONERS**

**Agenda Category:** Public Hearing – Second Reading and Second Public Hearing  
Land Use & Transportation; County Counsel (CPO 8)

**Agenda Title:** **PROPOSED ORDINANCE NO. 772 – AN ORDINANCE  
AMENDING THE RURAL/NATURAL RESOURCE PLAN AND  
THE COMMUNITY DEVELOPMENT CODE TO DEVELOP A  
RESIDENTIAL AIRPARK OVERLAY DISTRICT**

**Presented by:** Andrew Singelakis, Director of Land Use & Transportation  
Alan Rappleyea, County Counsel

**SUMMARY:**

Ordinance No. 772 proposes to add a new section (Section 389) to the Washington County Community Development Code relating to a new Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling. Ordinance No. 772 is posted on the county's land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm>

The Board conducted its initial hearing for Ordinance No. 772 on September 24, 2013 and continued the hearing to October 1 to allow additional time to consider submitted testimony and recommendations provided by the Planning Commission and staff.

A staff report for the October 1 hearing will be provided to the Board prior to the hearing and posted on the above land use ordinance web page. Copies of the report will also be available electronically and at the Clerk's desk prior to the meeting.

Consistent with Board policy, testimony about the ordinance is limited to two minutes for individuals and five minutes for a representative of a group.

**DEPARTMENT'S REQUESTED ACTION:**

Read Ordinance No. 772 by title only and conduct the second public hearing. At the conclusion of the hearing, direct engrossment of the ordinance to include the changes as shown in Attachment A. Continue the hearing to October 15 and 22, 2013 and direct staff to prepare and mail notice of the amendments consistent with the requirements of Chapter X of the County Charter. Staff is also directed to prepare and mail an additional Type III Public Hearing Notice to owners of property within 1000 feet of the proposed Residential Airpark Overlay District.

**COUNTY ADMINISTRATOR'S RECOMMENDATION:**

I concur with the requested action.

APPROVED WASHINGTON COUNTY  
BOARD OF COMMISSIONERS  
MINUTE ORDER # 13-293  
DATE 10/01/13  
BY *A. D. Rappleyea*  
CLERK OF THE BOARD

Agenda Item No.	
Date:	10/01/13

ORD 772

**MINUTES**

**WASHINGTON COUNTY BOARD OF COMMISSIONERS**

**October 01, 2013**

**CONVENED:** 10:08 a.m.

**BOARD OF COMMISSIONERS:**

Chairman Andy Duyck  
Vice Chair Greg Malinowski  
Commissioner Bob Terry  
Commissioner Dick Schouten  
Commissioner Roy Rogers

**STAFF:**

Robert Davis, County Administrator  
Andrew Singelakis, Director, LUT  
Sia Lindstrom, Sr. Deputy County Administrator  
Rod Rice, Deputy County Administrator  
Alan Rappleyea, County Counsel  
Bill Gaffi, General Manager, CWS  
Diane Taniguchi-Dennis, Deputy General Manager, CWS  
Margaret Garza, A&T Administration  
Andy Back, Planning and Development Services Manager  
Mark Jockers, Government and Public Affairs Manager, CWS  
Stephen Roberts, Communications Coordinator, LUT  
Suzanne Savin, Senior Planner, LUT  
Joy Chang, Associate Planner, LUT  
Carine Arendes, Associate Planner, LUT  
Rod Branyan, HHS, Administration  
Dan Schauer, Extension Service  
Dyami Valentine, LUT, Long Range Planning  
Paul Schaeffer, LUT, Long Range Planning  
Ana Noyola, Alternate Clerk of the Board  
Jim Thiessen, Audio Visual Technician  
Minutes by Michelle Rubio

**PRESS:**

Simina Mistreanu, *The Oregonian*

**1. ORAL COMMUNICATION (2 MINUTE OPPORTUNITY)**

None.

Commissioner Schouten said the thrust of the ordinance exempts all rooftop mounted energy systems for land use restriction height limits. He said there is additional language regarding tower height and measurements and asked if that was state law.

Ms. Arendes said it would make it consistent with state law.

Commissioner Schouten asked for a summary of the language in the staff report.

Ms. Arendes said they wanted to address concerns about the height of wind energy systems that use towers are how they are measured. She said originally there was intent to include all parts of the tower, including blades. She added that in order to make the most cost effective systems offered through the Energy Trust a possibility for people, the blade height was excluded.

Commissioner Schouten asked if these standards are being found across the state because the Energy Trust is a program through the state of Oregon.

Andy Back responded that the primary intent of the ordinance is to clarify how solar and wind energy systems are processed. He said there is some discretion over height and other areas and are trying to be consistent with the industry standard.

Public hearing closed. No testimony was given.

It was moved to adopt A-Engrossed Ordinance No. 770.

Motion – Rogers

2<sup>nd</sup> – Terry

Vote – 5-0

ROLL CALL:

Aye: 5

Nay: 0

5.c.1 (Off Docket)

MO 13-293

Proposed Ordinance No. 772 – An Ordinance Amending the Rural/Natural Resource plan and the Community Development Code to Develop a Residential Airpark Overlay District and the Community Development Code to Develop a Residential Airpark Overlay District

It was moved to read Ordinance No. 772 by title only.

Motion – Terry

2<sup>nd</sup> – Rogers

Vote – 5-0

Alan Rappleyea, County Counsel, read Ordinance No. 772 by title only.

Paul Schaeffer explained that the proposed amendments were requested by property owners as well as Air Acres Home Owners Association and they were added as a Tier 1 item on the 2013 work program by the Board. He stated that there are two exhibits to the ordinance:

- Exhibit 1- Adds a new Community Development Code section 389 (containing regulations for Airpark Development)
- Exhibit 2 – Amends Policy 28 of the Rural/Natural Resource Plan (providing language allowing the development of this district)

He noted that the first hearing on this ordinance took place on September 24, 2013, in which testimony both for and against this ordinance took place. He added that two of the Commissioners preferred not to limit the number of tie-downs. He said staff addressed these comments in Attachment A of the staff report. Staff recommends that the Board engross Ordinance No. 772 to include:

- Remove the three EFU parcels and one AF-20 parcel. (responding to concerns by DLCD)
- Prohibit commercial aviation activities in the Residential Airpark Overlay District, (responding to Planning Commission concerns)
- Limit the number of hangars to one hangar per lot or parcel with a dwelling, and prohibit the renting out of hangars.
- Remove limitation on number of tie-down areas allowed per lot or parcel with a dwelling.
- Continue the hearing to October 15 and 22, 2013 and direct staff to prepare and mail notice of the amendments consistent with requirements of Chapter X of the County Charter. Also provide a Type III notice giving a 1,000 foot notice of the proposed boundary.

Commissioner Terry asked staff how they handled the tie-downs issue.

Mr. Schaeffer said they made the word tie-down plural adding an 's.'

Commissioner Schouten asked if Ms. Saunders' written testimony was part of last week's record.

Chair Duyck said yes, Linda Peters submitted her written testimony on her behalf.

Public hearing opened.

Ellen Saunders, 47950 NW Dingheiser Road, Manning, OR 97125, said over the hours of documents she's read on this ordinance it became obvious Robert Jossy is a developer of rural properties that isn't in conformity with Washington County's stated Rural/Natural Resource Plan. She said that the request for aviation expansion is in direct conflict with:

- Policy 4 – Maintain or improve existing air quality
- Policy 5 – Efforts to control noise and limit the adverse impacts of noise
- Policy 6 – To maintain or improve surface and ground water quality
- Policy 10 – Protect and enhance significant fish and wildlife habitat (possible conflict)

Ms. Saunders said Mr. Jossy was willing to sue the County for perceived Measure 37 damages as his attorney claimed a huge loss of income. She added there were more legal requests for variances with County support when Measure 37 was replaced by Measure 49. She stated it's



apparent his major interests are in making money out of good farm land and orchard property by polluting it with noise and lead gas and not participating in our rural community farm and forest economy. She said there doesn't seem to be any conditional use review on this ordinance which should be required to give the community a chance to address problems that may occur with this expansion. She said it appears that as many as 100 planes may be housed at this airpark if this proposed ordinance doesn't put tight limitations on the number of planes. She noted that Airpark 1 and 2 allow properties of less than an acre to have access to the field. She added that when requests are made for the 4 acre lots to divide in the future she can only imagine what will happen. She said the 20 percent diminishment of the RR5 requirement has already been stretched to give Mr. Jossy one more lot than if the lots were kept at 5 acres as would be expected on an RR5 designation. She stated that if this ordinance is adopted, then the ongoing procession lead polluting, low flying, loud private aviation flight activities will increase over agricultural lands used for organic farming, equine facilities, dairies, orchards and the park trail systems that are being expanded. She provided additional written testimony about the prevailing winds. She noted the expansion of this overlay district has already been rejected once. She summed up by saying that the ordinance should be denied until all affected residents in the surrounding areas have been notified of the hazards they are about to be subjected to and that their property values will drop.

Jean Moseley, 9870 NW Gordon Road, Cornelius, OR 97113, said she's been a resident of the Sunset Airpark for 22 years and wants to maintain a neighborhood friendly to aircraft. She said the mention of aviation fuel dumping in the previous testimony is not something aircraft owners are in the habit of doing as fuel is expensive. She believes the environmental impact won't be as grave as previously stated. She noted very few people have fuel storage because of DEQ regulations and if they do it's monitored closely so it isn't an issue. She said that having neighbors that are pilots would be well suited to the neighborhood as they would see aircraft noise differently than the general public. She said the sound of aircraft taking over is music to her and comforting as well and hopes the potential new neighbors would be like minded.

Sarah Gregory, 22463 NW Ardabeth Lane, Banks, OR 97106, said she lives near Apple Valley Airport and is concerned with the expansion of the airstrip as proposed in Ordinance No. 772. She said her community has been opposing expansion of Apple Valley Airport for the last 7 years and believes the passing of this ordinance could lead to expanding the airport near her. She said rural residents don't want to have the imposition of these kinds of urban impacts. She stated with the years of opposition of the airport near her, the multiple County hearings and several state hearings gives a good track record of what the rural residents in western Washington County would favor.

Henry Oberhelmon, Chair of CPO 8, said they presented written testimony at the last hearing in opposition to Ordinance No. 772 and in concurrence with the Planning Commission, asked it be carried forward to the 2014 ordinance season. He noted motions are often put forth in CPO and community meetings that don't have a great deal of discussion which was the case with this motion. He said they have since had someone execute a detailed examination of the background and concerns involved. He stated that the CPO 8 steering committee is concerned that there wasn't a chance to bring this before the complete CPO 8 for further discussion. He said CPO 8 will rest on the testimony that was submitted at the last meeting.

Commissioner Schouten said the Planning Commission had some concerns which lead to their recommendation not to approve this ordinance. He asked if Mr. Oberhelmon felt staff has addressed those concerns and if he had additional concerns beyond the ones the Planning Commission raised.

Mr. Oberhelmon said one concern the Planning Commission had was the possibility of allowing commercial aviation activity at the Sunset Airstrip. He noted there's no definition of commercial activity in Washington County code or in the Oregon Department of Aviation code. He said when he looked into the definition as listed by the FAA they refer to airports such as Portland International Airport, which does not compare in scale with the airport addressed here.

Commissioner Terry recollected there were only 4 members of the Planning Commission present when that recommendation was made. He said the scope of that runway would limit commercial aviation.

Commissioner Schouten said County Counsel or Planning staff could address the issues raised by Mr. Oberhelmon. He said in paragraph 389-4, states that, unless authorized, all commercial aviation activities including, but not limited to, flight training and commercial aircraft sales or repairs are prohibited. He asked if the phrase "commercial aviation" is defined.

Alan Rappleyea, County Counsel, said many of the terms in the Community Development Code aren't defined and would need to go to the basic definition of commercial providing enough guidance to regulate the activities at the airpark. He noted that there are additional definitions such as aircraft sales, repairs, etc. that would be defined and concluded that "commercial aviation" would be a term they could work with and adequately regulate the activities at the airport.

Jim Lubischer explained he rescheduled his appointments as a doctor of pediatrics because of the importance of this ordinance. He said he's concerned with the increase in lead pollution to the County, especially to those residing in North Plains. He said any expansion of activities with leaded fuels needs to be seriously considered as lead has a notorious history. He noted that it's taken several decades to get where we are now and still aren't where we should be yet. He provided written testimony last week regarding the latest information on lead poisoning and the damage it can do to children and highlighted the following key points: A doctor at OHSU (Dr. Nigg) found that significantly low levels of lead in a child's blood can contribute to the development of ADHD; Another researcher saw a 39 percent reduction of growth in the fetal cells of rats over exposures of very low levels of lead in a 48 hour period. That same researcher saw a 10 percent decrease in nerve cell growth in infinitesimal levels in a child's blood now. He concluded all this research shows just a few grains of lead on a child's fingertip would be enough to poison a child. He said that adding to the lead in the County that comes from the Hillsboro Airport is unconscionable and should be careful about expanding aviation activity. He said the residents of North Plains should be given more time to speak on this ordinance and he heard the Mayor of North Plains didn't even know about it.

Chair Duyck said the testimony seems to be moving away from a land use decision and more toward a statement about aviation and lead. He asked how the decision on this ordinance impacts the lead issue, as it wouldn't change anything but the location of where the planes are located.

Mr. Lubischer said when the citizens find out about an ordinance they have about 2 weeks to prepare for it. He also noted that there are other things that need to be considered such as the lead issue. He conveyed that the developers have an infinite amount of time to ready themselves for an ordinance as this whereas the general public doesn't. He said this is important to our children and is worth considering. He said if the Board sees this isn't up to code, this information might be helpful.

Commissioner Schouten asked Mr. Lubischer where he found the two pieces of research he cited.

Mr. Lubischer said the papers he cited were from Thomas Jefferson University and the other is from the Dr. Nigg from OHSU. He said the CDC has stated there's no safe level in a child and there is much more research and information confirming this fact.

Richard VanGrunsven said he's been a resident of Sunset Airpark for about 32 years. He noted he provided testimony at the last hearing. He said the airport has been in existence for about 44 years and the citizens of North Plains over that time had minimal objections to the activities. He said it's relevant that much of the opposition comes from people that aren't very familiar with the type of operation. He stated the expansion of operations at the airport would not be 100 airplanes but more like 12 and the level of activity projected would have minimal impact on the overall aviation operations. He said he favors adoption of this ordinance to create a more compatible community as these properties are going to be developed anyway. He added this will provide a lifestyle opportunity for aviation enthusiasts like himself.

Chair Duyck said it's unusual for neighbors advocating for an ordinance. He asked if he knew of other neighbors along this airstrip that would oppose this expansion.

Mr. VanGrunsven said he's not aware of anyone in the airpark development being opposed to the expansion. He said regarding neighbors outside the airpark, they could participate in this public hearing.

Bill McCandless, 32905 Beach Road, Hillsboro, said he's a resident of the Sunset Airpark and president of Roth Development that currently owns the runway. When he gave testimony at the last hearing he said there was question about the Community Development Code revision 389-1. He said he spoke with Mr. Schaeffer to see if it applied to Sunset Orchards or all future airpark development in Washington County. He remarked it would apply to Sunset Orchards. He said the question of notification of North Plains and staff said they complied with who is required to be notified. He stated the question was raised about tie-downs and in surveying some of those in the airpark he received the following responses:

- Temporary access of tie-downs when the hangar had to be accessed
- Two others who have rings for tie-downs that are currently unused and used only when a guest had arrived (not sure how long ago that took place).

He noted there is little use of tie-downs aside from when the hangars in use. In regards to fuel dumping, he said the large jet aircrafts have the capability to dump fuel if they need to get rid of weight before an emergency landing but the small aircraft don't. He noted the fuel is tested prior to take-off. He stated they are currently having 18 lots, 12 are active pilots there and could potentially have another 18 totaling a potential 36 lots. So that could mean anywhere between 36 and 72 additional pilots, depending on whether there are two pilots per household. He is aware of only one household with two pilots at the present moment. He stated that 'commercial activity' is defined in the FAA and offered to research the definition for 'commercial activity' in the FAR if the Board requests it. He said they would prefer that the new residents of the proposed development be pilots.

Commissioner Schouten asked if the FAR is the Federal Aviation Regulations and if there is a definition of 'commercial aviation' included there.

Bill McCandless said there is a definition for 'commercial activity.' A private pilot cannot be paid for his aviation duties.

Commissioner Schouten asked if Mr. McCandless was suggesting that definition could be used by County Counsel or others to further define commercial aviation activities.

Mr. McCandless said it would be a good place to start.

Chair Duyck said the FARs will only address the pilot and the flight but wouldn't address commercial aviation on the ground such as the selling of fuel where you wouldn't need a pilot's license. He noted this is addressed in the ordinance and thus there are activities on the ground that could fall under the commercial definition that aren't addressed by the FARs.

Bob Jossy, 31965 NW Beach Road, Hillsboro, OR 97124, said from his understanding Ordinance No. 772 makes three allowances that currently aren't allowed. The allowances are if you have a house you can:

- Have a hangar
- Have a taxiway on your land to taxi your airplane
- Store aviation fuel. He didn't believe this was necessary because it could be stored on AF5 property already.

He relayed that it has been said there will be 100 airplanes in the airpark community and the air will be polluted with lead. He said currently the developable land has 18 parcels, which may not have pilots. He requested that the ordinance be passed in order to regulate these new homes. He said if someone that isn't a pilot chooses to live there, that new resident still can't remonstrate against normal activities. In regards to taking away farmland, he noted this ordinance doesn't prevent someone from having a farm or an orchard. He noted a lot of negative comments have been made which is mostly predicting what could happen. He asked the Board to pass the ordinance as it only allows the three items as noted above. Lastly, he said flight training and commercial activity can't take place now and passing this ordinance won't change those prohibitions.

Miki Barnes said there are several confusing issues that need additional time to address. She asked this ordinance be postponed or rejected. She stated she came upon a license given to Sunset Airpark by the State of Oregon in 1970 which clearly stated no more than 25 families with aircraft shall have easements for the use of this airstrip at any one time. She said if you add 18 units to the existing 16 it will exceed this limitation. She recommended the Board take a look at the Department of Aviation regarding this license as she hasn't found any additional licenses that are more current. Responding to the point of there only being about 12 aircraft there, she said she looked at the federal registry and some residents had 3 or 4 aircraft per family. She added if these 18 new homes all wanted 4 planes that would add an additional 72 planes. She said that in looking at these records along with the potential new homes, an estimate of 100 planes isn't off the mark. She believed this ordinance is out of compliance with the Comprehensive Plan as it states, "the public interest can only be served when environmental social energy and economic factors are balanced and interrelated and consideration of impacts." She said this isn't in this ordinance. She felt that encouraging airport expansions and development in rural areas is one of the most insidious and noxious forms of urban sprawl in Washington County, which is in opposition to the Rural Comprehensive Plan. She said if they are looking to unlimited air traffic operations and unlimited tie-downs, then you have to look at unlimited water quality, noise and air impacts. She said lead is a serious problem and noted that McKay Creek, which runs through North Plains, is listed as impaired on the EPA website.

Linda Peters, Chair of the Washington County Citizen Action Network, said ordinances are written not on the basis of predicting the future but for the purpose of framing the future and to protect the community against other uses. She said this ordinance is a hybrid creating a whole new type of overlay district in the Community Development Code that can be used in places other than the site to which it's being applied. She understood the concerns of the current residents of the airpark being afraid of development happening around them that won't be friendly to aircraft or the uses they've had. She said this ordinance won't necessarily bring about, but could allow serious abuses of air, water and noise. She stated that although they provided formal notice to the surrounding area, the Mayor of North Plains didn't know about this ordinance when she spoke with him last week. She sent a link to the mayor and the City Manager about this ordinance and hasn't heard back from them. She said it is a serious omission to leave out the neighboring city. She noted it was discussed that the current language on commercial uses is sufficiently specific and asked if a fly-in bed and breakfast would be allowed as bed and breakfasts are allowed in the R5 district. She expressed that the amount of trouble people have had in a short period of time to gather enough information to respond appropriately to this ordinance and the ambiguity of the ordinance shows that the ordinance be denied or delayed.

Commissioner Schouten asked staff if they would be creating their first residential airpark district in the County.

Andy Back said yes. They will be creating the zone that could be applied through a separate future action to other places if this ordinance was adopted. He noted that in this case, the only application is to this specific site.

Chair Duyck said there are residential airparks but they don't fall under this tool at this time.

It was moved to direct engrossment of Ordinance No. 772 to include the changes described in the staff report. Continue the hearing to October 15 and 22, 2013 and direct staff to prepare and mail notice of the amendments consistent with requirements of Chapter X of the County Charter. Also provide a Type III notice giving a 1,000 foot notice of the proposed boundary.

Commissioner Malinowski noted this is the last day to engross something during this ordinance season, so whatever is engrossed won't be able to be changed in the next two hearings.

Commissioner Schouten said if they don't approve it this year, it could come back next year.

Chair Duyck asked staff if this ordinance expands the number of uses that are currently allowed under the existing neighborhood association.

Mr. Schaeffer said this ordinance doesn't expand the existing airport. He said this ordinance applies only to the new overlay district and has very limited uses.

Chair Duyck asked about the license restriction Ms. Barnes brought up about the number of dwelling units in that community that could own airplanes and asked if it's still the most recent license.

Mr. Rappleyea said he doesn't know the answer but will look into it.

Commissioner Malinowski asked if staff has heard from the City of North Plains on this issue.

Mr. Schaeffer said he hasn't heard from them and noted they provided notice to the cities and agencies. He added that the City of North Plains was provided notice of this ordinance.

Commissioner Schouten asked when the notice was sent to the City of North Plains.

Mr. Back said the general notice sent to the CPOs and the cities was sent out on August 1, 2013.

Commissioner Malinowski said he wanted to make sure they gave the City of North Plains an opportunity to respond. He asked staff to respond to Ms. Barnes' testimony regarding the Natural Resource Plans on policy 4, 5, 6, and 10.

Mr. Back said they can address those in the staff report at the next hearing. He reminded the Board that their entire decision making involves balancing various goals and it's very difficult to maximize all of them. He said if this ordinance is adopted, the Board would also adopt findings that have the information that would show how that balancing test has been done with all those goals.

Commissioner Malinowski asked if the Board could have the staff's view on each of those policies regarding this ordinance by the next hearing.

Commissioner Rogers said this is a procedural based process and any hiccups in that process is subject to challenge so they have to follow the order.

Motion – Terry  
2<sup>nd</sup> – Rogers  
Vote – 5-0

5.d.  
MO 13-275  
Proposed Ordinance No. 774 – An Ordinance Amending the Community Development Code  
Relating to Accessory Dwelling Units (CPO All)

It was moved to read proposed Ordinance No. 774 by title only.

Motion – Rogers  
2<sup>nd</sup> – Terry  
Vote – 5-0

Alan Rappleyea, County Counsel, read Ordinance No. 774 by title only.

Paul Schaeffer provided the staff report. He said Ordinance No. 774 proposes to amend the accessory dwelling unit standards (ADU). He stated current standards are found in section 430-117 of the code, which apply to all ADUs in R5 and above. He noted some of the following key standards:

- 1 ADU per primary dwelling
- Size limitation of 600 square feet if it's a detached unit as above a garage
- Maintain setbacks
- Consistent exterior appearance

Currently the code allows increases to ADUs when they are ADA compliant but doesn't list any specific size requirement. This ordinance proposes changing ADA compliant ADUs to a maximum of 800 square feet. He stated the current Community Development Code procedures are:

- R5 District – Type III (public hearing, high cost for processing this permit)
- R6 District – Type II (public hearing, high cost for processing this permit)
- R9 and above – Type I (low cost, administrative review)

He explained this ordinance would change the R5 and R6 District's Type I procedure, making it consistent with R9 and above and several other jurisdictions. He said that adding the 200 extra square feet with the ADU compatible units was set as it takes about that much area to make these units ADA compatible. He said the Planning Commission heard this ordinance on September 18, 2013 and they concurred with the proposal to make R5 and R6 Type I uses but offer the following recommendations:

- Increase maximum allowed floor area for detached ADUs from 600 to 800 square feet, regardless of whether ADU is ADA compliant.
- Allow an additional increase in floor area of up to 15% (up to 120 additional square feet) for detached ADUs that are ADA compliant.

Staff's recommendation to the Board is to direct engrossment of Ordinance No. 774 to include the Planning Commission's changes in Attachment B of the staff report; Continue the hearing to

8. BOARD ANNOUNCEMENTS

Chair Duyck addressed the meeting time limits for public hearings. He stated that he does not want to restrict the ability of people to address the Board. He noted that recently there have been several people who have failed to sign up and expect more time to speak, which is out of the norm. He informed that there is a tradition of allowing Board recognized groups and their respective spokespersons to speak for longer periods of time. These group representatives should meet the Board of County Commissioners halfway and make arrangements ahead of time if additional time is needed to testify.

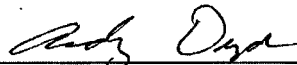
Chair Duyck announced that the extended work session on October 8, 2013 is cancelled because there isn't a quorum. The next meeting will be on October 15, 2013 at 10:00 a.m. with a work session at 8:30 a.m.

9. ADJOURNMENT: 12:23 p.m.

Motion – Terry  
2<sup>nd</sup> – Schouten  
Vote – 5-0

MINUTES APPROVED THIS 22<sup>nd</sup> DAY October 2013

  
RECORDING SECRETARY

  
CHAIRMAN





September 27, 2013

To: Washington County Board of Commissioners

From: Andy Back, Manager  
Planning and Development Services

*AB for AB*

Subject: **PROPOSED LAND USE ORDINANCE NO. 772 - An Ordinance Amending the Rural/Natural Resource Plan Element of the Comprehensive Plan and the Community Development Code to Develop a Residential Airpark Overlay District**

### STAFF REPORT

**For the October 1, 2013 Board of Commissioners Hearing**  
*(The public hearing will begin no sooner than 10:00 am)*

The Board conducted its initial public hearing for this ordinance on September 24, 2013 and took testimony. Written and oral testimony was submitted by several individuals, both in support of and in opposition to the ordinance. After taking testimony, the Board discussed aspects of the filed ordinance and staff's proposed engrossments.

Proposed ordinance engrossments described in the September 16, 2013 staff report included limiting the number of allowed aircraft tie-downs to one tie-down per lot. Chair Duyck and Commissioner Terry stated a preference for not limiting the number of allowed tie-downs per lot, based on safety and practicality concerns. They noted that if a property owner had multiple aircraft and needed to remove all of them from an onsite hangar for some reason, multiple onsite tie-downs could be needed to ensure that none of the aircraft would be damaged by wind. Staff has included language to address this concern in Attachment A.

The Board continued the hearing to October 1, 2013 to further consider the testimony submitted on September 24.

Staff recommends engrossments to the ordinance that address the following:

- Removal of the three EFU parcels and one AF-20 parcel from the Residential Airpark Overlay District
- Prohibition on commercial aircraft activities within the Residential Airpark Overlay District

**Department of Land Use & Transportation · Planning and Development Services**  
**Long Range Planning**

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- Limitation on the number of hangars to one hangar per lot or parcel with a single family dwelling unit, and prohibition on the renting out of hangars
- Removal of the limitation on the number of tie-down areas allowed per lot or parcel with a single family dwelling unit

The proposed engrossment amendments are included as Attachment A to this staff report.

Staff recommends that the Board conduct the continued public hearing on October 1, 2013. At the conclusion of the hearing, direct engrossment of the ordinance to include the changes as shown in Attachment A and continue the hearing to October 15 and 22, 2013. Direct staff to prepare and mail notice of the amendments consistent with the requirements of Chapter X of the County Charter; and direct staff to prepare and mail an additional Type III Public Hearing Notice to owners of property within 1000 feet of the proposed Residential Airpark Overlay District consistent with CDC Section 204-4.

Attachment A: Proposed Engrossment Amendments

Amend the Community Development Code to include a new section (Section 389, Residential Airpark Overlay District):

**389 RESIDENTIAL AIRPARK OVERLAY DISTRICT**

**389-1 Intent and Purpose**

The intent of the Residential Airpark Overlay District is to support the continued operation and vitality of the Sunset Airstrip and the uniqueness of residential airpark-type development. The Residential Airpark Overlay District authorizes uses commonly associated with airstrip use and accessory to residential uses and ensures compatibility with the continued operation of Sunset Airstrip.

**389-2 Applicability**

This Overlay District applies to the rural residential areas adjacent to the Sunset Airstrip identified in Policy 28 of the Rural/Natural Resource Plan. This overlay district allows limited accessory uses commonly associated with adjacent airstrip use. Residential uses are not authorized by the Residential Airpark Overlay District and are subject to the standards of the underlying land use districts.

The provisions of Section 386, Private Use Airport Safety Overlay District, continue to apply to lots and parcels within the Residential Airpark Overlay District that are also designated with the Private Use Airport Safety Overlay District.

Designation of the Residential Airpark Overlay District authorizes Residential Airpark Development (RAD) but does not allow access to the existing private airstrip. Access to the airstrip must be obtained from airstrip owner prior to accessing the airstrip from a RAD.

**389-3 Uses Permitted Through a Type I Procedure**

The use of land and buildings must be in compliance with the underlying land use district as established by the Rural/Natural Resource Plan, and is further limited to the following permitted uses on lands designated as Residential Airpark Overlay District:

A. Residential Airpark Development (RAD) may be authorized to allow for the addition of an individual aircraft hangar and paved tie-down area(s) on the same lot or parcel as an existing detached single family dwelling unit as the primary use. Each lot or parcel may be provided with a hangar and paved tie down area(s). The hangar can be attached or detached to the dwelling unit. No more than one hangar may be allowed on a lot or parcel with an existing dwelling unit. Hangars shall not be rented out.

B. Accessory uses and structures on a lot or parcel with an existing dwelling unit:

abcdef Proposed additions  
abedef Proposed deletions

- (1) Aircraft Hangar. An aircraft hangar cannot be used as a residence.
- (2) Aviation fuel storage consistent with all applicable federal, state and local requirements, including the 2010 or most current Oregon Structural Specialty Code and 2010 or most current Oregon Fire Code.

C. Aircraft taxi ways.

**389-4 Prohibited Uses**

Unless authorized by the process outlined for the AF-5 and RR-5 Districts, all commercial aviation activities, including but not limited to flight training, commercial aircraft sales and repairs, commercial fueling operations, are prohibited.

**389-5 Property Owner Notification**

Prior to the issuance of a building permit for a single family dwelling unit the property owner shall submit to the Review Authority a copy of a signed and recorded waiver of the right to remonstrate against customarily accepted airstrip and airpark uses.

1. Amend Policy 28, AIRPORTS, of the Rural / Natural Resource Plan to add the following text relating to the new Residential Airpark Overlay District set forth in Exhibit 1 of this ordinance:

**POLICY 28, AIRPORTS:**

**It is the policy of Washington County to protect the function and economic viability of existing public use airports, while ensuring public safety and compatibility between airport uses and surrounding land uses for public use airports identified by the Oregon Department of Aviation (DOA).**

Introduction

Changes in state law passed in 1995 and 1997 require local jurisdictions to adopt an airport planning program for certain airports described in ORS 836.600 et. Seq. The Aeronautics Division of the Oregon Department of Transportation (now the Department of Aviation/DOA) and the Department of Land Conservation and Development together developed Airport Planning Rules (OAR 660-013) and identified certain public and private use airports that would be subject to these rules, based on the parameters set forth in the statute. The DOA manages the list of identified airports, which is subject to amendment through a review and decision process by the state Aviation Board, pursuant to OAR 738-090. Procedures for amendment of the state airport list include public notice procedures. As necessary, the County will initiate Comprehensive Plan amendment proceedings to remain current with DOA list of all airports.

Policy 17 of the Washington County 2020 Transportation Plan identifies and outlines transportation-related policies for the County's three public use airports. The Rural/Natural Resource Plan and the Comprehensive Framework Plan for the Urban Area each outline land use related policies that address only those airports within the Washington County jurisdiction that are identified by the DOA list, with the addition of Skyport, a small public use facility located north of Cornelius.

Policy 28 outlines implementing strategies which, in part, set forth Airport Overlay Districts to regulate safety concerns, land uses and land use compatibility issues on airport properties and within surrounding area. These are structured to address state-recognized airports in two categories, generally referred to herein as Public Use Airports and Private Use Airports. Where the Airport Overlay Districts are concerned, references to airports and airport facilities generally includes heliports as well.

Several other airport facilities exist throughout the County that are not a part of this airport planning program and thus not recognized by the established Airport Overlay Districts. In general, these include personal use airports, heliports and agriculturally related landing strips. With the exception of agriculturally related landing strips, these facilities are regulated as special uses in specified land use districts pursuant to standards outlined in the Community Development Code. Where personal use facilities are concerned, the Community Development Code make a distinction between the terms and heliport, as they are permitted equally in all land use districts.

Outside the UGB, land use districts which allow personal use airports as a special use generally include all rural districts except rural commercial (RCOM) and rural Industrial (RIND); inside the land use district which allow personal use heliports as a special use include the rural residential districts (AF-5, AF-10 and

abcdef Proposed additions  
~~abedef~~ Proposed deletions

RR-5), and the special industrial overlay district (SID). Urban land use districts that permit personal use heliports include all residential districts (R-5, R-6, R-9, R-15, R-24, and R-25+), the commercial and business districts with the exception of the neighborhood commercial district (allowed in OC, CBD, and GC districts), and the industrial district (IND).

Policy 28 allows Residential Airpark Development (RAD) within a Residential Airpark Overlay District. The Residential Airpark Overlay District authorizes aircraft hangars, paved tie down areas and taxiways as accessory uses.

Implementing Strategies

The County will:

- a. Adopt and implement Airport Overlay Districts consistent with LCDC Airport Planning Rules and ORS Chapter 836 in order to:
  - 1. Protect public use airports by regulating land uses in designated areas surrounding the Portland-Hillsboro and the Stark's Twin Oaks airports based on adopted airport master plans or evidence of each airport's specific level of risk and usage. Prevent the installation of airspace obstructions, additional airport hazards, and ensure the safety of the public and guide compatible land use. Limit uses in specific noise impact and crash hazard areas that have been identified for each specific airport. To a lesser degree, protect the function and economic viability of the Skyport airport, which was not identified pursuant to ORS 836.600 but which the County recognizes as an established privately owned public use airport and thus requiring regulatory measures to promote safety.
  - 2. Protect privately owned, private use airports identified by the DOA. Each airport's specific level of risk and usage shall be used to guide the continued safe aeronautical access to and from these airports, considering the type of aircraft approved to use the field.
- b. Recognize the Portland-Hillsboro airport as the major aviation facility in Washington County and an airport of regional significance. To promote its operation, the County shall coordinate with the City of Hillsboro to help ensure compatibility with surrounding land uses. The Comprehensive Plan will be updated to reflect any necessary changes resulting from this process.
- c. Work with airport sponsors to coordinate with the Federal Aviation Administration (FAA) in promoting FAA-registered flight patterns and FAA flight behavior regulations in order to protect the interests of County residents living near airports;\_
- d. Maintain geographic information system (GIS) mapping of the Airport Overlay Districts and provide timely updates;\_
- e. Participate in and encourage the adoption of master plans for all public use airports and, at a minimum, an airport layout plan for the remaining DOA recognized airfields in Washington County;\_
- f. Discourage future development of private landing fields when they are in proximity to one another, or where they are near other public airports and potential airspace conflicts are determined to exist by the FAA or the DOA.

- g. Allow Residential Airpark Development in a Residential Airpark Overlay District.
- h. Ensure that future Residential Airpark Development is compatible with the continued operation of adjacent private airstrips.

#### Summary Findings and Conclusions

In Washington County, the LCDC Airport Planning Rules apply to the following facilities, which are included in the County's airport planning program.

1. Public Use Airports – Publicly Owned:
  - a. Portland-Hillsboro (KHIO)
2. Public Use Airports – Privately Owned:
  - a. Stark's Twin Oaks Airpark (7S3)
3. Private Use Airports – Privately Owned (recognized by DOA as having 3 or more based aircraft in 1994):
  - a. Apple Valley (1/2 mile S of Buxton) (OR61)
  - b. Meyer's Riverside (2 miles SW of Tigard) (OG34)
  - c. North Plains Gliderport (2 miles W of North Plains) (1OR4)
  - d. Olinger Strip (3 miles NW of Hillsboro) (OR81)
  - e. Providence St. Vincent Medical Center Heliport (2.5 miles NE of Beaverton) (53OR)
  - f. Sunset Airstrip (1/2 mile SW of North Plains) (1OR3)

In addition to the above, the Skyport Airport (4S4) (located 3 miles N of Cornelius) is a privately owned public use facility that was not identified by the DOA because of its relatively small size and low level of activity. However this facility has been included in the County's airport planning program because of its status as a public use airport. The level of protection provided for this facility is similar to that ~~required~~ provided for the privately owned private use airports identified in List 3, above.

The Portland-Hillsboro Airport, owned by the Port of Portland, is located within the city limits of Hillsboro. However land use and noise impact areas associated with this airport affect County lands. The County's planning efforts for rural lands around the Portland-Hillsboro airport therefore will be coordinated with the City of Hillsboro ~~after the current (2003) master plan update process is complete.~~

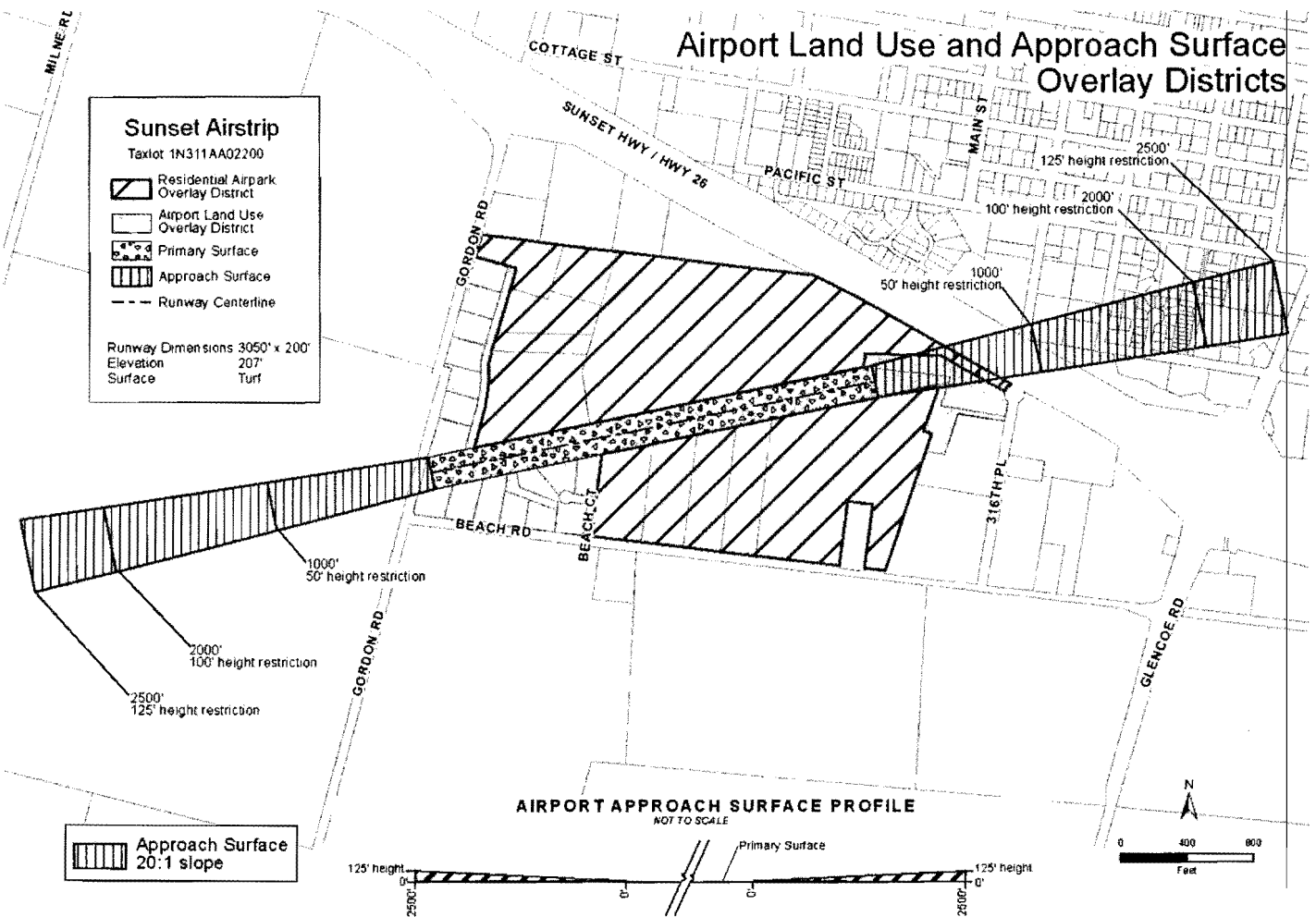
LCDC's Airport Planning Rules prescribe different levels of protection for the listed airports, depending on the nature of use and the size of the facility. In general, state requirements are applied to facilities within the County's jurisdiction through the application of Airport Overlay Districts to regulate land uses. ~~There county utilizes~~ are two sets of overlays: one set applies to Public Use Airports (Portland-Hillsboro and Stark's Twin Oaks), and one set applies to Private Use Airports, including all of those identified in List 3, above. For each airport category (public and private), the overlay district set consists of 1) a land use overlay district to regulate airport related land uses at the airport site, and 2) a safety and/or land use compatibility overlay district to mitigate land uses and height of structures and objects on properties immediately surrounding airports. For the Private Use Airports, the protection of the safety overlay district is limited to graduated height restrictions along approach corridors. For the Public Use Airport (i.e., Stark's Twin Oaks), the second overlay district is more elaborate and mitigates land uses and safety hazards in a broader area surrounding the airport. This overlay includes boundaries to identify areas subject to noise impacts, bird strike hazards, and protection measures for imaginary surfaces for airborne aircraft.

Policy 28 identifies an additional overlay, the Residential Airpark Overlay District. The Residential Airpark Overlay District applies to certain rural lands adjacent to Sunset Airstrip. This district supports the continued operation of the Sunset Airstrip and the uniqueness of Residential Airpark Development by authorizing limited accessory uses commonly associated with airstrip use. This district also promotes public health and safety in the vicinity of Sunset Airstrip by ensuring that Residential Airpark Development complies with the provisions of the Private Airport Safety Overlay District and the standards of the Residential Airpark Overlay District.





3. Amend Policy 28, AIRPORTS, of the Rural / Natural Resource Plan to add the Sunset Airstrip map shown below:



abcdef Proposed additions  
abedef Proposed deletions

# Ordinance No. 772

## Residential Airpark Overlay District



October 1, 2013 Board of Commissioners Hearing

# Proposed Amendments

- Requested by property owners & Air Acres HOA
- BCC directed staff to work on this as part of 2013 Work Program
- **Adds** CDC Section 389, Residential Airpark Overlay District
- **Amends** Policy 28 of the Rural/Natural Resource Plan



# Board Hearing, September 24

- Testimony taken
- Discussion of filed ordinance and staff's proposed engrossments
- Two commissioners preferred not limiting the number of tie-downs per lot
- Staff included language to address this feedback in Attachment A of the staff report



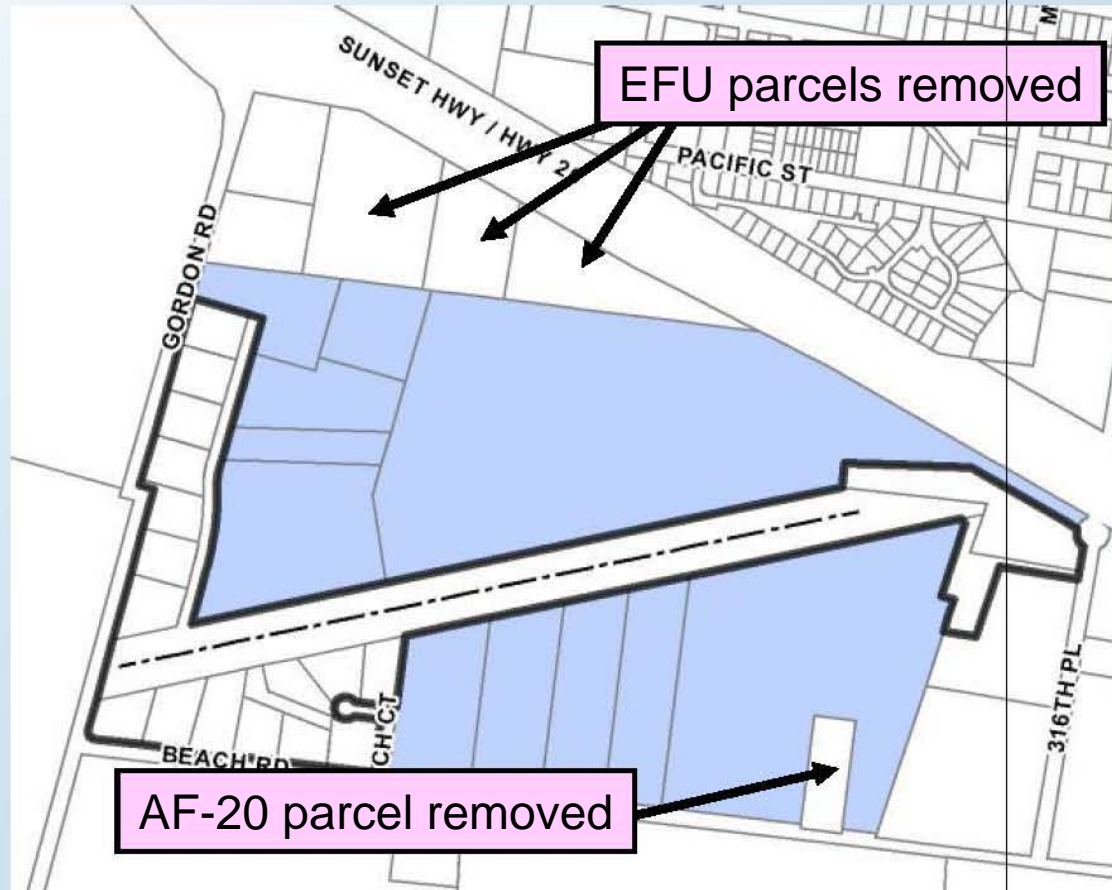
# Staff Recommendation

**Engross Ordinance No. 772 to include the following changes:**

- Remove the three EFU parcels and one AF-20 parcel
- Prohibit commercial aviation activities in the Residential Airpark Overlay District
- Limit the number of hangars to one hangar per lot or parcel with a dwelling, and prohibit the renting out of hangars
- Remove limitation on number of tie-down areas allowed per lot or parcel with a dwelling



# Proposed Engrossment (Exhibit 2)



# Questions ?

For more information, please contact:

Paul Schaefer, Senior Planner

[Paul\\_Schaefer@co.washington.or.us](mailto:Paul_Schaefer@co.washington.or.us)

503-846-8817





The End



Ordinance 772  
(Ellen Saunders)  
during Public Hearing

Oct 1, 2013

To: Washington County Commissioners  
155 North First Avenue  
Hillsboro OR 97124

Testimony on Proposed Ordinance #772 To create a new "Residential  
Air Park Overlay District" CDC Section 389 Policy 28

I spent many hours reviewing document on ORD #772 in the past few weeks. It became ever more obvious that Robert Jossey as a developer of rural property is not in conformity with Washington County's stated Rural/Natural Resources Plan. His request for aviation expansion is in direct conflict with Policy 4, to maintain or improve existing air quality, Policy 5, efforts to control noise and limit the adverse impacts of noise, Policy 6 to maintain or improve surface and ground water quality (aviators dump fuel), and Policy 10 to protect and enhance significant fish and wildlife habitat (some adjacent property to the airpark is listed as AF and EFU).

Mr. Jossey was willing to sue the county for perceived measure 37 damages. His attorney claimed a huge lost of income. There was more legal request for variances and county support when Measure 37 was replaced by Measure 49. This is a clear indication his major interest lies in making money off good farmland and orchard property by polluting it with noise and lead gas not participating in our rural community farm and forest economy.

There appears to be no conditional use review requirement? There must be! If it becomes possible to expand the number of planes and the number of uses at this airport the community has the right to participate in the decisions that affect their lands. It appears that as many as 100 or so plains might be housed at this airpark if the present writing of this new ordinance 772 does not put tight limitations on the number of planes. Airpark 1 and 2 allow properties of less than an acre to have access to the airfield. I can imagine what will happen when there is a request to break up into smaller parcels the new 4.1-acre lots that are in a RR5 district. The 20% diminishment of the RR5 requirement has already been stretched to give Mr. Jossey one more lot than would have been possible if the RR5 lots had been kept at 5 acres, as one would suppose on a RR5 designation.

1

If the proposed Ordinance #772 is adopted, the relentless procession of lead polluting, low flying, loud, private, aviation flight activities will increase over agriculture land being used for organic farms, equine facilities, dairies, orchards and the park trail systems that are being expanded.

The prevailing winds at the Portland-Hillsboro Airport are available at <http://www.wrcc.dri.edu/htmlfiles/westwinddir.html> and indicate clearly that from October through April, the prevailing winds are from the south. During May through September, the prevailing winds are from the northwest.

(PORTLAND-HILLSBORO AP, OR (K | S S S S NW NW NW  
NW NW S S S | S)

This meteorological information is critical to understanding the potential impacts to the populations of North Plains and the community's east into Hillsboro.

An expansion of the existing overlay district has already been rejected once. "By way of contrast, the existing private airport land use overlay in CDC Section 385, which applies to Sunset Airstrip and Air Acres No. 1 & 2 and tax lot 1N311AA01200, authorizes a greater number of uses commonly associated with airports. These include air passenger and air freight services, flight training, aircraft sales and rentals. As stated previously, DLCD objected to expanding this district to include *Sunset Orchards Estates*."

So here we are again with another work-a-round attempting to thwart the already denied expansion. Hillsboro's aerotropolis model would be extended over food production land, making it very difficult for our rural community to provide a sustainable agriculture environment. Many of the rural residents of Western Washington County do not want this very productive and economically important farmland to be contaminated with lead. This airpark is part of the Hillsboro airport training flight path and is subject to the tower at Hillsboro. This new proposed overlay district will bring in many new properties housing multiple plains on each lot. Much of Banks and North Plains will be affected by this expanded use yet the residents are being made powerless to protect their investments in their rural resources.

Since the permits on the new Sunset Orchard Estates lots for development will be Type 1, with no notification to surrounding landowners, there will be no protection in place to keep these lots from being used for commercially aviation activities such as fuel storage and visitor fly-ins and cargo. Since the already established overlay district allows commercial uses there will be no way to differentiate between uses in the older overlay district and the new overlay district. This sets up conflicts between the different uses on adjacent land.

It has been the unfortunate experience of those living in the Western Washington County area near rural airports, that when permit have been granted for aviation privileges for these airports, the privileges become substantially expanded; either when the owner engages in activities beyond the permitted uses or the property changes hands and the new owner pays no attention to the existing permitted uses. Any future conflict over permitted aviation uses vs. actually occurring aviation activities at rural airports can be avoided by having clear, published regulations that the county is willing to enforce. Since the county is now only addressing violations when complaints are filed, it becomes difficult to see how any action will be taken to enforce the regulations on this proposed expansion given the limited funds for enforcement.

Ordinance #772 proposing to add a new section (389) to the CDC should be denied. Until all effected residence in the surrounding area are notified of the hazards they are about to be subjected to they stand to lose property value without notice or redress. This constitutes a taking from all the local properties that will be affected by this expansion (Constructive **taking** is a **term** used in property **law** to refer to actions that amount to depriving an owner of the use and enjoyment of his/her property.)

Respectfully submitted,

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NIH Public Access  
Author Manuscript

OR 772

Jim Lubischer

Public  
Hearing

10/01/13

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NIH-PA Author Manuscript

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## Confirmation and Extension of Association of Blood Lead with Attention-Deficit/Hyperactivity Disorder (ADHD) and ADHD Symptom Domains at Population-Typical Exposure Levels

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Oregon Health & Sciences University

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### Abstract

**BACKGROUND**—Recent studies have suggested that child ADHD and its symptom domains are related to blood lead level, even at background exposure levels typical in western countries. However, recent studies disagreed as to whether lead was related to inattention or hyperactivity-impulsivity within the ADHD domain. More definitive evaluation of these questions was sought.

**METHODS**—236 children aged 6–17 years participated (61 ADHD-Combined type, 47 ADHD Predominantly Inattentive type, 99 non-ADHD control, 29 unclassified borderline, situational, or NOS cases). Formal diagnosis was reliably established by a best estimate procedure based on a semi-structured clinical interview and parent and teacher ratings. Lead was assayed from whole blood using inductively coupled plasma mass spectrometry with a method detection limit of 0.3 µg/dL.

**RESULTS**—Blood lead levels were slightly below United States and Western Europe population exposure averages, with a mean of 0.73 and a maximum of 2.2 µg/dL. This is the lowest level of blood lead ever studied in relation to ADHD. After statistical control for covariates including IQ and prenatal smoking exposure, blood lead was associated with ADHD-combined type but not inattentive type. Parent and teacher report indicated association of blood lead with Conners cognitive problems, but only teacher report showed effects on DSM-IV inattention symptoms. Blood lead was associated with hyperactivity-impulsivity in parent report regardless of measurement method, whereas teacher report effects depended on child treatment history.

**CONCLUSIONS**—These findings confirm that in children with typical U.S. population lead exposure, careful identification of children with ADHD also identifies children with slightly elevated blood lead.

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**Keywords**

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Attention deficit hyperactivity disorder (ADHD) occurs in 3 to 7% of children, with etiology believed to be multifactorial. The DSM-IV (APA, 2000) specifies three clinical subtypes: predominantly hyperactive (ADHD-PH), predominantly inattentive (ADHD-PI), and combined (ADHD-C). The subtypes are arrived at through combinations of two primary symptom dimensions: inattention-disorganization, and hyperactivity-impulsivity. These symptom domains may have partially distinct etiological inputs (Nigg, 2006). Because they appear to be an extreme of a behavioral continuum, the symptom dimensions also serve as useful foci to study etiology. Indeed, a factor analytic tradition has arrived at related but slightly different item sets than DSM-IV to capture population variation in "cognitive problems" and hyperactivity/impulsivity (e.g., Conners et al., 2007).

Lead exposure via water, soil, and other sources remains a worldwide health concern (Centers for Disease Control, 2005). Blood lead above 10 µg/dL has been associated reliably with ADHD and related behaviors, with the only real dispute being the magnitude of the effect (Burns et al., 1999; Silva, Hughes, Williams, & Faed, 1988; Thomson et al. 1989). Regulation of commercial uses of lead has markedly reduced the incidence of frank lead poisoning in recent decades in the U.S. (CDC, 2005), Western Europe (e.g., Delschen, Machtolf, Sugiri, & Wilhelm, 2008), and Scandinavia (Stromberg, Lundh, & Skerfving, 2008). Perhaps as a result, lead exposure has not been highlighted as an ongoing concern related to ADHD.

This reassuring picture, however, is eroding. Even at lower blood levels (< 10 µg/dL) lead has been linked to reduced intellectual functioning (IQ; Lanphear et al., 2005). Recent findings point to an association with ADHD as well, even at low exposures. Three years ago, Braun, et al. (2006), in a US population survey, found that blood lead was related to parent report that their child was diagnosed or treated for ADHD. This effect held even at blood levels below 5 µg/dL (i.e., children with blood lead > 2 µg/dL were more like to have ADHD than children with blood lead < 0.7 µg/dL). One year later, Chiodo et al. (2007) reported that blood lead was related to teacher rated symptoms of inattention and activity, but not impulsivity, using the Conners rating scales and other standard scales in a high-risk sample. The next year Nigg et al (2008) conducted the first low-level lead study of children formally diagnosed with ADHD. Blood lead was related to ADHD and to parent reported DSM-IV symptoms of hyperactivity but not inattention. Those results supported an association to ADHD but appeared partially to contradict Chiodo et al (2007) as to the affected symptom domain.

The present study sought more definitive evaluation in a larger, well-diagnosed sample. The aim was to scrutinize relations with both DSM-IV and Conners ratings, by both parent and teacher report, so as to confirm and extend prior findings as well as to clarify the apparent contradiction in the last two studies reported. Dozens of potential confounds have been ruled out in relation to lead exposure and ADHD (Chiodo et al. 2007; Silva, et al., 1988; Thomson et al. 1989), but mostly at higher lead exposure levels. Thus, an expanded set of confounders and covariates was also considered here, as outlined in Methods.

Confirmation of the association of ADHD with lead exposure even at very low blood lead levels would be of major importance to public health, because exposure levels in the range of 1–5 µg/dL remain very common. Yet, most public authorities continue to use 10 µg/dL as the criterion of concern. If the association of low levels of lead exposure with ADHD is

verified, it opens the potential for new insights into the etiology of ADHD, because lead can serve as a model insult affecting frontal-striatal circuitry in ways that are relatively well understood. It also could open potential new opportunities for study of susceptibility-insult or gene by experience models. It could also provide clues to prevention via dietary supplementation (Kordas et al., 2007), via renewed caution before introducing new toxins into children's environments, or via aggressive efforts to continue to eliminate all lead exposure.

## METHODS

### Participants

**Recruitment and Evaluation**—Participant recruitment and characterization followed the same procedures as Nigg et al. (2008), but this was an entirely new sample. In all, 236 children aged 6–17 completed the study. Because some of these children also participated in our sib-pair study of genetics of ADHD, the sample included 78 sibling pairs (n=156 siblings). All children were recruited via mailings to parents in regional school districts, public advertisements, and outreach to local clinics. Parents provided written informed consent and children provided written informed assent. All procedures were approved by the University Institutional Review Board and complied with NIH and APA guidelines for protection of human participants.

Families entered a multi-stage screening process to establish diagnostic groupings. To confirm ADHD and comorbid diagnoses, a semi structured clinical interview (Kiddie Schedule for Affective Disorders and Schizophrenia (*K-SADS-E*)) was completed with a parent by a trained clinician. Interviewers had a master's degree in clinical psychology or social work. Each interviewer double coded 20 tapes with a criterion interviewer to ensure process fidelity and inter-interviewer reliability (all disorders  $k > .80$  in this report). In addition, parents and teachers completed the *ADHD Rating Scale* (DuPaul et al., 1998) and the Conners et al (1997) *ADHD Rating Scale, Revised* (hereafter, Conners).

**Exclusion criteria**—Rule outs were long-acting psychotropic medication (e.g. antidepressants), history of seizure, neurological impairments, a prior diagnosis of mental retardation or autistic disorder, head injury with loss of consciousness, sensorimotor handicap, or other major medical conditions in the child, as reported by the parent. At the diagnostic interview youth were ruled out if they had substance addiction, bipolar disorder, history of psychosis, sleep disorder, medical or neurological condition discovered at the clinical screen, or IQ <75. Control children were also excluded for ADHD, learning disability, or conduct disorder.

**Establishment of Final ADHD and Other Diagnoses**—Using all available data, a best estimate diagnosis was arrived at independently by two experienced clinicians (a board certified child psychiatrist and a fully licensed child clinical psychologist) blind to study hypotheses and blood lead levels. Their agreement rates for ADHD, conduct disorder, and oppositional defiant disorder were acceptable (all  $k > .80$ ). Disagreements were resolved by discussion. Consistent with DSM-IV ADHD criteria, the clinicians required that another disorder did not better account for symptoms, evidence of impairment, and evidence of cross-situational symptoms. When ADHD symptoms were situational (only noticeable at home or school) or were subthreshold (5 symptoms), a diagnosis of ADHD-NOS was assigned. Those youth were included in this report for purposes of regression analysis of symptom scores but not for between-group analyses.

## Measures

**Blood Lead**—Over 90% of children approached agreed to the blood draw for the lead assay. Children had 2 ml whole blood drawn through venipuncture in the arm. The blood was drawn into a 2 ml purple-top Vacutainer tube (tubes were lot checked for lead by lab prior to use). Blood samples were labeled with a study number, frozen and stored at -20°C prior to analysis. Samples were assayed using the process of inductively coupled plasma mass spectrometry (ICPMS). This method had a detection limit for lead of 0.3 µg/dL; inter-run precision was 5.8% (coefficient of variation) at a lead value of 2.9 µg/dL. The process began with whole blood samples brought to room temperature and vortexed so no particulate matter remained at the bottom of the sample. Samples were diluted 1:50 with a diluent composed of 1.0% tetramethylammonium hydroxide, internal standard (iridium), 1.0% isopropyl alcohol, 0.01% ammonium pyrrolidene dithiocarbamate (APDC), and 0.05% wetting solution (Triton X). Samples were then mixed by inverting 3–4 times. The analysis then entailed quantitating the sum of masses 206, 207, and 208 based on three replicates per sample on a Perkin Elmer Elan DRC Plus ICP-MS. Three children were below the limit of detection. Following Braun et al (2006; p. 1905), those levels were scored as 0.2 (0.3/2). Following Burns et al. (1999), the blood lead score was  $\log_6$  transformed to reduce influence of outliers.

**IQ and achievement**—To estimate full scale IQ, children completed a 3-subtest short form of the Wechsler (2003) Intelligence Scales for Children-4<sup>th</sup> Edition comprised of Vocabulary, Block Design, and Information,<sup>1</sup> with reliability of .93 and validity in relation to the full WISC-IV of  $r=.88$  (Sattler, 2001, p. 771). All completed the word reading and spelling subtests of the Wechsler (2005) Individual Achievement Test-2<sup>nd</sup> edition to estimate academic achievement and enable evaluation of learning disability by the team.

**Behavior Disorders and Symptoms**—Total KSAD symptom counts were used for parent DSM-IV ADHD symptom dimensions. To reduce collinearity, oppositional and conduct symptom scores ( $r=.63$ ) were summed into an “externalizing” total score. For teachers, ADHD symptoms were assessed on the *ADHD Rating Scale* (symptoms scored as absent if rated 0, 1 and as present if rated 2, 3) and summed. The Conners ratings served as additional dimensional measures. Age and sex adjusted T scores were computed for oppositional, hyperactive-impulsive, and cognitive problems/inattention for teachers and mothers.

**Other Covariates and Confounders**—Total gross annual income in the child’s primary household was reported by parents. Maternal smoking during pregnancy has been of keen interest as a possible contributor to ADHD, yet also tends to be correlated with low income and thus with lead exposure (Braun et al., 2006). Maternal smoking during pregnancy was reported retrospectively by the mother and coded as “none” (0) or “any” (1). Although retrospective recall limits the ability to verify these reports, maternal recollection of smoking in pregnancy at child age of six years has agreed with post-partum report at 90% (Hensley-Alford, Lappin, Peterson, & Johnson, 2008). Due to recent interest in nutritional status, particularly the role of iron in the lead-ADHD relationship (Kordas et al., 2007), blood hemoglobin was assayed by standard methods to assess iron status. Normal hemoglobin values for children are 11–13 gm/dL, and in adolescents, 12–16 (women) or 14–18 (men). Values in the current sample ranged from 11.0–15.6. Child history of stimulant medication treatment was reported by mothers on the KSADS interview, and was coded as a 0 or 1 (no

<sup>1</sup>Children over the age of 16 completed the same 3 subtests on the WAIS-III; it has reliability=.95 and validity=.91; Sattler, 2001, p. 825.



history of stimulants, versus treatment history; 43 children had stimulant treatment). It was examined as a potential moderator of teacher reports.

### Data Reduction and Analysis

Unless otherwise noted, analyses were conducted in MPLUS v5.1 (Muthen & Muthen, 1998–2008), with family as a clustering value and analysis set to “type=complex,” this procedure removes variance due to siblings being from the same family. Missing data were handled using full information maximum likelihood procedures in MPLUS. Missing data were minimal with the exception of income (7% missing). Three extreme outliers for the income variable were truncated. All effects were evaluated with the following covariates: household income, maternal smoking, and child age, sex, and blood hemoglobin level. Low IQ is a possible complication yet there is controversy as to whether it represents part of the ADHD syndrome. Results are therefore reported with and without covarying IQ. For regression models, standardized parameter estimates were computed. For continuous measures, these were standardized on X and Y variables. The resulting coefficient is interpreted as the amount of change in Y in standard deviation units for a one standard deviation change in X. For the categorical (0, 1) variables (sex and prenatal smoking), they were standardized on the Y variable—yielding amount of change in Y (in standard deviation units) for a change in the X variable from 0 to 1.

## RESULTS

### Descriptive Overview

The sample comprised four groups: non-ADHD, ADHD-PI, ADHD-C, and ADHD-NOS. “NOS” meant subthreshold, 5 symptoms, or situational. Note that ADHD primarily hyperactive type was rarely identified (n=2). Those two cases were assigned to the “NOS” group. Table 1 provides a descriptive and clinical overview of the sample groups. It supports the validity of the clinical groupings. Only the ADHD-PI and ADHD-C groups consistently exceeded clinical cutoffs on the Conners ADHD Index. The ADHD-NOS group was intermediate on several clinical measures between the control group and the ADHD groups. Groups differed in exactly the way suggested by the diagnostic assignments in teacher and parent ratings. Some suppression of symptoms in teacher ratings was expected, because some children were in treatment (Table 1).

The groups were similar on IQ, but they differed in age, gender ratio, and household income (leading to differences in rate of families estimated to reside in poverty). As shown in Table 1, the sample as a whole was relatively more well off economically than the U.S. national average. The ethnic breakdown of the sample was 75% Caucasian, 7% African American, 3% Latino, 1% Native American, and 14% mixed or other. Race was unrelated to blood lead and was not covaried or analyzed further.

Child blood lead ranged from less than 0.3 µg/dL (undetectable, n=3) to 2.20 µg/dL with a mean of 0.73 (SE=0.04). Table 2 shows that blood lead in the current sample was even lower than in Nigg et al (2008), and equal to or lower than recent averages in the U.S., Scandinavia, and Western Europe (Braun et al., 2006, used the NHANES sample shown in Table 2). Thus, the sample had typical background exposure. This blood lead level was the lowest ever evaluated in relation to ADHD to date.

As expected, and as in prior studies, blood lead was related to lower family income ( $B = .15, p < .05$ ), male sex ( $B = .43, p < .01$ ), and younger age ( $B = .23, p < .01$ ). Before covariates, blood lead was correlated to KSAD inattention ( $B = .19, p < .01$ ), hyperactivity/impulsivity, ( $B = .28, p < .01$ ), the externalizing composite, ( $B = .21, p < .01$ ) and to all Conners scales. Blood

lead in siblings was correlated at  $r=.47$  ( $p<.001$ ), supporting the supposition that it might be a shared environment effect and the importance of controlling sibling status.

#### Association of ADHD Diagnosis with Blood Lead Level

The three-group ANCOVA (omitting the "NOS" group; see Method) was conducted in SPSS v. 17. It yielded nearly a medium effect size for group assignment,  $F(2,200)=5.16$ , partial eta squared=.049,  $p=.007$  (sibling status not controlled). Follow up simple comparisons were conducted using effect coding in MPLUS (controlling for sibling status; blood lead was the dependent variable and all covariates were included). The ADHD-C group had higher lead level than the control group ( $B=.141$ ,  $p=.033$ ; with IQ covaried,  $B=.057$ ,  $p=.041$ ). The ADHD-PI group did not differ from the control group ( $p=.27$ ). Thus, group effects were confined to ADHD-C.

#### Regression Analysis of ADHD and Externalizing Symptom Dimensions

**Parent Report**—Regression models were conducted for symptom domains as dependent variables ( $n=236$ , see Method). Table 3 summarizes the results for parents for both DSM-IV symptoms (KSADS) and the Conners, with and without IQ as a covariate. As it shows, blood lead level was marginally associated with attention problems, but not after covarying IQ. Blood lead was reliably associated with hyperactivity/impulsivity regardless of covariates. On the Conners, both cognitive problems and hyperactivity/impulsivity were reliably related to blood lead.

The KSADS externalizing composite was also related to blood lead ( $B=.21$ ,  $p<.01$ ; with IQ covaried,  $B=.20$ ,  $p<.05$ ); the same held for oppositional behavior on the Conners ( $B=.22$ ,  $p<.01$ , with IQ covaried,  $B=.21$ ,  $p<.01$ ). Specificity was examined for each model by making blood lead the outcome variable. To conserve power, IQ was omitted and other covariates removed in stepwise fashion (income,  $p>.50$ , and hemoglobin,  $p>.20$ , were thus removed in all models). In the DSM-IV model, hyperactive symptoms were specifically related to blood lead ( $B=.144$ ,  $p=.043$ ), whereas externalizing symptoms were shy of significant ( $B=.136$ ,  $p=.121$ ). The same held using the Conners: blood lead was related to hyperactivity ( $B=.18$ ,  $p=.034$ ) but not oppositional behaviors ( $B=.09$ ,  $p=.34$ ) or cognitive problems ( $p=ns$ ).

**Teacher Report**—Table 4 shows the complete models for teacher reported DSM-IV symptoms and Conners ratings. On the ADHD Rating Scale, blood lead was unrelated to inattention or hyperactivity-impulsivity. On the *Conners Rating Scale*, results were similar to those reported for teachers by Chiodo et al (2007) and different from the ADHD Rating Scale results. As Table 4 shows, cognitive problems were related to blood lead level, whereas hyperactivity-impulsivity was related to blood lead prior to covarying IQ, but not after.

Conners oppositional behavior was also related, weakly, to blood lead ( $B=.13$ ,  $p<.05$ ), though not after IQ was covaried ( $B=.11$ ,  $p=.07$ ). The specificity model was computed just as with parent data. Cognitive problems were uniquely related to blood lead ( $B=.16$ ,  $p=.031$ ), whereas oppositional behavior ( $p=.76$ ) and hyperactivity ( $p=.34$ ) were not.

**Interaction of Teacher Findings with Child Treatment Status**—The interaction of child treatment history with blood lead was examined (all covariates included). For DSM-IV inattention, there was no interaction ( $p>.50$ ), but for DSM-IV hyperactivity/impulsivity, there was ( $B=.193$ ,  $p=.009$ ). For children never treated (including controls), there was a reliable relation of blood lead to hyperactivity (with all covariates;  $B=.151$ ,  $p=.017$ ). For the children who had been treated, the relation disappeared ( $B=.177$ ,  $p=.19$ ). This result suggested that medication treatment masked the relation of lead to teacher-rated DSM-IV

hyperactive symptoms. For the Conners ratings, the interaction of treatment status with blood lead was shy of significance for hyperactivity ( $B = .11$ ,  $p = .064$ ), but robust for cognitive problems ( $B = .18$ ,  $p = .002$ ). Again, for children not in treatment, the effect of blood lead on cognitive problems was easily seen (with all covariates,  $B = .17$ ,  $p = .004$ ); but not in the treated children ( $B = .13$ ,  $p = .446$ ). These interactions did not reproduce when checked in the smaller Nigg et al (2008) sample (all  $p > .20$ ).

## DISCUSSION

Whereas ADHD carries well-established genetic influences on susceptibility (Waldman & Gizer, 2006), environmental risk factors may interact with that susceptibility in complex ways (Purcell, 2002). Several studies have linked blood lead with ADHD, but usually in samples with lead levels much higher than current population averages in the U.S. or Western Europe. More recent studies have begun to show that even very low levels of lead exposure ( $< 5 \mu\text{g/dL}$ ), blood lead is associated with ADHD. Nigg et al. (2008) was the first low-lead study to look at children formally diagnosed with ADHD by standardized methods and the first to use ICPMS technology to measure blood lead. That technology is important because it has detection limits 3–8 fold lower than other methods typically used clinically or in most prior studies of ADHD. ICPMS was used again in the current report in a new sample.

The present study provides a more definitive confirmation of Nigg et al (2008) in a larger sample, with additional covariates, with more examination of teacher ratings, and at the lowest levels of blood lead ever measured in relation to ADHD. It confirms that in a sample selected for ADHD, there are reliable relations of blood lead with lifetime symptoms of hyperactivity-impulsivity as assessed by structured clinical interview of the parent. Hyperactivity effects are either weak or are moderated by treatment history when based on teacher report. On the other hand, the association of blood lead with inattention (or cognitive problems) was observed in parent and teacher Conners ratings and in teacher but not parent DSM-IV ratings.

Thus, like Nigg et al (2008), we found that blood lead was reliably associated with hyperactivity but not inattention when using DSM-IV ratings. However, like Chiodo et al (2007), we also found that Conners ratings revealed a clearer association of blood lead with cognitive problems than with hyperactivity-impulsivity in teacher ratings. This apparent disagreement across methods and raters could be readily understood. The Conners scales have slightly different items than the DSM-IV and are selected to be sensitive to intervention effects (lead may be an intervention). The Conners scales also had somewhat better normal distribution properties (for inattention, Shapiro-Wilk  $> .90$  for maternal and  $> .80$  for teacher ratings, versus weaker values for the respective DSM-IV scales). Furthermore, it is sensible to expect that teachers would have more opportunity to observe cognitive problems (relevant to classroom behavior), whereas parents and teachers might be equally good observers of hyperactive or impulsive behaviors.

With all that in mind, the pattern that emerges is still rather clear. Inattention/cognitive problems were related to blood lead when measured via the Conners but not when measured via DSM-IV symptoms. This finding, which explains the prior difference between Chiodo et al (2007) and Nigg et al (2008), is due to either the different item set or the better psychometric properties of the Conners T score. Further study to see which of those events is true will be of interest. In contrast, hyperactivity/impulsivity is related to blood lead when rated by parents, but based on these data we tentatively suggest that this effect may be suppressed in teacher ratings by child treatment history. Overall, the conclusion is that both ADHD symptom domains are related to blood lead, but that further consideration of the

measurement scale and treatment effects remains important in quantifying these associations.

Limitations of this study should be noted. Most important, it is unclear how well concurrent lead levels reflect risks that probably occurred earlier in development. Effects of lead on the brain may depend on age of exposure (Manton et al., 2000). The ages of exposure and the peak early exposure level of the children in this study are unknown. However, the exposure levels observed are consistent with U.S. national levels in children at this age. Those U.S. surveys indicate that even preschool children average less than 5 µg/dL of exposure (CDC, 2005). Second, it is possible that hyperactive children ingested more lead, rather than that lead influenced hyperactivity. However, the only study we are aware of to test that question (David et al., 1977) found that lead levels were not elevated in hyperactive children with a known organic etiology (e.g., head injury), but were elevated in other hyperactive children. Further, an extensive animal experimental literature suggests lead has causal effects on neurodevelopment that make it a plausible influence on ADHD (Cory-Slechta, 1995). Thus, the most parsimonious summary of the data is likely that lead influenced ADHD rather than the reverse.

Last, this was not a random population sample, so sampling biases cannot be ruled out (characteristics of refusers were unknown). The sample was economically somewhat more well off, less representative of minority groups, and less lead-exposed than the nation as a whole. This may have resulted in under-estimation of effect magnitudes in relation to lead exposure and ADHD, although effect sizes reported were similar to those reported by Chiodo et al (2007) in a lower income, African American sample. In short, this study confirms that ADHD, both as a diagnosis and as symptom dimension, is associated with blood lead level at low exposure levels even below 2.5 µg/dL.

In conclusion, background-levels of lead exposure were associated with ADHD in a clinically characterized sample, at the lowest levels of blood lead ever studied in relation to ADHD, and in both parent and teacher reports. This evidence that ADHD and its symptom domains are associated with blood lead has rather significant implications, because exposures in the range studied here remain widespread by definition. Lead exposure is a plausible neurobiological candidate for involvement in ADHD because it disrupts midbrain dopamine and other neurotransmission circuitry (Cory-Slechta, 2005), systems that are also implicated in ADHD (Nigg, 2006). It contributes to what is now an emerging body of literature linking ADHD to lead exposure even at population typical exposures. Implications for prevention, practice, and policy warrant further discussion.

### Key points

- Lead is a known neurotoxicant previously associated with ADHD at high exposure
- Recent studies suggested low, population typical exposures may also related to ADHD
- Current study obtained fresh confirmation in a sample with very low, population typical lead exposure
- Children with ADHD had higher lead level than children without ADHD
- Both parent and teacher reports confirm the association of blood lead with ADHD symptoms.
- Further review of actionable lead level exposure in children is indicated

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## ABBREVIATIONS

dL	deciliter=.1 (or 1/10 <sup>th</sup> ) liter
µg	microgram=.001 milligrams
B	standardized regression coefficients
ICPMS	inductively coupled plasma mass spectrometry
NOS	not otherwise specified
CDC	Centers for Disease Control

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Table 1

Sample Summary Statistics (Mean and Standard Deviation)

	Control	NOS <sup>a</sup>	ADHD-PI	ADHD-C	p
N	99	29	47	61	
% male	43%	48%	68%	74%	<.05
% White	73%	37%	81%	81%	<.05
Child age (years)	11.8(2.5) <sup>a</sup>	11.8(2.4) <sup>ab</sup>	12.4(2.5) <sup>a</sup>	10.6(2.6) <sup>b</sup>	.05
Annual home income (\$k)	87.1(41) <sup>a</sup>	67.4(27) <sup>ab</sup>	81.4(42) <sup>ab</sup>	63.9(42) <sup>b</sup>	.05
% under poverty line (\$21,200)	4.0%	3.1%	4.2%	21.1%	<.01
Child Full Scale IQ	107.9(12)	104.9(13)	102.2(15)	103.4(15)	ns
KSADS Inattention Lifetime	0.6(1.1) <sup>a</sup>	4.5(2.7) <sup>b</sup>	7.6(1.1) <sup>c</sup>	7.8(1.5) <sup>c</sup>	<.01
KSADS Hyperactive Lifetime	0.4(0.8) <sup>a</sup>	2.8(2.0) <sup>b</sup>	2.4(2.1) <sup>b</sup>	6.9(1.7) <sup>c</sup>	<.01
KSADS Inattention Current	0.6(1.1) <sup>a</sup>	4.3(2.7) <sup>b</sup>	7.4(1.1) <sup>c</sup>	7.8(1.5) <sup>c</sup>	<.01
KSADS Hyperactive Current	0.4(0.8) <sup>a</sup>	2.7(2.8) <sup>b</sup>	1.7(1.8) <sup>b</sup>	6.6(1.8) <sup>c</sup>	<.01
Teacher ADHD RS Inatt Sx	0.33(1.1) <sup>a</sup>	1.4(2.6) <sup>a</sup>	3.1(3.3) <sup>b</sup>	4.3(3.4) <sup>b</sup>	<.01
Teacher ADHD RS Hyp Sx	0.2(0.8) <sup>a</sup>	1.1(2.4) <sup>a</sup>	0.7(1.9) <sup>a</sup>	3.2(3.4) <sup>b</sup>	<.01
% Conduct Disorder (Life)	0%	9.4%	7.4%	13%	<.01
% ODD (Lifetime)	2%	19%	15%	38%	<.01
P-Compos Cognitive	46.5(6) <sup>a</sup>	61.9(11) <sup>b</sup>	71.6(9) <sup>b</sup>	71.4(11) <sup>b</sup>	<.01
P-Compos Hyperactivity	46.7(4) <sup>a</sup>	59.1(11) <sup>b</sup>	58.2(12) <sup>b</sup>	72.7(12) <sup>b</sup>	<.01
P-Compos Oppositional	45.7(7) <sup>a</sup>	55.7(13) <sup>b</sup>	58.7(14) <sup>b</sup>	64.3(15) <sup>b</sup>	<.01
P-Compos ADHD Index	46.4(6) <sup>a</sup>	61.5(10) <sup>b</sup>	70.2(10) <sup>b</sup>	72.7(10) <sup>b</sup>	<.01
T-Compos Cognitive	48.2(7) <sup>a</sup>	55.3(10) <sup>b</sup>	57.4(9) <sup>b</sup>	60.2(10) <sup>b</sup>	<.05
T-Compos Hyperactive	49.5(9) <sup>a</sup>	53.8(11) <sup>ab</sup>	54.2(11) <sup>b</sup>	61.7(13) <sup>b</sup>	<.01
T-Compos Oppositional	47.1(4) <sup>a</sup>	52.8(12) <sup>b</sup>	51.3(9) <sup>b</sup>	57.7(12) <sup>b</sup>	<.01
T-Compos ADHD Index	49.1(9) <sup>a</sup>	57.3(13) <sup>b</sup>	60.4(10) <sup>b</sup>	66.3(11) <sup>b</sup>	<.01
% treated stimulants (lifetime)	0%	7%	25%	48%	<.01
% pregnancy smoke	8.2%	13.8%	19.6%	13.1%	ns
Child unadjusted blood lead	0.2(0.0) <sup>a</sup>	0.78(0.24) <sup>ab</sup>	0.72(0.35) <sup>ab</sup>	0.88(0.44) <sup>b</sup>	<.05

J Child Psychol Psychiatry. Author manuscript; available in PMC 2011 January 1

*Notes to Table 1:* KSADS symptom scores and diagnoses are lifetime unless otherwise marked. For dimensional scores, post-hoc Tukey tests were conducted if variances were homogeneous, or the Dunnett T3 post-hoc if variances were not homogeneous. Different superscripts indicate pair-wise differences on post-hoc tests at  $p < .05$ . For example, "a" under control Comorb indicates a significant difference from "b" for ADHD-PI for the same variable, because ADHD-C also has a "b" it differs from controls also, but not from ADHD-PI. "ab" indicates does not differ from the group with the "a" or "b" superscript. ADHD-PI = Inattentive type; ADHD-C = combined type. Poverty is defined as < 50% of the median household income of \$50,233 in the U.S. in 2007 (16% of national population below that cutoff), in keeping with one type of convention for defining poverty. The comparisons in this table do not control for sibling non-independence.

Nigg et al.



**Table 2**

Median Blood Lead Level of Current Replication Sample, Nigg et al (2008), U.S. National Sample, and Selected European Data By Two Age Groups

Sample	Years Surveyed	%Male	Age in years	Mean/median blood lead $\mu\text{g/dL}$
<b>Adolescents</b>				
U.S.A. (CDC <sup>1</sup> NHANES)	1999, 2002	50%	12–19	0.94–1.10
Western Europe <sup>2</sup>	1996–2000	50%	0–18	3.5
Nigg et al 2007 (n=115)	2005–2006	64%	12–17	1.03 (SE=.05)
Current sample (n=96)	2006–2008	53%	12–17	0.68 (SE=.03)
<b>Children</b>				
U.S.A. (CDC NHANES)	1999, 2002	50%	6–11	1.25–1.51
Sweden <sup>3</sup>	2005, 2007	50%	7–11	1.31–1.32
Chiodo et al (2007)	1996–1997	51%	6–7	5.0
Nigg et al 2007 (n=35)	2005–2006	63%	8–11	1.04 (SE=.09)
Current sample (n=140)	2006–2008	63%	6–11	0.77(SE=.03)

<sup>1</sup> CDC—Centers for Disease Control, the U.S. national (from the CDC NHANES sample) reflect surveys at two points in time, one in 1999 and one in 2002. The lower value represents the 2002 value, and the higher value represents the 1999 value.

<sup>2</sup> Western Europe represents a meta-analytic average computed by Fawcett et al (2004) from studies in Denmark, Sweden, Germany, France, Israel, and Greece in the late 1990's.

<sup>3</sup> Stromberg et al. 2007. The recent data represent two cities measured two years apart.

Table 3

Regression Analyses of Lead association with Parent-Reported ADHD Symptoms, Standardized Results Showing Parameter (standard error)

	KSADS Lifetime		Conners	
	Inattention	Hyp-Imp	Cognitive	Hyp-Imp
<u>Without IQ covaried</u>				
Age	.06(.07)	(	.13(.07) <sup>+</sup>	.07(.08)
Sex	(	(	(	(
Income	(	(	(	(
Hemoglobin	(	.02(.07)	(	(
Smoking	.29(.20)	.03(.23)	.27(.22)	(
Blood lead	.12(.07) <sup>+</sup>	.19(.06) <sup>***</sup>	.21(.07) <sup>**</sup>	.26(.07) <sup>***</sup>
<u>With IQ Covaried</u>				
Age	.05(.07)	(	.12(.07)	.06(.08)
Sex	(	(	(	(
Income	(	(	(	(
Smoking	.24(.21)	.01(.23)	.22(.22)	(
Hemoglobin	.01(.06)	.04(.07)	(	(
IQ	(	(	(	(
Blood Lead	.11(.07)	.18(.06) <sup>***</sup>	.20(.07) <sup>**</sup>	.25(.07) <sup>***</sup>

Parameter estimates are standardized as explained in Method. Sex is coded 1=male, 2=female.

<sup>+</sup> p<.10;

\* p<.05,

\*\* p .01,

\*\*\* p .001.

Table 4

Regression Results for Association of Child Blood Lead with Teacher Behavior Ratings, Showing Standardized Parameter Estimates (standard error)

	ADHD Rating Scale		Conners	
	Inattention	Hyp-Imp	Cognitive	Hyp-Imp
<u>Without IQ covaried</u>				
Age	(	(	.10(.08)	.08(.08)
Sex	(	(	(	.32(.13)*
Income	(	(	(	.20(.07)**
Hemoglobin	(	(	.01(.08)	.02(.09)
Smoking	(	(	.12(.27)	(
Blood lead	.09(.06)	.11(.06) <sup>+</sup>	.19(.07)**	.14(.06)*
<u>With IQ Covaried</u>				
Age	(	(	.02(.02)	.06(.08)
Sex	(	(	(	.30(.13)*
Income	(	(	(	.12(.07) <sup>†</sup>
Smoking	(	(	(	(
Hemogl	(	(	.05(.07)	.05(.08)
IQ	(	(	(	.30(.07)***
Blood Lead	.06(.06)	.09(.06)	.15(.06)*	.11(.06) <sup>†</sup>

Parameter estimates are standardized as explained in Method. Sex is coded 1=male, 2=female.

<sup>†</sup> p<.10;

\* p<.05.

\*\* p .01.

\*\*\* p .001.



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## Effects of low-level lead exposure on cell survival and neurite length in primary mesencephalic cultures

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### Abstract

The effects of low-level lead exposure on survival and neurite length of rat E15 primary ventral mesencephalic dopaminergic neurons were studied. Lead acetate (0.001–10  $\mu\text{M}$ ) added to primary cultures for 48 h (in serum-free defined media [DM]) caused a loss of tyrosine hydroxylase (TH)-positive neurons only at the highest concentrations (1 and 10  $\mu\text{M}$ ). In contrast, significant effects on neurite length were observed at concentrations as low as 0.001  $\mu\text{M}$ . Lead-induced decrease in neurite length became more apparent at concentrations of 0.01  $\mu\text{M}$  (mean 37.9% decrease) and 0.10  $\mu\text{M}$  lead acetate (mean 43.9% decrease). These data show that very low concentrations of lead, well below the level necessary to adversely affect neuronal survival, can have dramatic effects on neurite growth. These results support recent clinical findings of detrimental effects of low-level lead exposure on brain development.

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**Keywords:** Lead; Neurons; Ventral mesencephalon; Development

### 1. Introduction

The general toxic effects of lead have been known for centuries, yet lead is still a major environmental poison affecting primarily pediatric populations in the United States as well as in other countries worldwide. Although the level of concern for pediatric lead poisoning, as set by the Centers for Disease Control in 1991, is 10  $\mu\text{g}/\text{dl}$  [6], studies performed over the last decade indicate that, indeed, a safe level of lead in the blood of children has not yet been identified. Evidence for detrimental effects on behavior and cognitive development have been reported with blood lead levels below 10  $\mu\text{g}/\text{dl}$  [17,25].

Although neuropsychological studies of lead's effects in children may differ in basic characteristics of the study groups and in the choice of tests administered, the description of deficits in certain functional domains, such as attention and fine motor skills, has been remarkably consistent (see Ref. [19] for review). In fact, a number of cognitive deficits associated with lead poisoning, such as

attention and executive function problems, may be due at least in part to lead's effects on dopamine systems. Animals with dopamine-depleting lesions of the cortex or striatum have a number of cognitive and behavioral deficits including impairments in attention, impulsivity, short-term memory, cognitive flexibility (and other executive functions), as well as behavioral abnormalities including apathy, low frustration tolerance, and aggressiveness [4,5,23,24]. In addition to the well-documented learning and memory problems in lead-exposed animals, attentional problems have also been described [3]. Attention and executive functioning problems are a known consequence of lead poisoning in children [10,30] and are present with dopamine dysfunction, as in Parkinson's disease [16].

The effects of lead on dopaminergic cells in culture have been described previously [27]. Short-term exposure of cultures to high concentrations of lead (3–50  $\mu\text{M}$ ) killed neurons and glia at the highest concentrations, whereas concentrations at the lower end (3  $\mu\text{M}$ ) significantly inhibited [ $^3\text{H}$ ]dopamine uptake [27]. Lead exposure has also been reported to alter the concentration of dopamine and decrease the activity of the dopamine-synthesizing enzyme tyrosine hydroxylase (TH) in midbrain and diencephalic regions [21] as well as in rat [29] and primate retina [15]. In consideration of the clinical and experimental data described above

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on lead effects on the dopamine system, the present study was conducted to examine effects of low concentrations of lead (0.001–0.1  $\mu\text{M}$ , equivalent to 0.024 and 2.40  $\mu\text{g}/\text{dl}$ , respectively) on survival and growth (e.g., elaboration of neurites) of fetal dopaminergic neurons in culture.

## 2. Methods

### 2.1. Primary cultures of ventral mesencephalic neurons

Timed-pregnant Sprague–Dawley rats were euthanized with carbon dioxide. Embryos (E-15) were removed and the ventral mesencephalon was dissected out and placed in Dulbecco's phosphate-buffered saline, (DPBS; pH 7.4) on ice. The tissue was minced and incubated in a trypsin solution (0.01% in  $\text{Ca}^{2+}/\text{Mg}^{2+}$  free Hank's balanced salt solution) with 0.05% DNase for 20 min at 37 °C with gentle agitation. The supernatant was removed and replaced with Dulbecco's modified Eagle's medium (DMEM) containing 10% fetal calf serum, glucose (6 mg/ml), glutamine (204  $\mu\text{g}/\text{ml}$ ) and penicillin/streptomycin (100 U/ml) and the cells were dissociated by passage through a fire-polished Pasteur pipette. Dissociated cells were then passed through a nylon-filter cell strainer (70  $\mu\text{M}$ ). The number of viable cells were counted for trypan blue exclusion using a hemocytometer and plated at a density of  $1.5 \times 10^5$  cells per well on poly-D-ornithine (PO; 0.01% in borate buffer; pH 8.4) coated Lab-Tek eight-well slides. After 1 h of stabilization at 37 °C in an atmosphere containing 5%  $\text{CO}_2$ , the media was changed to serum-free defined medium (DM) containing DME/F12, 1% ITS supplement, glucose (6 mg/ml), glutamine (204  $\mu\text{g}/\text{ml}$ ) and penicillin/streptomycin (100 U/ml). The cultures were grown at 37 °C in 5%  $\text{CO}_2$  for 3 days before commencing experimental manipulations.

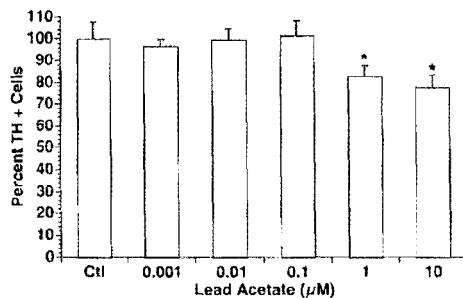


Fig. 1. Effects of lead exposure on the number of TH-positive cells in primary ventral mesencephalic cultures. Addition of lead acetate (0.001–10  $\mu\text{M}$ , in serum-free DM) for 48 h caused a significant loss of TH+ cells at lead acetate concentrations of 1 and 10  $\mu\text{M}$ . Bars show mean cell counts  $\pm$  S.E.M. Ctl = control cultures (no lead); \*  $P < .01$  vs. control. Data were derived from quadruplicate samples for each experimental condition, repeated with four independent cultures.

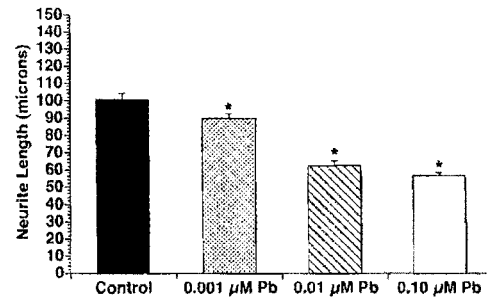


Fig. 2. Effects of lead exposure on length of primary neurites of E-15 dopaminergic neurons in culture. The lowest concentration of lead acetate used (0.001  $\mu\text{M}$ ) caused a significant decrease in neurite length, that was exacerbated by incubation in higher concentrations of lead (0.01 and 0.10  $\mu\text{M}$ ). These effects were observed at lead concentrations below those that caused a decrease in cell survival. Bars show mean length of primary neurites  $\pm$  S.E.M. \*  $P < .01$  vs. control. Data were derived from quadruplicate samples for each experimental condition, repeated with four independent cultures.

### 2.2. Lead exposure studies

To investigate the effect of lead on cell survival and neurite length, lead acetate was added to media (DM) at different concentrations (0.001, 0.01, 0.1, 1.0 and 10  $\mu\text{M}$ ) for 48 h.

### 2.3. TH immunohistochemistry and cell counts

At the end of the lead exposure period, cultures were fixed in 4% paraformaldehyde and stained for the presence of TH using a polyclonal TH antibody (1:2000, 4 °C for 24 h, Pel-Freeze, Rogers, AR), biotinylated goat anti-rabbit IgG (1:1000, 1 h at room temperature, Pel-Freeze, Rogers, AR, Jackson ImmunoResearch Laboratories, Inc., West Grove, PA). TH-positive cells were visualized after incubation in ABC substrate (Vector Laboratories, Burlingame, CA) and metal-enhanced diaminobenzidine (Pierce, Rockford, IL). Immunopositive cells were counted in consecutive fields across the largest diameter of the cell bed using an eye piece reticule at 10 $\times$  magnification.

### 2.4. Neurite length measurement

Neurite length measurements were taken of the longest neurite present on 150 TH-positive cells from control cultures and each lead-exposed culture, using a neurite length measurement macro (provided online by V.I. Pikov) and NIH Image software (v. 1.68). Fields were sampled randomly and the person performing the measurements was blind to treatment condition. Briefly, the images of TH-positive cells were captured at 20 $\times$  magnification and contrast was adjusted until neurites appeared as contiguous as possible with low background. The longest neurite on each cell in the

field was drawn using the pencil tool from the image program. The length of the outlined neurite was then computed by the macro from a thresholded image.

### 2.5. Statistical analysis

All experiments were run in quadruplicate and repeated on four separate occasions. Cell number and neurite length measurement data were analyzed by one-way ANOVA followed by pairwise post hoc comparisons (Newman–Keuls *t* test). Data from four replicate studies were combined for analysis. Frequency histograms of neurite lengths were also constructed, using GB Stat v.6.5.6 software. Comparisons of frequency histograms were made using a Kruskal–Wallis one-way ANOVA.

## 3. Results

### 3.1. Lead effects on cell survival

No lead precipitation was observed in any of the media used in these studies. In addition, measurement of lead

levels (PPM, performed by ESA Laboratories, Chelmsford, MA) in filtered and unfiltered media samples showed linear increases in measured lead levels after addition of 1, 10 or 100  $\mu\text{M}$  lead acetate.

In primary mesencephalic cultures, a 48-h exposure to lead acetate caused a significant decrease in the number of TH-positive cells only in cultures exposed to high concentrations of lead acetate (e.g., 1.0 and 10  $\mu\text{M}$ ,  $P < .05$  vs. control) (Fig. 1). TH-positive cell number was completely unaffected by lower levels of lead.

### 3.2. Lead effects on neurite length

A dose-dependent effect of lead on neurite length of TH-positive neurons was observed ( $F = 80.08$ ,  $P < .001$ , Figs. 2, 3 and 4). The mean length of primary neurites of TH-positive neurons was decreased by an average of 10.9% after 48 h exposure to as little as 0.001  $\mu\text{M}$  lead acetate ( $P < .01$  vs. control). This detrimental effect on neurite length was exacerbated after exposure to 0.01  $\mu\text{M}$  (mean 37.9% decrease,  $P < .01$  vs. control) and 0.10  $\mu\text{M}$  lead acetate (mean 43.9% decrease,  $P < .01$  vs. control) (Fig. 4). There was no significant difference between

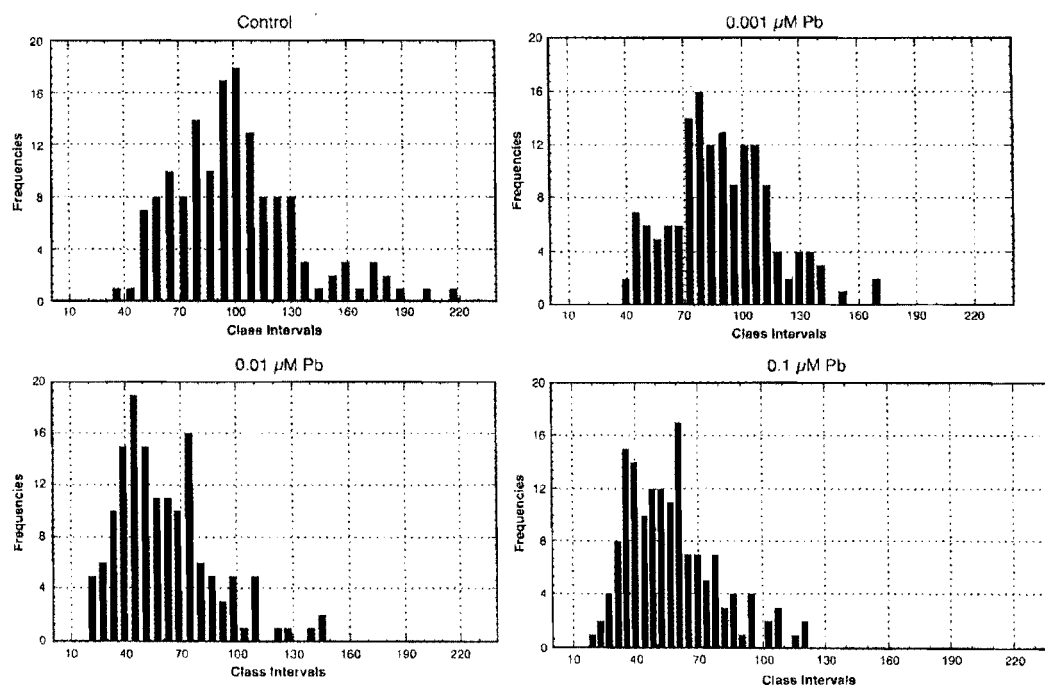


Fig. 3. Histograms showing the distributions of primary neurite lengths in control and lead-treated cultures. After 48 h incubation in 0.001  $\mu\text{M}$  lead acetate, the longest neurites were lost but the overall shape of the distribution was not different from that seen in control cultures. In contrast, after 48 h incubation in 0.01 or 0.10  $\mu\text{M}$  lead acetate, there was a clear shift to the left in the distribution histograms. Data were derived from quadruplicate samples for each experimental condition, repeated with four independent cultures.

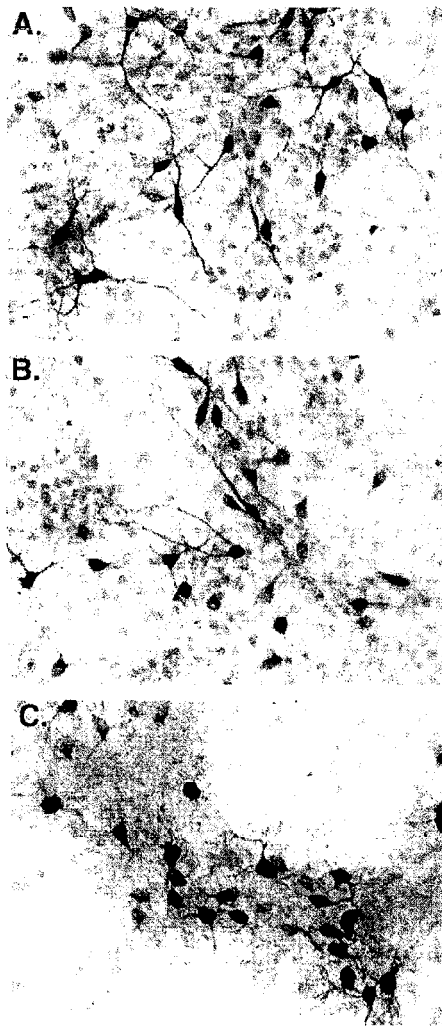


Fig. 4. Photomicrographs of TH-positive neurons in control cultures (A) and in cultures exposed to (B) 0.001 and (C) 0.01  $\mu\text{M}$  lead acetate for 48 h. Note the progressive decrease in neurite length with exposure to increasing concentrations of lead.

neurite lengths measured in cultures exposed to 0.01 or 0.10  $\mu\text{M}$  lead. The distribution of neurite lengths was plotted for each culture condition (Fig. 3). After 48-h incubation with 0.001  $\mu\text{M}$  lead acetate, the longest neurites were lost, although the rest of the distribution of neurite lengths remained essentially the same as in control cultures. However, in cultures exposed to 0.01 and 0.10  $\mu\text{M}$  lead acetate, there was a clear shift to the left ( $P < .05$ ) in the distributions of neurite lengths.

#### 4. Discussion

The present results indicate that exposure of fetal dopaminergic neurons to very low levels of lead (0.001–0.1  $\mu\text{M}$ , analogous to 0.024–2.4  $\mu\text{g}/\text{dl}$  of lead, using the convention for measuring blood lead levels) for a brief period of time (e.g., 48 h) causes significant disruption of neurite elaboration without any appreciable effect on dopamine neuron survival. Although the reasons for this effect are not clear at this time, lead effects on calcium homeostasis may have played an important role. Intracellular and nuclear transport of calcium are involved in elaboration of axons and dendrites. Calcium release from intracellular stores stabilizes dendrites during the period of synapse formation [20]. Local calcium release is a mechanism by which afferent activity (e.g., neurotransmission evoked calcium release) can regulate dendritic structure and arborizations that are critical to attaining a normal pattern of adult synaptic connections [20]. Since lead suppresses activity associated with calcium-dependent release of neurotransmitters [9,18], affects presynaptic calcium channels involved in transmitter release [22] and essentially substitutes for calcium in a multitude of physiological functions [2], it is not surprising that lead would also affect calcium-dependent arborization of neurites. What was surprising was the low level of lead (0.001, 0.01  $\mu\text{M}$ ) needed to adversely affect neurites. However, lead is known to affect physiological processes at levels below that required by endogenous activators. For example, lead at picomolar concentrations activates protein kinase C, an action normally induced by nanomolar concentrations of calcium [1].

Lead may also have affected neurite morphology by directly interacting with cytoskeletal proteins. Previously, lead exposure, in the absence of serum, altered cytoskeletal protein expression (tau, MAP-2b, MAP-2c, and GAP-43) after only a 3-h exposure to 3 or 6  $\mu\text{M}$  lead [26]. Prolonged lead exposure in vivo (through age 15 months) also modified astrocyte cytoskeletal proteins (e.g., GFAP, vimentin) [28]. Slow axonal transport of neurofilament proteins and tubulins was impaired in animals exposed to lead in their drinking water for 13 weeks [32].

Previous studies have described a significant inhibitory effect of high (1 mM) and low (1 nM) concentrations (but not at intermediate concentrations) of lead on neurite initiation in fetal (E-18) hippocampal and cortical neurons grown in culture [14]. Effects of lead on axon length, number of dendrites/cell and number of branches/axon were complex and dependent upon the concentration of serum in the media [14]. Lead's inhibitory effects on neurite development in cultured hippocampal neurons were attributed at least in part to an inappropriate stimulation by lead of protein phosphorylation by calcium/calmodulin-dependent protein kinase or cyclic AMP-dependent protein kinase [13]. Other studies have reported impairment of growth of retinal axons (e.g., reduced area and branchtip number of retinal ganglion cell axon arborizations in the optic tectum) with a

105  
393

6-week in vivo exposure to nanomolar concentrations of lead [7]. In contrast to the inhibitory effects of lead on neurite growth in vivo or in primary cells in culture, various concentrations of lead (e.g., 0.025–0.05  $\mu\text{M}$  in one study [8]; 0.1–100  $\mu\text{M}$  in another study [31]) were shown to promote neurite outgrowth from PC12 cells in the presence or in the absence of NGF, while higher lead concentrations (1–10 mM) were less effective. At low concentrations, lead did not cause neurite outgrowth in NGF-treated PC12 cells but enhanced NGF-induced neurite outgrowth and promoted the formation of multiple neurites per cell [31]. These latter results, however, are difficult to compare with the present findings due to differences in the type of cells (e.g., primary neurons vs. tumor cell line) and culture conditions utilized.

The finding that neurite morphology is significantly altered at lead concentrations 1/1000th to 1/100th of that necessary to stimulate overt cell death may have significant implications for fetal brain development and the hard wiring of the brain under conditions of lead exposure. Mobilization of maternal bone lead stores is a major source of fetal lead exposure [11] with a strong correlation between maternal and umbilical cord blood lead levels. Emphasizing the danger of transfer of lead from mother to fetus [12], a recent prospective study found increased levels of lead in maternal bone and umbilical cord blood (mean 6.7  $\mu\text{g}/\text{dl}$ ) that were associated with lower Mental Development Index scores on the Bayley Scales of Infant Development at 24 months of age [11]. These findings, together with the current results, underscore the potential danger of even very low levels of lead on fetal neuronal development.

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Date: October 1, 2013

To: Washington County Board of Commissioners

From: Miki Barnes

Topic: Testimony urging Washington County Commissioners to reject Ordinance 772.

The Sunset Residential Airpark file reveals that there are many confusing issues that have not been fully addressed in the current ordinance. In the interest of allowing the public additional time to understand the full impact and implications of a decision of this nature, please reject this ordinance.

#### **Residential Airport Overlay in Violation of State License**

Under the terms of the "Airport License" granted to the Sunset Airpark on 1/20/70 by the Oregon State Board of Aeronautics, "No more than 25 families with aircraft shall have easements for the use of this airstrip at any one time." Adding 18 residential units to the existing 16 will exceed this limit by 9. (See attached)

#### **Ordinance 772 – Out of Compliance with Comprehensive Plan**

The Rural/Natural Resources section of the county's Comprehensive Plan recognizes land "as a vital long-term resource and not solely a short-term commodity." It further states that, "In the decision making process, the public interest is served only when environmental, social, energy, and economic factors are balanced and interrelated with consideration of short and long range impacts."<sup>1</sup>

The plan also explains that the rural comprehensive plan was initially formulated due in part to concerns over urban sprawl. I submit that airport incursions, expansions and development into traditionally rural areas is one of the most insidious and noxious forms of urban sprawl in Washington County. In any case, Ordinance 772 failed to consider environmental, social, energy or economic considerations.

Rural Natural Resource Policy 4 states that, "It is the policy of Washington County to maintain or improve existing air quality."<sup>2</sup> Yet this issue was not addressed in the ordinance, even though Hillsboro's air toxic levels are currently 120 times above benchmark levels while surrounding areas are 81 to 120 times above benchmarks,<sup>3</sup> an alarming situation that puts residents at a significantly heightened risk of cancer. From January through April, then again from October to December, much of the pollution generated by Sunset Airpark activity will blow directly over North Plains due to the prevailing winds <http://www.wrcc.dri.edu/htmlfiles/westwinddir.html>. Since the state law allows unlimited take-offs and landings and the ordinance is promoting unlimited based aircraft and hangars on the site, it will be necessary to prepare for unlimited pollution.

Policy 5 noise impact considerations were also ignored despite the fact that residents in the surrounding area will inevitably be impacted by the noise generated by an unlimited number of operations and based aircraft at this facility. Though this policy states that the county will "Coordinate with the Department of Environmental Quality, Oregon Department of Transportation, and the Port of Portland when establishing land use designations near airports," there was no documented evidence in the file that this had occurred, other than a few emails

Miki Barnes Washington County Board of Commissioners: Testimony October 1, 2013

between Jason Gately at the Port of Portland and Jeff Caines at the Department of Aviation. Neither DEQ nor ODOT weighed in at all. Thankfully, the Comprehensive Plan does acknowledge that, "Noise can be a significant hazard to health, more serious than usually recognized. Noise is defined as unwanted sound and can result in loss of sleep, general discomfort and a reduction in the quality of life. Source reduction, buffering, and careful location of noise producing and noise-sensitive activities are important methods of minimizing noise-related problems."<sup>4</sup>

The ordinance also failed to address Policy 6 on Water Resources.<sup>5</sup> According to the EPA, a 17.2 mile stretch of McKay Creek that flows through North Plains is listed as impaired.<sup>6</sup> This water source is located less than one mile from the Sunset Airstrip. Ordinance 772 includes a proposal to store aviation fuel on the residential sites of individual property owners. There was no information in the record regarding the potential negative impacts of fuel and other chemical hazard storage. Aviation fuel contains lead, a neurotoxin and suspected carcinogen that is linked with a number of serious and irreversible health conditions. In addition, there are other toxic elements in aviation fuel. Yet there was no discussion whatsoever regarding the possible impact of fuel tank leakage or toxic emissions from this pollutant.

In addition to McKay Creek, seven other Washington County water sources are listed by the EPA as impaired - Dawson Creek (4.1 miles from Sunset Residential Airpark), Council Creek (6.2 miles), Dairy Creek (3.5 miles), Bronson Creek (6.5 miles), Beaverton Creek (9.8 miles), Rock Creek (22.9 miles), and the Tualatin River (2.9 miles).

### **Economic Factors**

Washington County's Airport Policy 28<sup>7</sup> states that it is county policy "to protect the function and economic viability of existing public use airports." Sunset Airpark is not a public use airport. As a private residential facility, Sunset Residential Airpark does not promote the economic viability of the community. A residential airpark "is a collection of homeowners who own airplanes and prefer the convenience of fly-in parking."<sup>8</sup> Oregon already has 25 residential airparks<sup>9</sup>, more than all but four other states (California, Texas, Florida, and Washington). There is no mandate in the Oregon Revised Statutes that requires the county to facilitate the expansion of this facility. No jobs are created by promoting this development. The sole purpose is to increase the rights of a miniscule minority while diminishing the livability and quality of life of surrounding communities and neighborhoods as well as the environment.

In both the U.S. and in Oregon, pilots comprise less than 1/5 of one percent of the population as a whole.<sup>10,11</sup> A substantially smaller fraction of the population has the discretionary wealth to live in a residential airpark. I urge county commissioners to focus on the greater good rather than the narrow interests of this extraordinarily small minority.

In addition, the passage of this ordinance could set the stage for upwards of 100, perhaps more, aircraft to be based at this facility. By contrast, a number of established commercial and general aviation airports in Oregon have far fewer based aircraft, including, but not limited to, Portland International (87), Southwest Oregon Regional (56), Eastern Oregon Regional (46), Robert's Field (91), Scappoose Industrial Airpark (58), Mulino State Airport (44), Cottage Grove State Airport (47), Lebanon State Airport (55), Albany Municipal Airport (51), Astoria Regional (49), Sportsman Airpark (59), Chchalem Airpark (31), and Tillamook Airport (40).

2

### **More Air Traffic in Washington County Than Any Other County in the State**

Washington County residents are already burdened by more air traffic than any other county in the state. Hillsboro Airport (HIO), the second largest airport in the Oregon, which logs almost as many annual operations as Portland International Airport (PDX), is only 4 miles from the Sunset Airpark, North Plains Gliderport is within 2 miles, Olinger Airpark is within 2.5 miles. Apple Valley airstrip, which has created enormous controversy and led to ongoing legal challenges, is 10.5 miles from Sunset. Both Stark's Twin Oaks and the Scappoose Airport are less than 15 miles away. Clearly this entire area is already inundated with relentless aviation activity.

### **Lack of Compliance with State Planning Goal 12: Transportation**

Goal 12 states that, "The planning and development of transportation facilities in rural areas should discourage urban growth while providing transportation service necessary to sustain rural and recreational uses in those areas so designated in the comprehensive plan." A residential airpark on a rural subdivision solely to serve those wealthy enough to own and store multiple aircraft hardly meets the definition of "necessary to sustain" criteria.

This goal also states that, "Plans for new or for the improvement of major transportation facilities should identify the positive and negative impacts on: (1) local land use patterns, (2) environmental quality, (3) energy use and resources, (4) existing transportation systems and (5) fiscal resources in a manner sufficient to enable local governments to rationally consider the issues posed by the construction and operation of such facilities." In the case of Ordinance 772, this analysis did not take place.

### **Failure to Consider Alternatives**

The ordinance did not consider alternatives beyond establishing an airport overlay zone, which was denied, or a residential overlay zone.

During the 9/4/13 Washington County Planning Commission meeting on the ordinance, Commissioner Manseau asked, "Rather than creating a new code section, why isn't this handled through 430-1, accessory use and structures, because is a taxiway really any different from a private road? Is a hanger really any different from a garage or a barn? And are tie downs really any different than a paved parking lot? They aren't really specific to an airport."<sup>12</sup> This inquiry deserves further exploration. Paul Schaefer's response regarding '389', the new county code proposed by ordinance 772, is of concern: "And the way it's written is 389 really tailored to Sunset airstrip but that doesn't mean it could not be applied to other proposed or requested airpark areas." This suggests that the addition of 389 to county code could lead to other airport expansion plans throughout the county, yet the short and long term impacts of this potentiality were never discussed in the ordinance.

In a 5/28/13 email from Jason Gately at the Port of Portland to Washington County planner Aisha Willits, Gately recommended that Sunset Airpark pursue a through-the-fence arrangement to accommodate residential expansion of the airpark. In this regard Gately stated, "I know the FAA is generally against residential airparks and what are considered 'through the fence operations.'" He then provided the FAA definition for this arrangement. "Through-the-fence operations are those activities permitted by an airport sponsor through an agreement that permits access to the public landing area by independent entities or operations offering an aeronautical activity or to owners of aircraft based on land adjacent to, but not part of, the airport property."

3

Miki Barnes Washington County Board of Commissioners: Testimony October 1, 2013

A 7/10/13 email from Jeff Caines at the Oregon Department of Aviation echoed Gately's recommendation to pursue a through-the-fence arrangement. "By complying with FAA TTF development requirements, you can ensure that potential issues will be minimized and future potential funding options won't be compromised; however as a private, non-federally funded airport, this is only a recommendation." It would appear that if Gately and Caine's recommendations were followed there would be no need to create a residential overlay zone.

#### Lack of Clarity

Another confusing point in the county's planning documents relates to a 7/24/13 email from Caines to Schaefer stating that Caines was unable to find a list of the activities that existed at the airpark in 1968 when the airpark was established. (See attached) He went on to note that "New uses can be established via a public hearing." Thus the claim that the current airpark is authorized by ORS 836.616 to engage in flight instruction, sightseeing tours and other commercial activity is spurious and misleading. In fact, the record indicates that a 2009 effort to seek approval for expansions of this nature at the Sunset Airpark was denied. In the interest of transparency and accountability, this issue needs to be clarified.

In short, Ordinance 722 is poorly conceived. As written it is at odds with the recommendations of both the Port and ODA. The Washington County Planning Commission also recommended rejecting the ordinance. For all the reasons stated above, I urge you to reject this ordinance. In addition, it runs counter to previous LUBA rulings regarding the separation between airport zoning and residential activity.

Respectfully Submitted,



Miki Barnes

<sup>1</sup> Washington County Rural/Natural Resource Plan Element. Preface. (11/23/06). Pg. 1-2

<sup>2</sup> Ibid. Policy 4. Air Quality. Pg. 1.

<sup>3</sup> Coalition for a Livable Future. Air Quality. Available at <http://clfuture.org/atlas-maps/air-quality-all-sources>.

<sup>4</sup> Washington County Rural/Natural Resource Plan Element. Policy 5. Noise. (11/23/06). Pg. 1-2

<sup>5</sup> Ibid. Policy 6. Water Resources. Pg. 1.

<sup>6</sup> EPA. My Environment. North Plains, Oregon. Available at [http://www.epa.gov/myenv/myenvview2.html?minx=-123.02061&miny=45.59002&maxx=-122.97297&maxy=45.60533&ve=14,45.59762,-122.99958&pSearch=North Plains, OR](http://www.epa.gov/myenv/myenvview2.html?minx=-123.02061&miny=45.59002&maxx=-122.97297&maxy=45.60533&ve=14,45.59762,-122.99958&pSearch=North%20Plains,OR)

<sup>7</sup> Policy 28, Airports. Washington County Board of Commissioners. September 24, 2013 Meeting Materials. Ordinance No. 772. Exhibit 2. (7/18/13). Pg. 1-6).

<sup>8</sup> Coyne, James K. The Future of Residential Airparks. National Air Transportation Association.

<sup>9</sup> Living With Your Plane. Available at [http://livingwithyourplane.com/directory/search/?state\\_id=46](http://livingwithyourplane.com/directory/search/?state_id=46).

<sup>10</sup> FAA Website. Available at

[http://www.faa.gov/data\\_research/aviation\\_data\\_statistics/civil\\_airmen\\_statistics/2012/media/Air01-2012.xls](http://www.faa.gov/data_research/aviation_data_statistics/civil_airmen_statistics/2012/media/Air01-2012.xls)

<sup>11</sup> U.S. Census Website. Available at <http://quickfacts.census.gov/qfd/states/41000.html>.

<sup>12</sup> Ordinance No. 772 Transcript 9/4/13 Planning Commission Hearing. Washington County Board of Commissioners. September 24, 2013 Meeting Materials. Ordinance No. 772. (Pg. 3).

State of Oregon  
**Airport License**



SUNSET AIR STRIP

North Plains

HAS BEEN ISSUED THIS LICENSE UNDER THE PROVISIONS  
OF CHAPTER 492, OREGON REVISED STATUTES  
SUBJECT TO THE CONDITIONS  
NOTED ON THE REVERSE SIDE

OREGON STATE BOARD OF AERONAUTICS  
3040 25th Street S.E.  
Salem, Oregon 97310

Aeronautics Administrator

January 20, 1970

Date

CONDITIONS:

1. No more than 25 families with aircraft shall have easements for the use of this airstrip at any one time.
2. In the event it becomes necessary for the operation of Portland-Hillsboro Airport, Roth Development, Inc., agrees to grant to the Port of Portland, without charge, airspace easements over the runway and taxiways at Sunset Air Strip.
3. The Sunet Air Strip shall be constructed to meet at least the minimum airport standards established by the Board of Aeronautics.
4. Ingress and egress to the airport will be conducted in accordance with procedures coordinated with the Chief, Hillsboro Airport Traffic Control Tower, and the Oregon State Board of Aeronautics. These procedures will include, but are not restricted to: (a) Arrival paths; (b) Departure paths; (c) Traffic pattern; (d) Communication requirement; (e) Communication procedures; (f) Air traffic control instructions.

THIS CERTIFICATE IS THE PROPERTY OF  
OREGON STATE BOARD OF AERONAUTICS  
AND MUST BE RETURNED IF NOT RENEWED  
BY JANUARY 1st OF EACH YEAR.

RENEWAL WILL BE EVIDENCED BY LETTER  
AFTER PAYMENT OF THE ANNUAL FEE OF  
ONE DOLLAR.

Nº 16

**Paul Schaefer**

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**From:** CAINES Jeff [Jeff.CAINES@aviation.state.or.us]  
**Sent:** Wednesday, July 24, 2013 11:54 AM  
**To:** Paul Schaefer  
**Subject:** RE: Residential Airpark Overlay District (Ordinance 772)  
Paul:

Do you know what uses are currently going on at the Sunset Airstrip? I want to make sure that the uses already in existence will be allowed to continue. ODA has records that this airfield was established in 1968 with 10 based aircraft, but at quick glance I did not see a list of activities. I just want to make sure that the activities listed in ORS 836.616(2) are allowed. New uses can be established via a public hearing.

Also, on Page 3 of 6 on exhibit 2, the Skyport Airport (4S4) was recognized by ODA during the 2007 update of the Oregon Aviation Plan. I am not sure if the County wants to move it up to List 3 or not.

Thank you for allowing me to review the ordinance.

Jeff

Jeff Caines, AICP  
Aviation Planner / SCiP Coordinator  
503-378-2529 - Office  
503-507-6965 - Cell

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**From:** Paul Schaefer [mailto:Paul\_Schaefer@co.washington.or.us]  
**Sent:** Monday, July 22, 2013 12:47 PM  
**To:** jason.gately@portofportland.com; CAINES Jeff  
**Cc:** Paul Schaefer  
**Subject:** Residential Airpark Overlay District (Ordinance 772)

Good afternoon,

I wanted to make sure that you both got a copy of the filed ordinance to establish a Residential Airpark Overlay District near Sunset Airstrip. This ordinance is scheduled to be considered by the Planning Commission on 9/4 and the Board of County Commissioners on 9/24. I am writing the PC staff report at this time.

Please let me know if you have any questions or need additional information.

Thank you

Paul

## AGENDA

### WASHINGTON COUNTY BOARD OF COMMISSIONERS

**Agenda Category:** Public Hearing – First Reading and First Public Hearing  
Land Use & Transportation; County Counsel (CPO 8)

**Agenda Title:** PROPOSED ORDINANCE NO. 772 – AN ORDINANCE  
AMENDING THE RURAL/NATURAL RESOURCE PLAN AND  
THE COMMUNITY DEVELOPMENT CODE TO DEVELOP A  
RESIDENTIAL AIRPARK OVERLAY DISTRICT

**Presented by:** Andrew Singelakis, Director of Land Use & Transportation  
Alan Rapplevea, County Counsel

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#### SUMMARY:

Ordinance No. 772 proposes to add a new section (Section 389) to the Washington County Community Development Code relating to a new Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling.

The ordinance also proposes to amend Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan to add text relating to the Residential Airpark Overlay District and to replace the existing Sunset Airstrip map with a new map that shows the Residential Airpark Overlay District boundaries. Ordinance No. 772 is posted on the county's land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm>

On September 4, 2013, the Planning Commission (PC) conducted a public hearing for this ordinance. The PC voted 4-1 to recommend that the Board reject Ordinance No. 772. The Board staff report will be posted on the above land use ordinance web page prior to the hearing.

Consistent with Board policy, testimony about the ordinance is limited to three minutes for individuals and 12 minutes for a representative of a group.

Clerk's Desk Item: Staff Report (*click to access electronic copy*)

#### DEPARTMENT'S REQUESTED ACTION:

Read Ordinance No. 772 by title only and conduct the first public hearing. At the conclusion of the hearing, direct engrossment of the ordinance to include the changes as shown in Attachment A. Continue the hearing to October 15 and 22, 2013 and direct staff to prepare and mail notice of the amendments consistent with the requirements of Chapter X of the County Charter. Staff is also directed to prepare and mail an additional Type III Public Hearing Notice to owners of property within 1000 feet of the proposed Residential Airpark Overlay District.

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#### COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

Agenda Item No.	<b>4.d.</b>
Date:	09/24/13



WASHINGTON COUNTY

*Inter-Department Correspondence*

September 24, 2013

**TO:** Recording Division

**FROM:** Barbara Hejtmanek

**SUBJECT:** MINUTE ORDER 13-266  
PROPOSED ORDINANCE NO. NO. 772 – AN ORDINANCE  
AMENDING THE RURAL/NATURAL RESOURCE PLAN  
AND THE COMMUNITY DEVELOPMENT CODE TO  
DEVELOP A RESIDENTIAL AIRPARK OVERLAY  
DISTRICT

At its regular meeting on September 24, 2013, the Board continued this public hearing to October 1, 2013.

APPROVED WASHINGTON COUNTY  
BOARD OF COMMISSIONERS  
MINUTE ORDER # 13-266  
DATE 9-24-13  
BY Barbara Hejtmanek  
CLERK OF THE BOARD

Ord 772

**MINUTES**

**WASHINGTON COUNTY BOARD OF COMMISSIONERS**

**SEPTEMBER 24, 2013**

**CONVENED:** 6:33 p.m.

**BOARD OF COMMISSIONERS:**

Chair Andy Duyck  
Vice Chair Greg Malinowski  
Commissioner Dick Schouten  
Commissioner Roy Rogers  
Commissioner Bob Terry

**STAFF:**

Robert Davis, County Administrator  
Alan Rappleyea, County Counsel  
Andy Back, Planning and Development Services Manager  
Suzanne Savin, Senior Planner, LUT  
Anne Kelly, LUT – Development Svcs., Current Planning  
Andrew Singelakis, LUT – Office of the Director  
Sia Lindstrom, County Administrative Office  
Stephen Roberts, LUT – Office of the Director/Admin Svcs.  
Jonathan Schlueter, County Administrative Office  
Steve Kelley, LUT – Long Range Planning  
Michelle Pimentel, HHS – Solid Waste & Recycling  
Carine Arendes, LUT – Current Planning  
Nate Cullen, Water Treatment Department Director, CWS  
Tom Stow, Operations Division Manager, CWS  
CJ Baxter, Plant Manager, CWS  
Jim Thiessen, Audiovisual Technician  
Barbara Hejtmanek, Recording Secretary  
Minutes by Michelle Rubio

**PRESS:**

None.

**1. ORAL COMMUNICATION (2 MINUTE OPPORTUNITY)**

Chair Duyck stated 4.c.2 is an off docket item which is a continuance of the hearing on Ordinance No. 771 from last week. He said the Board decided the slopes issue in the buffer areas will not be taken up this year and will be addressed in the spring if the Board directs it.

on the area. She said there isn't a comparable provision in the rest of County code and the prohibition is unique to North Bethany.

Commissioner Terry said he went through this issue with his property recently and found that legally a property owner cannot make an easement within his own property. He said this is what would have happened if the easement was made prior to selling it to West Hills and West Hills couldn't make the easement because they couldn't place the easement as the development hadn't been decided by the County. In essence, he noted K&R Holdings is stuck in a catch 22.

Chair Duyck asked the Board about the proposed language by K&R Holdings on the easement issue and the Board concurred to have the language added. He also asked the Board about going back to the original language on the half street improvements for parks, striking Exhibits 4 and 6. The Board concurred with THPRD's proposal to go back to the original language and deferring changes on the linear parks issue until next year. He said they will also be replacing the word "brugger" with "buffer".

It was moved to engross Ordinance No. 771 to include the changes incorporated in Attachment A to the staff report dated September 18, 2013 removing Exhibits 4 and 6; direct replacement of the word "Brugger" with the word "Buffer" in Exhibit I, page 4 of Attachment A; add the stub street language proposed by K&R; direct staff to consider the buffer slope issue and the Tualatin Hills Park and Recreation half street improvement issue for the work plan. Continue the hearing to October 15 and October 22, 2013; Direct staff to prepare the mailed notice of the amendments consistent with the requirements of Chapter X of the County Charter.

Commissioner Schouten asked if they've discussed building on steep slopes outside the Natural Features Buffer.

Ms. Savin said that is part of Attachment A which includes language allowing 25 percent slopes outside the Natural Features Buffer to be developable.

Commissioner Malinowski said the public utilities are still being covered. He said it also includes the developers build map streets if on property 95 percent of the time.

Motion – Rogers  
2<sup>nd</sup> – Terry  
Vote – 5-0

4.d.  
MO 13-266  
Proposed Ordinance No. 772 – an Ordinance Amending the Rural/Natural Resource Plan and the Community Development Code to Develop a Residential Airpark Overlay District (CPO 8)

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

OREGON AVIATION WATCH and  
WASHINGTON COUNTY CITIZEN  
ACTION NETWORK,

Petitioners,

v.

WASHINGTON COUNTY,

Respondent,

and

ROBERT D. JOSSY,

Intervenor.

LUBA No. 2013-111  
(Appeal of Ordinance No. 772)

RESPONDENT'S SUBMITTAL OF  
RECORD

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RESPONDENT'S SUBMITTAL OF RECORD

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Jacquilyn Saito-Moore, OSB 983410  
Office of Washington County Counsel  
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Hillsboro, OR 97124-3072  
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Sean T. Malone  
Attorney at Law  
259 E. 5th Ave., Ste 200-G  
Eugene, OR 97401  
Tel: (503) 859-0403  
seanmalone8@hotmail.com  
Attorney for Petitioners

It was moved to read Ordinance No. 772 by title only.

Motion – Terry  
2<sup>nd</sup> – Malinowski  
Vote -5-0

Alan Rappleyea, County Counsel read Ordinance No. 772 by title only.

Suzanne Savin said this ordinance was requested by property owners adjacent to the Sunset airstrip and also requested by Air Acres Homeowners Association. She said the proposed amendments are contained in the following two exhibits:

- Exhibit 1 – adds Community Development Code section 389 (Residential Airpark Overlay District)
- Exhibit 2 – amends policy 28 of the Rural Natural Resource Plan for airports

She said the key provisions for the Rural Natural Resource Plan are that the ordinance would allow a residential airpark overlay district and allow residential airpark development. She said the Sunset airstrip map would be updated to apply the Residential Airpark Overlay District to certain rural lands adjacent to the airstrip. She cited the following key Community Development Code provisions:

- Adding Section 389 (Residential Airpark Overlay District)
- Allow limited airport related accessory uses (hangars, tie down areas, aviation fuel storage and aircraft taxiways).
- Applies to the lots within the overlay district and the accessory uses would be allowed on lots that contain an existing dwelling.
- Requires an existing dwelling
- Does not authorize new dwelling units

Ms. Savin reported that in 2003, Ordinance No. 609 created private use airport overlay (CDC Section 385) which applied to several areas in the County, including Sunset airstrip and Air Acres 1 and 2. She said in 2009 the property owners adjacent to the north and south sides of the Sunset airstrip requested the private use airport overlay that applied to the airstrip be expanded to include additional properties (referenced on a map that was submitted). She said the Department of Land Conservation and Development (DLCD) objected to this request (Ordinance No. 721) because of the larger list of uses that would be allowed on these lands under the private use airport overlay. She added the Board had the same concerns and rejected Ordinance No. 721. She said existing Air Acres 1 and 2 and the airstrip are private use airport overlay districts. She said the land use designations of the new proposed district are rural residential 5, AF5, Exclusive farm use, and AF20. She said they received a letter from DLCD after this ordinance was filed objecting to the inclusion of the EFU and AF20 parcels within the Residential Airpark Overlay District. DLCD said it's contradictory to the statutory requirements. She displayed a chart comparing the allowed uses in a private use airport overlay with the proposed residential airpark overlay. She said the Planning Commission recommended rejection of Ordinance No. 772. She explained their concerns with the adequacy of public notice for the proposal

if the process was quasi-judicial or a combination of quasi-judicial and legislative. She said they were also concerned the ordinance didn't prohibit commercial aviation activities and were concerned the ordinance didn't limit the number of hangars and tie down areas. Regarding adequacy of public notice, staff recommends Ordinance No. 772 receive the standard noticing they do for all ordinances. She stated this proposal received a Type III notice where property owners within 1,000 feet receive notice. She said because this is changing the Community Development Code and Comprehensive Framework Plan, the process would be legislative. She said staff recommends removal of the three EFU parcels and one AF20 parcel; Clarify that only one hangar and one tie-down are allowed per lot; Prohibit commercial aviation activities, except as may be allowed in the AF5 and RR Districts; Prohibit renting of personal hangars.

Chair Duyck asked if the EFU and AF20 were removed prior to the Planning Commission recommendation.

Ms. Savin said they were proposed for removal prior to the Planning Commission recommendation.

Commissioner Terry asked why they decided to limit it to one hangar. She said it's not unusual for aviators to have more than one plane. He asked if it's okay to have a hangar that can accommodate more than one plane.

Ms. Savin said the original filed ordinance said "a hangar" and "a tie down" and the Planning Commission was concerned this wasn't specific enough. She said the ordinance is silent on size requirements on the hangar.

Commissioner Schouten said the concern was making sure the volume of air traffic in that area was limited.

Ms. Savin said it didn't seem the Planning Commission articulated that as the reason for their stated concerns but their thinking might have been different.

Commissioner Schouten asked for further explanation of the Planning Commission's recommendation to allow one hangar.

Ms. Savin said the rationale wasn't articulated to that level so she couldn't say.

Commissioner Terry asked if this is just residential.

Ms. Savin said yes.

Linda Peters submitted written testimony from Ellen Saunders. She said she's in agreement with the exclusion of the EFU and AF20 properties from the overlay district. She also agrees with the specific language, excluding commercial uses from the zone. She said she's concerned about the effect the increased air traffic has on the air around North Plains, lead emissions from the fuel, and the noise among other issues. She would

like to have this brought back next year with more thought and a notice process that covers a larger range. If the Board were to decide on it tonight, she proposed that 389-3 be changed to a Type II procedure because of the fuel storage containers. She said because the fuel is leaded gas that would be stored on private property it would be hard to monitor and notice needs to be made available to people of something that could possibly cause a toxic leak near them.

Henry Oberhelman said he represents CPO 8 and said they talked about this ordinance at their last meeting. He said 23 members of CPO 8 at that meeting voted to support the Planning Commission recommendation to carry this ordinance over to next year. He commended Suzanne Savin for her hard work and communication. He said he's confused as he thought there would be an opportunity to modify the ordinance as there are things they would like to have considered. He asked if the ordinance is engrossed tonight, if that would prevent them from proposing changes. He said if it does then they would like this issue to be held over to next year. He said the ordinance doesn't refer to the FAA being asked about their opinion of this kind of activity at the Sunset airstrip. He noted there are sixteen homes and hangars in the southwestern corner of the airstrip. He said this application will be platted out to have 18 subdivision plats that more than double the potential for individual hangars on that airstrip. He said with today's technology and the sizes of the lots in the new development, those hangars could be immense. He said they're not sure of the intent of putting the phrase "one hangar" into the ordinance. He said if it's intended to limit the operation, that's not going to get the job done because it's not the number but the frequency of that aircraft. He stated the existing 16 lots are approved for commercial aviation activities (flight training). He said the new ones are limited but it's probable an owner can purchase a new lot and swap with an existing lot and be able to do flight training. He said from what has happened with the Apple Valley Airport that could happen with new ownership bombarding the neighborhood with noise impacts. Lastly he stated additional time is needed for more testimony and revisions to the ordinance.

Bill McCandless said he's a resident of the Sunset airpark and as of April 2013, when the residents purchased out their absentee landlord, he's now president of Roth Development. He said the conditions imposed are reasonable because the existing CC&R's prohibit commercial activity including prohibition against flight instruction. He said they are also prohibited against night ops because the airport doesn't have lighting. He said if an easement is granted to one of the new Sunset Orchard properties the CC&R conditions would be extended. He said they are aware of the intensive flight training activity out of the Hillsboro Airport and go out of their way to avoid it. He said they are sensitive to North Plains and will avoid taking off in that direction unless increased wind dictates otherwise. He said landings take place in that direction because they try to avoid the intensive glider activity at the North Plains glider port. It's a quiet activity. He said they are also sensitive to the issue of aviation fuel and lead. He shared there are two planes that run on car gas and one is electric. He said they coordinate with the FAA and the proposed ordinance is sufficient. He said if the proposed development happens, they would prefer they are pilots and these airparks provide a unique environment and welcome new neighbors.

Chair Duyck asked if the new neighbors would be required to be part of the Homeowners Association.

Mr. McKindles said they are still debating that issue.

Chair Duyck asked how they could be subject to the same CC&R's if they aren't part of the HOA.

Mr. McKindles said the CC&R's are posed by Roth Development Corp. and not the HOA. He said they haven't worked out how to phrase it with the easements but they would tie the restriction with granting the easement to use the runway.

Commissioner Schouten asked how the restrictions with regards to commercial flights be extended to the vacant subdivided parcels that would be part of the airpark.

Mr. McKindles said they would not grant an easement to the runway without imposing those conditions.

Miki Barnes expressed her support of the Planning Commission recommendation to reject this ordinance. She said it's confusing for new development having to go through Roth Development to obtain an easement. She said when she went through the file for both the Port and the Department of Aviation, they recommended a through the fence arrangement between the residential airpark and the airport. She stated that Jason Gately provided an FAA definition of through the fence which says, "those activities permitted by an airport sponsor through an agreement that permits access to the public landing area by independent entities or operations offering an aeronautical activity where two owners of aircraft based on land adjacent to but not part of the airport property". She said the difference between the through the fence and granting an easement needs clarification. She said policy 28 states its County policy to protect the function and economic viability of existing public use airports. She noted Sunset Airport isn't public and so it doesn't serve the economic viability of the community but only the developer and the individual owners of the properties in that area. She added there is no mandate in the Oregon revised statutes requiring the County to facilitate the expansion of this facility. She said if this ordinance is passed, the rights of others around the community will be diminished at the benefit of a few. She expressed that Washington County residents are burdened by more air traffic than any other County in the state. She said that due in part to the County's focus on accommodating aviation interests, developers and industry, Washington County residents breathe some of the most toxic air in the country. She stated the toxic levels above Hillsboro are 120 times above benchmark levels with the surrounding areas are 81 to 120 times above. In closing she said residential airparks are what we need to address major environmental concerns in the County.

Richard VanGrunsven, 9899 NW 316<sup>th</sup> Place, Hillsboro, stated that he's been a resident of the Sunset airpark for the past 32 years. He said he's a pilot and flies a plane that gets 25 mpg using automobile unleaded fuel on a regular basis. He noted this isn't typical but it's the trend. He said Hillsboro Aviation last year logged 65,000 flight hours. In



comparison, he said the Sunset airpark was less than 1,000 hours which is well under one percent of the activity in this area. He said if they doubled or tripled the activity it would still be insignificant. He said his home is on the east end along the Sunset Highway and he hears more noise coming from the highway than from the planes flying out of the airpark. He noted there are a number of people who travel on the highway pulling or driving recreational vehicles. He said he's subjected to a lot more hazard from the highway than from the few airplanes flying out of the airpark. He didn't understand the reasoning of limiting a hangar to one airplane when a garage can hold more than one car. He said he favors approval of this ordinance because it will create a harmonious community.

Commissioner Terry asked if someone had a hangar with two or more airplanes in it, how many planes could be flown at one time.

Mr. VanGrunsven said one.

Commissioner Terry asked if his wife flies.

Mr. VanGrunsven said no but in some cases there are two pilots per family but because of the commercial limitations on the airport. They can't rent space to other pilots to store their airplanes.

Commissioner Terry asked if the CC&R prohibits renting your plane to someone else.

Mr. VanGrunsven said yes.

Commissioner Terry asked if there is no commercial possibility.

Mr. VanGrunsven said yes there is no possibility.

Public hearing closed.

Chair Duyck asked for a summary of Attachment A.

Ms. Savin said Attachment A has proposed language for restriction of commercial aviation activity. She said it also clarifies having one airplane per hangar and one tie down per lot. She said they also recommended removal of the EFU and AF20 parcels. She said if the Board chooses to engross the ordinance as outlined in the staff report attachment, staff recommends the Board direct staff to provide an additional Type III public notice for the 1,000 foot area in addition to the customary notice of engrossment.

Chair Duyck said there are a lot of different issues that have been raised today. He said he's concerned with a commercial fuel station but under the existing language this is preempted and asked if they would have to go through a special process for that.

Ms. Savin said the ordinance proposes allowing aviation fuel storage as an accessory use and thus is limited to the property owner.

Chair Duyck noted that isn't any different than agricultural fuel and doesn't see why they should have different restrictions in this case. He noted the flight path for this airport is a non-standard path. He said this is significant because the risk of flight training is not likely to happen at this airport because it's a non-standard path. He added this airpark is under Hillsboro's flight pattern and doesn't allow the same altitude of a normal flight pattern. He said the flight pattern is on the south side away from North Plains at a lower elevation making it unfavorable for flight training.

Commissioner Schouten stated that the CC&R prohibits flight training.

Chair Duyck said that is true for the existing development. He would like to have no restrictions on the tie downs. He said he believes having enough tie downs for each plane someone owns is a personal landowner decision and doesn't think it encourages the ownership of more aircraft. He noted in general people like to keep their airplanes in hangars because of the investment involved. He said the restriction of the number of planes in a hangar shouldn't be an issue because you can only fly one airplane at a time. He agreed with the restriction of having only one hangar but the size shouldn't be restricted. He shared that many aircrafts burn far less fuel than driving your car and it's not necessarily a polluting hobby. He encouraged passing the ordinance with the tie down changes. He said while the Planning Commission voted to reject the ordinance, there was barely a majority of them to hear that ordinance.

Commissioner Terry said he's been around aviation since he was 16 and the number of airplanes someone can hold in their hangar should be up to the property owner. He said if there is a storm or heavy wind, those planes are turned away from the wind and tied down. He added that more than one tie down to place the plane in the safest direction is a necessity. He said he doesn't see any reason why this ordinance can't be passed.

Commissioner Malinowski asked if there are restrictions on the existing airpark for tie downs.

Commissioner Schouten said today's decision is not approving the ordinance and they will be continuing the hearing for two additional hearings.

Andy Back said the ordinance wouldn't be approved today but if the Board engrosses today they wouldn't have the opportunity to engross again.

Commissioner Schouten said that important questions were raised and some of the activities at the Hillsboro Airport have colored people's wariness about air activity in the County. He noted many of the concerns that were raised were addressed by other testimony. He said at this point he feels comfortable continuing this ordinance.

Commissioner Malinowski said CPO 8 had requested further time to explore some of these issues and is not sure if additional time would gain more than what was heard tonight. He asked if they did that, if they would need to wait until October 1, 2013 and engross then.

Mr. Back said yes, the Board could do that as October 1, 2013 is the last date for engrossment. He stated the language would need to be set by October 1, 2013 as there isn't sufficient time to change the language after that date.

Commissioner Terry asked if they could engross tonight making amended language.

Mr. Back said the Board can engross tonight, which limits the ability to make any changes for the rest of the ordinance season because they need to hold the two required hearings. He said the Board has one opportunity to engross the ordinance which can be done tonight or on October 1, 2013.

Commissioner Terry asked if they want to make revisions to the section on the tie downs, would it need to be done now.

Mr. Back said that is so specific that staff can change that language tonight.

Ms. Savin responded to Commissioner Malinowski's previous question about the current tie down allowance at the Sunset airstrip. She said Community Development Code section 385-3a uses the words "hangars" and "tie downs" in the plural as customary and usual aviation related activities. That code section discusses expansions that are permitted through a Type I procedure of which one is the construction of additional hangars and tie downs which would apply to the Sunset airstrip.

Chair Duyck said according to current code, existing residents can build an additional hangar. He added that this ordinance limits the number of hangars to one. He said the goal is to limit those activities that are incident to a residential airpark making sure there are no commercial activities at the airpark, and by limiting it to one hangar that can be accomplished.

Commissioner Terry asked if they could get the language from that portion of code that would apply to this ordinance to have more than one tie down.

Ms. Savin said if the Board recommended engrossment to allow a certain number of tie downs in the plural or have it say tie downs without calling out a quantity that is something that can be done.

Commissioner Terry attempted a motion to direct engrossment of the ordinance to include the changes as shown in Attachment A, with the exception of changing the number of tie downs to plural and to continue the hearing to October 15 and 22, 2013.

Andy Back said right now they are recommending the addition of language that says no more than one hangar and one paved tie down may be allowed. He said they could strike the words "and one paved tie down" and change that to read how ever many tie downs the Board recommends.

Commissioner Terry said that would be adequate.

Commissioner Rogers seconded the motion for discussion purposes. He would like to clarify this and bring it back next week. He stated that the tie down issues are not fully clear in his mind.

Commissioner Malinowski didn't think it would hurt to put off the engrossment to the next meeting.

Commissioner Schouten said additional tweaks may arise in the next week and if they engross tonight they won't be able to make them.

Chair Duyck said he didn't hear specifically what we're waiting to find out and carrying this over to next week draws those that testified out again.

Commissioner Rogers asked if there are any other changes that need to be addressed.

Commissioner Schouten said he understands the time concern of those that have come and testified, but believes if all involved care enough about this issue can come back next week.

It was moved to continue the hearing on Ordinance No. 772 to October 15 and 22, 2013.

Commissioner Terry said there aren't any issues that need to be addressed and doesn't see why they are continuing to next week.

Commissioner Rogers said if that's the case, he would vote yes next week.

Motion – Schouten  
2<sup>nd</sup> – Malinowski  
Vote – 3-2  
(Nay: Duyck, Terry)

4.c.

MO 13-267

Proposed Ordinance No. 773 – an Ordinance Amending Home Occupation Standards of the Community Development Code (All CPOs)

It was moved to read Ordinance No. 773 by title only.

Joe Rayhawk, 15248 NW Germantown Road, Portland, OR 97231, apologized if he overstepped the bounds during Ordinance No. 771. He said there was ambiguity but a lot is at stake. He said he may be paranoid and quoted Andy Grove (head of Intel) saying only the paranoid have any chance of surviving.

The Board commented they didn't take offense to anything he said in his prior testimony.

**8. BOARD ANNOUNCEMENTS**

Chair Duyck said the next meeting is on October 1, 2013 with a work session at 8:30 a.m. and the Board meeting at 10:00 a.m.

Commissioner Schouten said there is no meeting on October 8, 2013 as some of the Commissioners will be busy with Clean Water Services business.

**9. ADJOURNMENT: 9:32 p.m.**

Motion – Malinowski  
2<sup>nd</sup> – Rogers  
Vote – 5-0

MINUTES APPROVED THIS 15<sup>th</sup> DAY October 2013

Barbara Hejmanek  
RECORDING SECRETARY

Andy Duyck  
CHAIRMAN

DATE: SEPTEMBER 24, 2013

**PUBLIC HEARING  
SIGN-IN SHEET**

**IF YOU WISH TO MAKE STATEMENTS TO THE BOARD ON PUBLIC HEARINGS  
PLEASE SIGN BELOW**

NAME	ADDRESS	PUBLIC HEARING ITEM
✓ Linda Peters <del>testifying for Ellen Saunders</del> <sup>(she is ill - have her testify)</sup>		# 772
✓ Linda Peters testifying for self		# 772
✓ Henry Oberhelman	26185 NW E 201st Hillsboro, OR 97124	772
✓ HAL BERGSMAN	THPRD	771
✓ Kevin O'Donnell	CPO 7	#771
✓ Michael Robinson	West Hills	#771
✓ Wendie Kellington	Terra Hink	# 768
✓ Alex Tran	5730 NW Bannock St, Dr	
✓ Bob Davies	12944 NW Red Cedar Portland, OR	
✓ Bill Mcandless	32905 NW Beach Hillsboro	#772
✓ JOE RAYHAWK	15248 NW German Town	#771
✓ Matt Wellner	17933 NW Englewood Plwy	771

**INDIVIDUAL SIGN-IN FORM**

**IF YOU WISH TO ADDRESS THE BOARD  
AND WERE UNABLE TO SIGN IN PRIOR TO THE MEETING,  
PLEASE CLEARLY PRINT YOUR NAME, ADDRESS AND  
TOPIC YOU WISH TO DISCUSS ON THIS SHEET.**

**PLEASE GIVE THIS FORM TO THE CLERK OF THE BOARD,  
LOCATED AT THE DESK TO THE LEFT OF THE DAIS.**

**THANK YOU.**

**PLEASE PRINT CLEARLY.**

**DATE:** 9-24-13

FIRST NAME	LAST NAME
Richard	Van Grunsven

**ADDRESS:**

STREET	CITY	ZIP
9899 NW 316th place	Hillsboro	97129

**STATE YOUR TOPIC:**

Ord 772 Sunset Orchards Estates airport Overlay

**INDIVIDUAL SIGN-IN FORM**

**IF YOU WISH TO ADDRESS THE BOARD  
AND WERE UNABLE TO SIGN IN PRIOR TO THE MEETING,  
PLEASE CLEARLY PRINT YOUR NAME, ADDRESS AND  
TOPIC YOU WISH TO DISCUSS ON THIS SHEET.**

**PLEASE GIVE THIS FORM TO THE CLERK OF THE BOARD,  
LOCATED AT THE DESK TO THE LEFT OF THE DAIS.**

**THANK YOU.**

**PLEASE PRINT CLEARLY.**

**DATE:** 9/24/13

FIRST NAME	LAST NAME
<i>Melvin</i>	<i>Farnes</i>

**ADDRESS:**

STREET	CITY	ZIP
<i>P.O. Box 838</i>	<i>Fanks</i>	<i>97106</i>

**STATE YOUR TOPIC:**

<i>Ordinance # 772</i>





September 19, 2013

TO: Washington County Board of Commissioners

FROM: Andy Back, Manager  
Planning and Development Services

RE: **Additional September 24 Meeting Materials for Ordinance No. 772**

The following additional items are provided for your September 24 meeting:

**Ordinance No. 772 – Development of a Residential Airpark Overlay District**

- New Testimony Letter:
  - Letter from Ed Chadwick, received on September 18, 2013
- Public Notice (inadvertently omitted from September 16 meeting materials):
  - Type III Public Hearing Notice, mailed on August 14, 2013

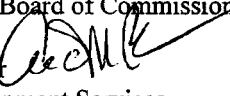
S:\PLNG\WPSHARE\2013ord\Ord772\_AirportOverlay\Staff\_Reports\BCC\092413\Ord772\_BCC\_transmittal\_Type III\_Notice\_09241313.doc

**Department of Land Use & Transportation · Planning and Development Services**  
**Long Range Planning**  
155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072  
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · www.co.washington.or.us



# WASHINGTON COUNTY OREGON

September 16, 2013

TO: Washington County Board of Commissioners  
FROM: Andy Back, Manager   
Planning and Development Services  
RE: **September 24 Meeting Materials**

The following items are provided for your meeting.

1. **A-Engrossed Ordinance No. 768 – Amendments to the Transportation Plan (TSP)**
  - Public Hearing agenda
  - Staff Report with draft January 2013 *TSP Update Existing Conditions and Future Needs Report*
  - Engrossment Notices:
    - Individual Notice No. 2013-22
    - Cities and Special Service Districts Notice
  - A-Engrossed Ordinance No. 768 filed on September 6, 2013 with CPO Notice
2. **A-Engrossed Ordinance No. 769 – Comprehensive Plan amendments relating to the Religious Land Use and Institutionalized Persons Act (RLUIPA)**
  - Public Hearing agenda
  - Staff Report
  - Engrossment Notices:
    - Individual Notice No. 2013-23
    - Cities and Special Service Districts Notice
  - A-Engrossed Ordinance No. 769 filed on September 6, 2013 with CPO Notice
3. **A-Engrossed Ordinance No. 770 – Community Development Code (CDC) amendments relating to Solar and Wind Energy**
  - Public Hearing agenda
  - Staff Report
  - Engrossment Notices:
    - Individual Notice No. 2013-24
    - Cities and Special Service Districts Notice
  - A-Engrossed Ordinance No. 770 filed on September 6, 2013 with CPO Notice

**Department of Land Use & Transportation · Planning and Development Services  
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**4. Ordinance No. 772 – Development of a Residential Airpark Overlay District**

- Public Hearing agenda
- Staff Report
- Testimony
- Draft September 4, 2013 Planning Commission Hearing Transcript
- Public Notices:
  - Individual Notice No. 2013-17
  - Cities and Special Service Districts Notice
- Ordinance No. 772 filed on July 18, 2013 with CPO Notice


**5. Ordinance No. 773 – CDC amendments relating to Home Occupation Standards**

- Public Hearing agenda
- Staff Report
- Draft September 4, 2013 Planning Commission Hearing Transcript
- Public Notices:
  - Individual Notice No. 2013-18
  - Cities and Special Service Districts Notice
- Ordinance No. 773 filed on July 19, 2013 with CPO Notice

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September 16, 2013

To: Washington County Board of Commissioners  
From: Andy Back, Manager   
Planning and Development Services  
Subject: **PROPOSED LAND USE ORDINANCE NO. 772 - An Ordinance amending the Rural/Natural Resource Plan and the Community Development Code to develop a Residential Airpark Overlay District.**

**STAFF REPORT**

**For the September 24, 2013 Board of Commissioners Hearing**  
*(The public hearing will begin no sooner than 6:30 pm)*

**I. STAFF RECOMMENDATION**

Read Ordinance No. 772 by title only and conduct the first public hearing. At the conclusion of the hearing, direct engrossment of the ordinance to include the changes as shown in Attachment A and continue the hearing to October 15 and 22, 2013. Direct staff to prepare and mail notice of the amendments consistent with the requirements of Chapter X of the County Charter; and direct staff to prepare and mail an additional Type III Public Hearing Notice to owners of property within 1000 feet of the proposed Residential Airpark Overlay District consistent with CDC Section 204-4.

**II. PLANNING COMMISSION RECOMMENDATION**

The Planning Commission (PC) held its public hearing on Ordinance No. 772 on September 4, 2013. Following the staff report, an opportunity for public testimony was provided. After receiving public testimony, the PC deliberated on the ordinance and voted 4-1 to recommend the Board of County Commissioners (Board) reject Ordinance No. 772 based on the following concerns:

1. *Adequacy of public notice*
2. *Appropriate process: quasi-judicial or a combination of legislative/quasi-judicial*
3. *Ordinance does not clearly prohibit commercial aircraft activities*
4. *Ordinance does not limit number of hangars and tie-down areas to one per dwelling unit*

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Staff's responses to the Planning Commission's concerns are as follows:

1. *Level of public notice*

Staff provided notice required for legislative land use ordinances. Ordinance No. 772 and an accompanying summary were mailed to citizen participation organizations (CPOs) and interested parties on August 1, 2013. Cities, including North Plains, were also provided a copy of the hearing notice. A display advertisement regarding the proposed ordinance was published in *The Oregonian* and in the *Hillsboro Argus* on August 16, 2013. Individual Notice 2013-17 describing proposed Ordinance No. 772 was mailed to 254 people on the General Notification List on August 21, 2013. A copy of this notice was also mailed to the Planning Commission at that time. In addition, a public hearing notice (Type III Notice) was mailed to owners of property within 1000 feet of the proposed Residential Airpark Overlay District on August 14, 2013 consistent with CDC Section 204-4 (Type III Actions).

If the proposed ordinance were engrossed, a minimum of two additional public hearings by the Board of Commissioners would be held. At the direction of the Board, staff would also mail new notice of the engrossed ordinance consistent with the requirements of Chapter X of the County Charter. The Board could also direct staff to mail a Type III Public Hearing Notice to owners of property within 1000 feet (or greater) of the proposed Residential Airpark Overlay District consistent with CDC Section 204-4.

2. *Appropriate process: quasi-judicial or a combination of legislative/quasi-judicial*

The changes proposed in Ordinance No. 772 qualify as legislative because the changes include the adoption of new Community Development Regulations (Code changes) and new plan policies (Rural/Natural Resource Plan changes). The proposed Plan policy revisions will allow the application of the Residential Airpark Overlay District to other parcels or lots in the county in the future. Changes to the R/NRP also affect numerous parcels/tax lots. There are also four legally distinct property ownership interests. They are: East Orchards, LLC, April J. Jossy Revocable Trust, Robert D. Jossy, and Robert D. Jossy Revocable Trust.

Notwithstanding the above, an additional Type III Public Hearing Notice was mailed to owners of property within 1000 feet of the proposed Overlay District. The same Type III notice was also provided to owners of property within 1000 feet of the proposed overlay district expansion in Ordinance No. 721 in 2009.

3. *Ordinance does not clearly prohibit commercial aircraft activities*

Staff recommends that proposed CDC Section 389 be amended to more clearly state that all commercial aviation activities are prohibited (see Attachment A).

4. *Ordinance does not limit the number of hangars and tie-down areas to one per dwelling unit*

The Planning Commission expressed concerns with the possibility that multiple hangars and tie-down areas could be developed on a single lot/parcel and that multiple aircraft could be stored on a single lot/parcel if the ordinance was approved as filed. For the filed ordinance, staff intentionally did not propose limits on the number of personal aircraft but rather defer to the needs of the property owner. Staff did however recommend a limit of the number of hangars and tie-downs to one per lot or parcel, provided that a dwelling unit already exists on the lot or parcel. Notwithstanding, staff recommends that proposed CDC Section 389-3 (Use Permitted Through a Type I Procedure) in the filed ordinance be amended to read as follows (new sentence shown in bold):

A. Residential Airpark Development (RAD) may be authorized to allow for the addition of an individual aircraft hangar and a paved tie-down area on the same lot or parcel as an existing detached single family dwelling unit as the primary use. Each lot or parcel may be provided with a hangar and a paved tie down area. The hangar can be attached or detached to the dwelling unit. **No more than one hangar and one paved tie-down may be allowed on a lot or parcel with an existing dwelling unit. Hangars shall not be rented out.**

## II. OVERVIEW

Ordinance No. 772 proposes to add a new section (Section 389) to the Washington County Community Development Code (CDC) to create a new Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling.

Ordinance No. 772 also proposes to amend Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan to add text relating to the Residential Airpark Overlay District and to replace the existing Sunset Airstrip map with a new map that shows the Residential Airpark Overlay District boundaries.

## III. BACKGROUND

In 2003, the Private Use Airport Overlay District (CDC Section 385) was applied to Air Acres No. 1 & 2, including the airstrip, and tax lot 1N311AA01200 via Ordinance No. 609. Then in 2009, Bob and April Jossy received preliminary land use approval through Casefile 09-050-S/PLA (*Sunset Orchards Estates*<sup>1</sup>) for a 15-lot subdivision and property line adjustment. *Sunset Orchards Estates* also included tax lots 1N3110001200 and 1N3110001300. Thus, *Sunset Orchards Estates* included a total of 18 lots/parcels. Casefile 09-050-S/PLA involved lands

<sup>1</sup> Subdivision plat shows 16 lots. However, 'proposed' Lot 7 is an existing lot of record; and therefore, does not constitute a 'new' lot. Subsequently, the County approved time extension for Casefile 09-050-S/PLA and Casefile 09-308-MR. Approved phases shall be recorded by June 8, 2018. Phase I has been recorded.

designated Agriculture and Forest District (AF-5) and Rural Residential Five Acre Minimum District (RR-5). *Sunset Orchards Estates* was approved to be platted in three phases: Phase I, Lots 1-5; Phase II, Lots 6-10, plus tax lots 1N3110001200 and 1N3110001300; and Phase III, Lots 11-16. Phase I has been recorded.

In 2009, Bob and April Jossy requested that the Board expand the existing Private Use Airport Overlay district to include *Sunset Orchards Estates*, as well as four contiguous parcels under their ownership; three of these parcels are designated as Exclusive Farm Use District (EFU) and one parcel is designated as Agriculture and Forest District (AF-20). The Board authorized the filing of Ordinance No. 721 to expand the existing Private Use Airport Overlay district as requested. The existing Private Use Airport Overlay District authorizes a greater number of uses commonly associated with airports. These include air passenger and air freight services, flight training, aircraft sales and rentals.

In 2009, the Department of Land Conservation and Development (DLCD) did not support expanding the existing overlay. DLCD submitted a letter objecting to expanding the number and types of airport uses to an area primarily intended for rural residential or residential airpark development. Although DLCD's letter expressed support for limited residential airpark development, the letter objected to the county "...authorizing the full range of airport uses or treating this area as part of the [*Sunset Airstrip*] airport boundary."

The Board and staff did not support the request to expand the private airport land use overlay to include *Sunset Orchards Estates* and the contiguous EFU and AF-20 parcels. Staff recommended denial of the ordinance based on DLCD's comments and Board concerns. The Board rejected Ordinance No. 721 and the existing district was not expanded.

On January 25, 2013 Bob and April Jossy submitted a request to the 2013 Work Program to allow the development of a residential airpark overlay and apply it to *Sunset Orchards Estates* and the three contiguous EFU parcels and one contiguous AF-20 parcel under their ownership. There were two additional requests for the same ordinance. Air Acres HOA (dated February 19, 2013) and Cliff Gerber (dated January 14, 2013) both requested that the Board allow the development of a residential airpark overlay and apply it to *Sunset Orchards Estates*.

On March 26, 2013 the Board approved the 2013 Work Program (Minute Order #13-68) and also authorized the filing of Tier 1 and Tier 2 ordinances. The residential airpark overlay district ordinance was a Tier 1, Rural Priority task. In addition, as is the practice concerning a property owner requested legislative ordinance, Bob Jossy remitted an ordinance processing deposit and fee contract on July 10, 2013.

The lands proposed to be designated with the Residential Airpark Overlay District are owned by Bob and April Jossy, and consist of approximately 79 acres that are designated AF-5 and RR-5, and approximately 20 acres that are designated EFU (three parcels) and AF-20 (one parcel). The lands are located on the south side of Highway 26 (south of the City of North Plains), west of Glencoe Road and on either side of *Sunset Airstrip*.

The three EFU parcels and one AF-20 parcel referenced previously are not in *Sunset Orchards Estates*. Consequently, when Phases II and III of *Sunset Orchards Estates* are platted and if the proposed Residential Airpark Overlay District is adopted to include the EFU and AF-20 parcels, a total of 22 lots/parcels would be designated with the new overlay district.

After coordination with the Port of Portland, Oregon Department of Aviation, and DLCD as well as Bob Jossy and Air Acres representatives, county staff filed Ordinance No. 772 on July 18, 2013.

#### IV. ANALYSIS

##### *Description of Proposed Changes in Filed Ordinance*

###### Exhibit 1 - CDC Changes: new Section 389

The proposed regulations would apply to rural lands adjacent to Sunset Airstrip (see proposed new map in Exhibit 2). The proposed Residential Airpark Overlay District (RAOD) would allow limited accessory uses commonly associated with the adjacent airstrip. Uses identified in proposed CDC Section 389-3 include limited accessory uses and structures, such as aircraft hangars, aviation fuel storage, and aircraft taxi-ways. These uses would only be allowed when constructed on a lot or parcel with an existing dwelling.

By way of contrast, the existing private airport land use overlay in CDC Section 385, which applies to Sunset Airstrip and Air Acres No. 1 & 2 and tax lot 1N311AA01200, authorizes a greater number of uses commonly associated with airports. These include air passenger and air freight services, flight training, aircraft sales and rentals. As stated previously, DLCD objected to expanding this district to include *Sunset Orchards Estates*.

The proposed RAOD in new CDC Section 389 does not authorize the same broad list of airport uses allowed under existing CDC Section 385. The RAOD only permits limited accessory uses, such as an aircraft hangar, when constructed on a lot or parcel that has an existing dwelling unit. The RAOD does not authorize new residential uses on vacant parcels; rather, the allowance of a new residential use on any parcel within the RAOD is subject to the requirements of that parcel's underlying land use district.

When a dwelling unit is allowed on a property in accordance with the requirements of the underlying land use district, proposed CDC Section 389-4 will require the property owner to submit a copy of a signed and recorded waiver of the right to remonstrate against customarily accepted airstrip and airpark uses to the Department of Land Use and Transportation prior to issuance of a building permit for the dwelling. The purpose of this requirement is to ensure that current and future residents are aware of the adjacent airstrip activities and allowed airpark uses.

Lastly, the RAOD does not automatically allow lots and parcels to access the existing airstrip. If Ordinance No. 772 is adopted, owners of property with the airpark overlay district designation must obtain permission to access the airstrip from Air Acres HOA.



Exhibit 2 - Rural/Natural Resource Plan Changes: amended Policy 28

Proposed amendments to Policy 28 are needed to allow the designation of properties with the Residential Airpark Overlay District. New implementing strategies g. and h. (shown below) constitute enabling provisions that may be utilized to authorize the Residential Airpark Overlay District.

g. Allow Residential Airpark Development in a Residential Airpark Overlay District.

h. Ensure that future Residential Airpark Development is compatible with the continued operation of adjacent private airstrips.

The existing Sunset Airstrip map would also be replaced with a new map showing the Residential Airpark Overlay District boundaries if Ordinance No. 772 is approved.

***Agency Responses to the Filed Ordinance***

Prior to filing the ordinance, staff contacted the following agencies. Staff also provided a copy of the filed ordinance for their review and comment.

Port of Portland: Jason Gately, Planning and Development, commented that the Port of Portland does not have any concerns with the proposed Residential Airpark Overlay District regulations or boundaries.

Oregon Department of Aviation (ODA): Jeff Caines, Aviation Planner/SCIP Coordinator, reviewed the filed ordinance, and commented that ODA does not have any concerns with either the proposed Residential Airpark Overlay District regulations or boundaries.

DLCD: In a letter dated August 20, 2013, Anne Debbaut, DLCD's Metro Regional Representative, expressed concerns with the proposed RAOD's inclusion of four parcels having exclusive farm use designations (EFU and AF-20). Ms. Debbaut stated that non-farm uses (e.g., aircraft hangars) are not permissible accessory uses on land with an exclusive farm use designation, and requested that the ordinance be revised as necessary to make it clear that exclusive farm use lands were not included in the proposed overlay district. Ms. Debbaut concluded that the overlay district may not allow uses that are not allowed in the base zone, and that the overlay district map should be amended to include only those areas having a rural residential land use designation.

***Staff Response to DLCD Comments***

As noted previously, the proposed RAOD in the filed ordinance includes three EFU parcels and one AF-20 parcel. Their inclusion was requested by Bob Jossy, who owns the properties and who requested the filing of this ordinance. When Ordinance No. 772 was filed, staff believed that inclusion of these exclusive farm use properties within the RAOD was appropriate for the following reasons:

- In 2009, DLCD submitted a comment letter in response to Ordinance No. 721, which was a proposal to expand the existing Private Use Airport Overlay District to the same group

of properties that are currently proposed to be located in the RAOD – including the same exclusive farm use properties. DLCD’s letter expressed opposition to the idea of authorizing the full range of airport uses or treating this area as part of the Sunset Airstrip airport boundary. However, DLCD’s letter expressed support for limited residential airpark development in the area, which is consistent with the limited allowances reflected in the RAOD as described in Ordinance No. 772.

- ORS 215.213(2)(h) allows establishment of personal use airports on lands with an exclusive farm use designation, if provisions including ORS 215.296 (the “impact test”) are met. Personal use airports consist of a broader and more intensive array of airport uses than what is proposed to be allowed by the RAOD in Ordinance No. 772. A personal use airport use allows an airstrip for the owner’s use, as well as hangar(s), maintenance and service facilities. In contrast, the proposed Residential Airpark Overlay District allows only a hangar, paved tie-downs and taxiways.
- RAOD uses are only allowed on parcels with existing residential uses. The exclusive farm use parcels within the proposed RAOD would not be eligible for RAOD uses unless dwellings are approved on these parcels pursuant to statutory and county requirements for approval of dwellings on exclusive farm use lands, including the “income test” requirements. (Currently, the AF-20 parcel on the south side of the proposed overlay district has a dwelling, but the three EFU parcels on the north side of the proposed overlay district do not have dwellings).

However, in response to DLCD’s August 20<sup>th</sup> letter, staff has examined the above rationale more closely and now believes that it may be problematic in at least two respects:

1. The inclusion of the exclusive farm use parcels within the RAOD appears to require findings that address ORS 215.296 (the “impact test”), and such findings have not been presented by any party as part of the development of this ordinance.
2. The proposed RAOD authorizes the limited uses of hangars, paved tie-downs and taxiways as uses accessory to residential uses. However, for exclusive farm use parcels, allowed accessory uses are limited to accessory uses in conjunction with farm use. Therefore, allowance of RAOD uses on exclusive farm use parcels would require demonstration that the RAOD uses are in conjunction with farm use (e.g., the hangar is required for a crop-dusting plane and may not be used for sheltering recreational aircraft). This demonstration has not been made at this time.

After further discussions with County Counsel, it was determined that additional legal barriers exist to including resource lands in the proposed Overlay District. Ownership is a key barrier to including the EFU and AF-20 lands in the overlay district and to construct a hangar on resource lands. ORS 215.213.2.h. requires ownership interest in Sunset Airstrip. Sunset Airstrip is owned by Roth Development. Therefore, Bob and April Jossy do not have an ownership interest in Sunset Airstrip.

Another barrier related to qualifying for a personal use airport requires findings that said airport will comply with ORS 215.296 (impact test). Findings demonstrating compliance with ORS 215.213.2.h. and ORS 215.296 (impact test) have not been provided by any party.

***Larry Derr's Response to DLCD Comments***

Attorney Larry Derr represents Bob and April Jossy, proponents of Ordinance No. 772. On September 4, 2013 he submitted written testimony responding to the objections raised in the August 20, 2013 letter from DLCD.

In brief, Mr. Derr contends that the proposed ordinance as filed, which includes resource lands, is consistent with state law because the proposed overlay district does not extend the boundaries of the existing Private Use Airport Overlay District (adopted 2003). The proposed ordinance only allows residential airpark development, as a new use. Consequently, Mr. Derr believes that the proposed Residential Airpark Overlay District is consistent with recommendations made in 2009 by Dale Blanton of DLCD.

In addition, according to Mr. Derr's reading of Mr. Blanton's 2009 correspondence, the proposed uses were residential and not airport uses subject to the Airport Planning statutes and rules. The proposed ordinance also does not authorize new dwellings, thus it is irrelevant what the underlying land use district is (e.g., EFU and AF-20).

***Staff Response to Larry Derr's September 4, 2013 letter:***

With the exception of the three EFU parcels and one AF-20 parcel in question, all of the lands proposed to be within the overlay district are exception lands: AF-5 and RR-5. The AF-5 and RR-5 Districts are *rural residential* lands; whereas AF-20 and EFU are not residential lands. They are resource lands (non-exception lands).

Mr. Derr is correct in that the proposed overlay district is not an expansion of the existing Private Use Airport Overlay District. However, the proposed residential characteristics (one dwelling on a lot/parcel) are not consistent with uses allowed by right on resource lands. Pursuant to CDC Section 348-2.3, one detached dwelling unit is allowed on a lot of record or legally created lot in the AF-5 District through the Type I Procedure. The same is true in the RR-5 District (CDC Section 350-2.2). Consequently, staff believe that allowing **residential** (emphasis added) airpark development on resource lands is not consistent with state law concerning the preservation and protection of farm land (resource land).

Therefore, staff continues to recommend that Ordinance No. 772 be engrossed to remove the four exclusive farm use parcels from the RAOD map and to add language clarifying that all commercial aviation activities are prohibited and that only one hangar and one tie-down area are allowed on a lot/parcel with an existing dwelling, as shown in Attachment A.

# ATTACHMENT A

Ordinance No. 722 Board of Commissioners Staff Report for September 24, 2013 – Page 1 of 2

## Recommended Exhibit 1 changes:

1. Amend proposed CDC Section 389-3 (Use Permitted Through a Type I Procedure) to read as follows (new sentence is shown in bold):

A. Residential Airpark Development (RAD) may be authorized to allow for the addition of an individual aircraft hangar and a paved tie-down area on the same lot or parcel as an existing detached single family dwelling unit as the primary use. Each lot or parcel may be provided with a hanger and a paved tie down area. The hanger can be attached or detached to the dwelling unit. **No more than one hangar and one paved tie-down may be allowed on a lot or parcel with an existing dwelling unit. Hangars shall not be rented out.**

2. Add a new Prohibited Uses section (noting that currently proposed Property Owner Notification would be renumbered as 389-5 in the engrossed ordinance):

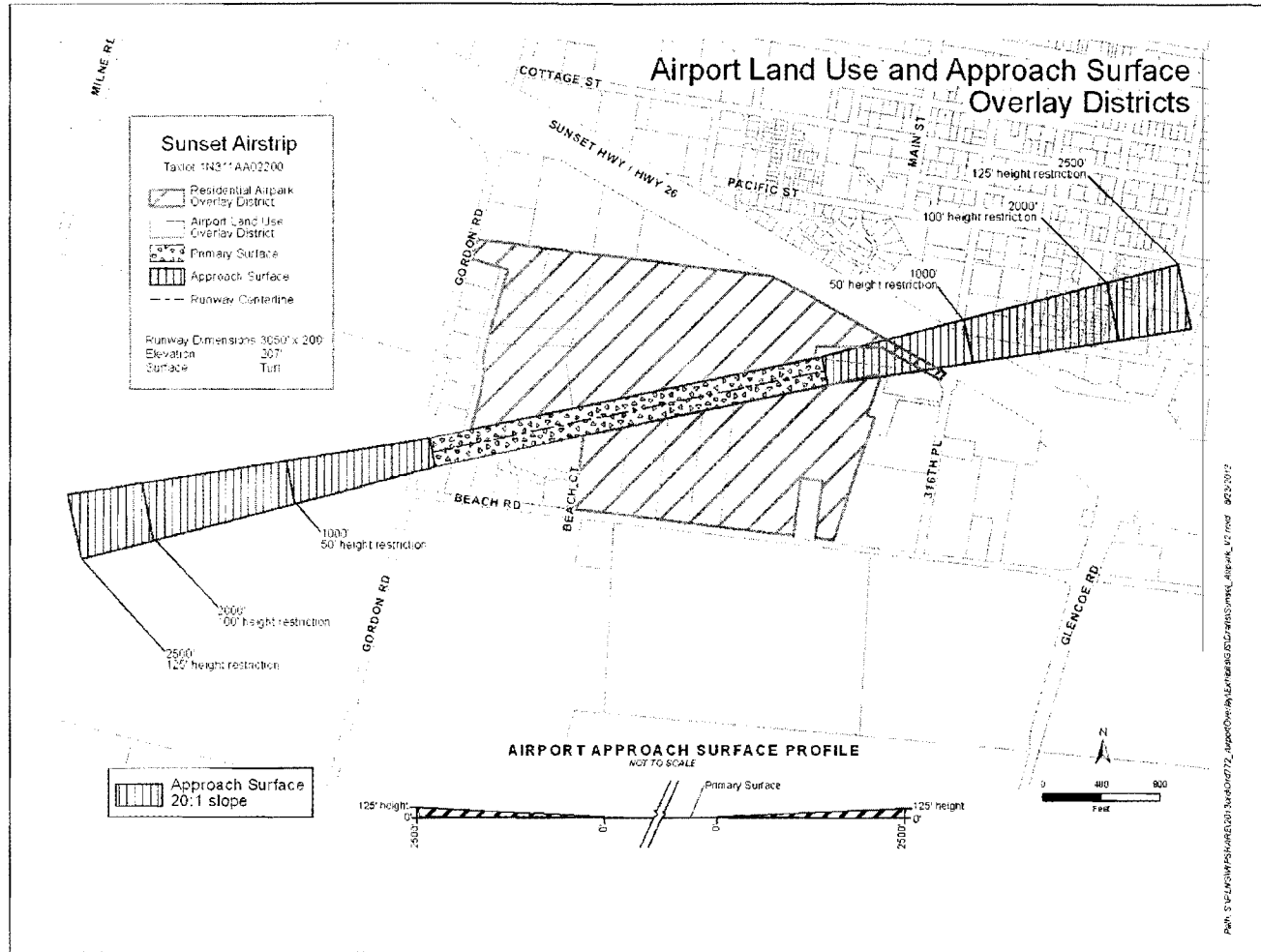
### 389-4 Prohibited Uses

Unless authorized by the process outlined for the AF-5 and RR-5 Districts, all commercial aviation activities, including but not limited to flight training, commercial aircraft sales and repairs, commercial fueling operations, are prohibited.

# ATTACHMENT A

Ordinance No. 722 Board of Commissioners Staff Report for September 24, 2013 – Page 2 of 2

## Recommended Exhibit 2 changes:



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Ordinance No. 772  
Residential Airpark Overlay District



September 24, 2013 Board of Commissioners Hearing

## Proposed Amendments

- Requested by property owners & Air Acres HOA
- BCC directed staff to work on this as part of 2013 Work Program
- **Adds** CDC Section 389, Residential Airpark Overlay District
- **Amends** Policy 28 of the Rural/Natural Resource Plan



## Key Rural/Natural Resource Plan Policy 28 Revisions

- Allows a Residential Airpark Overlay District
- Allows Residential Airpark Development
- Updates Sunset Airstrip map





## Key CDC Provisions

Adds Section 389 (Residential Airpark Overlay District):

- Allows limited airport-related accessory uses
  - Hangars and tie-down areas
  - Aviation fuel storage
  - Aircraft taxi ways
- Applies to lots within the overlay district
- Requires an existing dwelling
- Does not authorize new dwelling units



# Sunset Airstrip Vicinity Map



## Previous Sunset Airstrip Planning

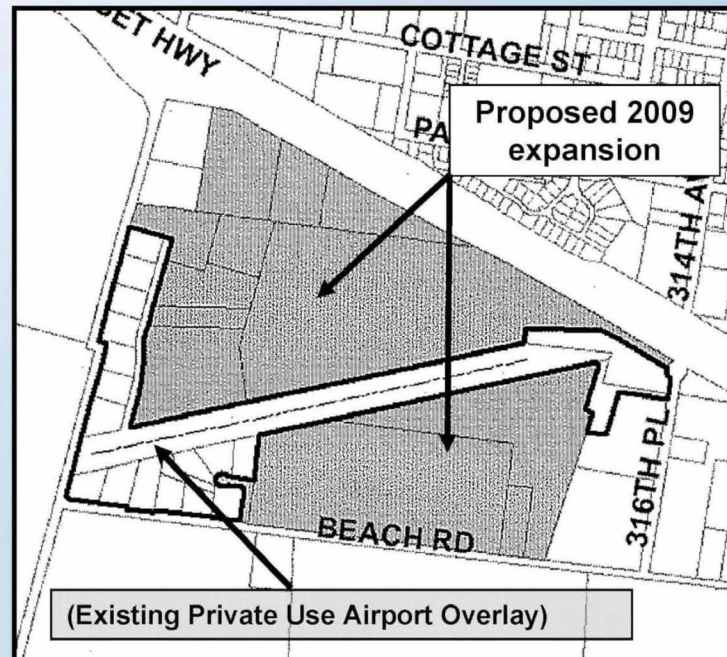
Private Use Airport Overlay (CDC Section 385) was applied to Air Acres 1 & 2 and 1N311AA01200 in 2003 via Ord. No. 609

- 16 existing homes

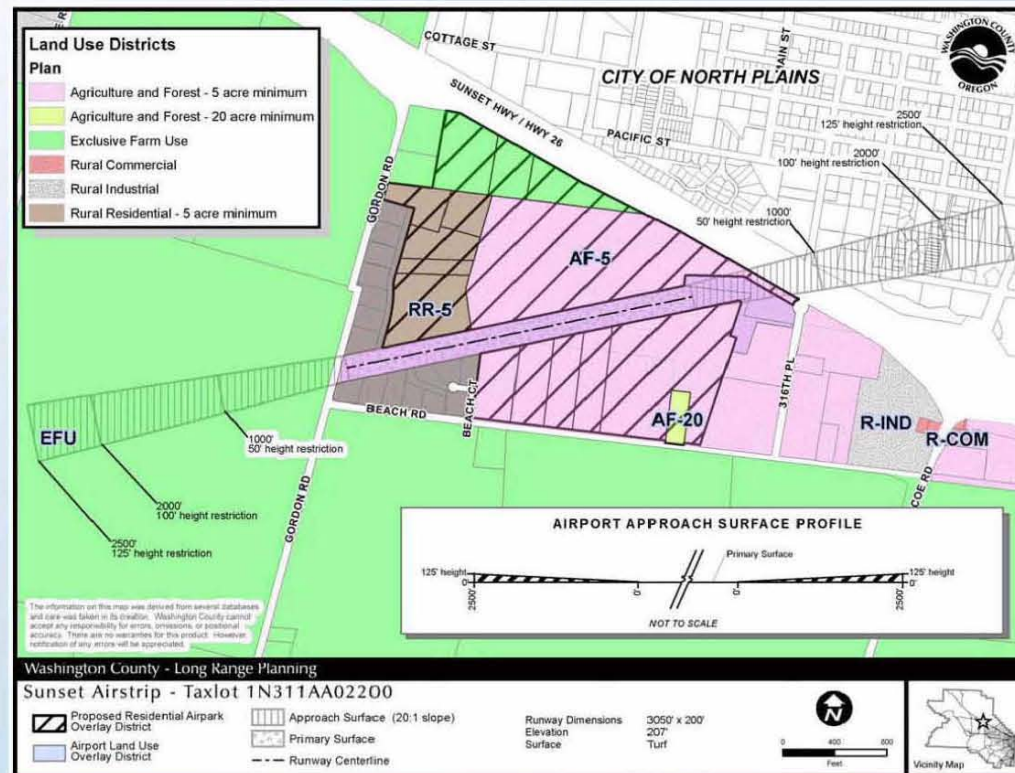


## 2009 Property Owner Request

- Expand Sunset Airstrip Private Use Airport Overlay
- DLCD objected due to number of allowed airport-related uses
- Board rejected Ordinance No. 721



# Land Use & Proposed Residential Airpark Overlay District (as filed)



## Comparison of Allowed Uses

<b>CDC Section 385: Existing Private Use Airport Overlay</b>	<b>CDC Section 389: Proposed Residential Airpark Overlay</b>
<ul style="list-style-type: none"><li>• Hangars and tie-down areas</li><li>• Aviation fuel storage</li><li>• Aircraft taxi ways</li><li>• Numerous other uses, including flight instruction facilities</li></ul>	<ul style="list-style-type: none"><li>• Hangars and tie-down areas</li><li>• Aviation fuel storage</li><li>• Aircraft taxi ways</li></ul> <p><i>(only when constructed on a lot/parcel with an existing dwelling)</i></p>



## PC Recommendation

- Reject Ordinance No. 772



## Staff Recommendation

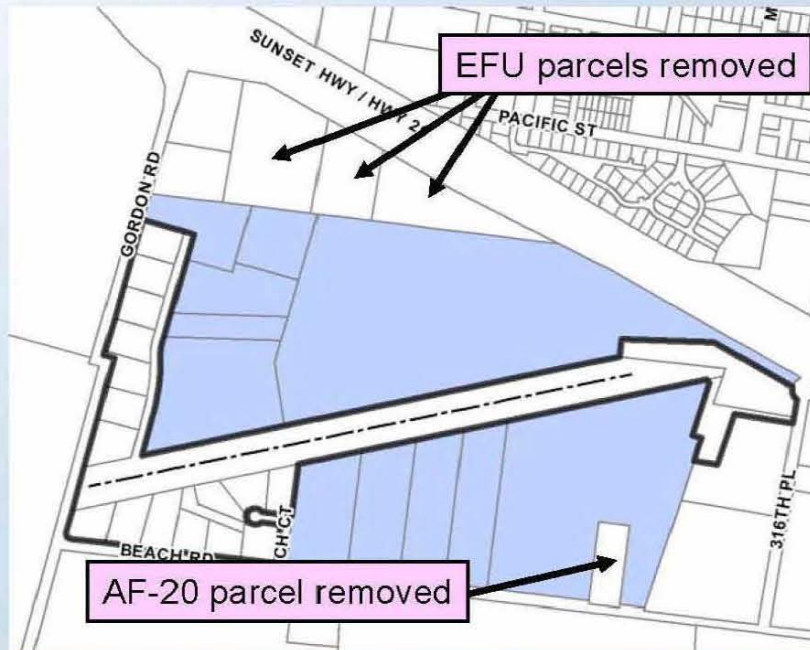
**Engross Ordinance No. 772 to include the following changes:**

- Remove the three EFU parcels and one AF-20 parcel
- Clarify that only 1 hangar and 1 tie-down are allowed per lot
- Prohibit commercial aviation activities, except as may be allowed in the AF-5 and RR-5 Districts
- Prohibit renting of personal hangars





## Proposed Engrossment (Exhibit 2)



## Questions ?

For more information, please contact:

Paul Schaefer, Senior Planner

[Paul\\_Schaefer@co.washington.or.us](mailto:Paul_Schaefer@co.washington.or.us)

503-846-8817



The End



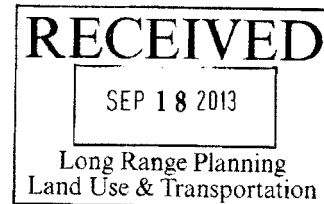
**CHADWICK COMPANY  
REAL ESTATE LLC**

P.O. BOX 579  
BANKS, OREGON 97106-0579

(503) 324-7255  
chadco@chadcorealestate.com

September 18, 2013

Washington County, Department of Land Use & Transportation  
Planning and Development Services, Long Range Planning  
155 N. First Ave., Suite 350-14  
Hillsboro, OR 97124-3072



RE: Ordinance 772

To Whom It May Concern:

I would like to register my support of Ordinance 772 as it pertains to the property owned by Bob Jossey at Sunset Airstrip. I live at 17130 NW Hofer Road, Banks, Oregon where we own a private airstrip, OR27, six miles northwest of Sunset Airstrip. I have been flying airplanes for 50 years and been an Oregon licensed real estate broker for over 42 years. There is an extreme shortage of land for people that want to live and fly at a residential airstrip in the Portland Metropolitan Area. Sunset Airstrip is the best residential airstrip in that area. Aviation needs to be supported to keep the public flying and maintain that national asset.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Chadwick".

Ed Chadwick  
cc: Paul Schaefer by fax

17962Washington County.ltr

**RECEIVED**

SEP 18 2013

Long Range Planning  
Land Use & Transportation

**CHADWICK COMPANY  
REAL ESTATE LLC**

P.O. BOX 579  
BANKS, OREGON 97106

(503) 324-7255  
FAX (503) 324-3032  
EMAIL chadco@chadcorealestate.com

FAX

DATE: September 18, 2013  
TO: Mr. Paul Schaefer, Senior Planner  
Washington County  
Fax: 503-846-4412  
FROM: Ed Chadwick  
RE: Ordinance 772

---

Please see attached letter regarding Ordinance 772.

ERC  
Attachment

TOTAL NUMBER OF PAGES, INCLUDING THIS PAGE: 2  
17962Schaefer.fax

By Fax: 503-846-4412

Washington County, Department of Land Use & Transportation  
Planning and Development Services, Long Range Planning  
155 N. First Ave., Suite 350-14  
Hillsboro, OR 97124-3072

Re: Proposed Ordinance No. 772

Commissioners:

Please submit this letter to the Washington County Board of Commissioners for its hearing on September 24, 2013.

I am Bob Jossy; my wife April and I own the land adjacent to the Sunset Airstrip that is proposed for application of the new Residential Airpark Overlay District.

We are asking that the Washington County Board of Commissioners pass Ordinance No. 772.

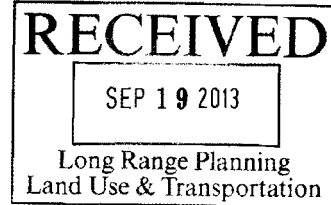
We have an approved subdivision around the Sunset Airstrip. Our goal is to create a subdivision that is cohesive and united in conjunction with that airstrip and the 18 homes already associated with the Airstrip. We want the owners of these new homes in the subdivision to be part of the airstrip, thus trying to minimize conflict. In Ordinance No. 772 there is language that states prior to issuance of a building permit for a single family dwelling, the owner must sign and record a waiver not to remonstrate against customarily accepted airstrip and airpark uses. That is a powerful tool for the homeowners that are currently on the airstrip and those that will be associated with the Sunset Airstrip. If Ordinance 772 is not passed the current homeowners will be associated with the airstrip and new homeowners next to the airstrip would not be associated with the airstrip. These new homeowners would therefore not be bound by the regulations of the Airpark overlay. This situation could easily create conflict.

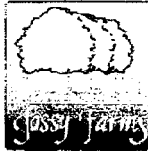
We are not asking to allow the building of homes where they could not ordinarily be built, the underlying zoning regulates that. We are asking that if a home is built, the owner be under the regulation of the Residential Airpark Overlay District. A change from our previous communication to the planning commission is that we are no longer asking for the EFU and AF-20 parcels to be part of the Residential Airpark Overlay District because of DLCD concerns about their land designations.

We have been working to develop this land since 1996. We have run into many roadblocks since then. We have this one last governmental task, to pass ordinance 772. With the passage of Ordinance 772 we would be able to create a cohesive private airstrip community.

Thank you for your consideration

Bob Jossy





**Jossey Farms**

31965 NW Beach Rd.  
Hillsboro, OR 97124  
503-647-5234 Fax # 503-647-0492

Washington County  
 To: Dept. of Land Use & Transportation From: Bob & April Jossey  
 Fax #: 503-846-4412 Date: 9-18-2013  
 Phone: 503-846-8817 Pages: 2  
 Re: Ordinance No. 722 CC:

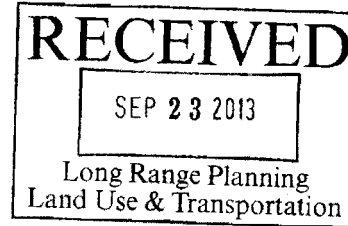
Urgent  For Review  Please Comment  Please Reply  Please Recycle

•Comments

For the Planning and Development Services  
 Long Range Planning

Cliff Gerber  
18406 Nixon Ave  
West Linn, OR, 97068  
c: 503-313-0840  
[Cliff@GerberDesign.biz](mailto:Cliff@GerberDesign.biz)

September 22, 2013



To: Board of Washington County Commissioners,

Re: Ordinance 772

Dear Board of Washington County Commissioners,

My name is Cliff Gerber. I have lived in the Portland metropolitan area for over 20 years. I've enjoyed a successful career, raising my family and becoming a member of the vibrant aviation community in the Willamette Valley.

I am writing today in support of Ordinance 772 for multiple reasons. Primarily, I would like to live at Sunset Airpark because it is within a reasonable distance to my work and family. I have visited airparks all over the west and find Sunset Airpark suits me best, mainly due to its proximity to Portland and the generous length of runway.

Sunset Airpark is an ideal location for a residential airpark. It is in a rural area, giving it space from other residential neighborhoods, and it is adjacent to a Highway 26, providing access to all that the Sunset Corridor has to offer.

The runway at Sunset airpark is unique in its 3,000' length, 200' width and lack of obstructions at both ends. This generous runway length provides for the comfort of safe take-offs and landings. Most Airparks have less than 3,000' runways.

Sunset Airpark is located within the Hillsboro class D airspace, which means aircraft will not loiter in the area. Aircraft will communicate with Hillsboro tower for take-offs and landings and will expedite to and from the area.

Sunset Airpark has been established for years as a typically quiet residential airpark community. Pilots tend to be willing to go out of their way to help other pilots in need, and airpark communities are typically tighter knit than most. Private Pilots and people who love aviation enjoy sharing their stories of adventures and plans to travel to common destinations. Living at an airpark is not about commercial operations, it is about a life's passion and personal activities to pursue that passion.

I don't think the county needs to include overly restrictive details in the RAOD text, as the HOA will self-govern the activities of the airpark. Airpark residents do enjoy seeing other aircraft. However, excessive use and abuse of the privilege to live at an airpark, would find quick opposition within the airpark community itself.

One issue I have heard brought up, during previous hearings, is limiting the number of planes a resident may have in their hangar. Pilots love planes and often have more than one. They can only fly one at a



time, and having more than one aircraft does not necessarily increase flight operations. Limiting the number of aircraft within a single hangar, along with the increased cost of AF-5 zoning minimum of four acres, would limit the appeal of the airpark to potential residents. I could see the HOA limiting aircraft tied down outside to a single aircraft and visiting aircraft allowed for a limited period of time. Again, the HOA, with its voting members, would likely keep a keen eye on maintaining an enjoyable community environment.

In summary, I hope the text of the RAOD is kept as simple as possible, allowing underlying zoning and HOA regulations to rule the land. I believe the Sunset Airpark could continue to grow as a pleasant place for aviators to live and enjoy their passion, as well as continuing to be a vibrant component of the broader community. I look forward to you passing Ordinance 772, so that I may someday live there, along with other like-minded aviators.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Cliff Gerber', with a long horizontal flourish extending to the right.

Cliff Gerber



# Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

Community Services Division

Portland Metro Regional Solutions Center

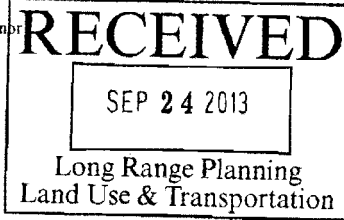
1600 SW Fourth Ave., Suite 109

Portland, Oregon 97201

503.725.2182

[anne.debbaut@state.or.us](mailto:anne.debbaut@state.or.us)

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



September 24, 2013

SENT VIA E-MAIL



Suzanne Savin  
Washington County Planning & Development Services  
155 N 151 Ave, Suite 350 MS 14  
Hillsboro, OR 97124

Re: Notice of Proposed Amendment; Addition of Section 389 to the Community Development Code relating to the Residential Airpark Overlay District (RAD) and Amending Policy 28 (Airports) of the Rural/Natural Resource Plan; DLCDC File No. PAPA 012-13; Washington County Ordinance No. 772

Dear Suzanne,

Thank you for the opportunity to provide additional comment on the proposed Comprehensive Plan and Community Development Code amendments relating to the Residential Airpark Overlay District, Policy 28 (Airports) and including a new map showing the Residential Airpark Overlay District Boundaries. Please enter these comments into the record for this plan amendment and the proceedings of the September 24, 2013 Board hearing.

These comments address the information from former DLCDC staff, Dale Blanton, that was referenced in materials provided to the Planning Commission. Mr. Blanton's September 1, 2009 email attempted to provide guidance on the County's previous (2009) proposal; however, there seems to have been a misinterpretation of one of Mr. Blanton's comments. His email stated, "Approval of residential airpark development is a local option as long as the proposed residential use is permitted in the area and consistent with applicable planning requirements (e.g. inside an urban growth boundary, within a rural community or within an exception area)". However, the subject amendments proposed to the Planning Commission were not only to such lands, they also included Exclusive Farm Use land. The underlying zoning does affect the overlay validity. The issue with the proposed application of the overlay district to the EFU zone is that hangars, tie-down areas and taxiways are not accessory uses to dwellings; they are considered transportation-related uses that are not generally allowed in EFU zones. We concur with the staff recommendation to not include the EFU and AF-20 zoned lands in the Airpark Overlay District.

Please let me know if I can provide any further information or assistance.

Best Regards,

**Anne Debbaut** | Metro Regional Representative  
Department of Land Conservation and Development  
[anne.debbaut@state.or.us](mailto:anne.debbaut@state.or.us)  
503.725.2182

cc: Paul Schaefer, Washington County (email)  
Katherine Daniels, Gary Fish, Rob Hallyburton, DLCDC (email)  
DLCDC Staff Files (email)

Angie Aguilar

**From:** James Lubischer [annejim1@clear.net]  
**Sent:** Tuesday, September 24, 2013 4:39 PM  
**To:** County Administrative Office  
**Subject:** Testimony for Ordinance No. 772, first public hearing 9-24-13  
**Attachments:** Nigg 2010 low low Pb ADD (hilites) .pdf; ATT706502.htm; Schneider 2003 STUDY highlighted.pdf; ATT706503.htm

Washington County Board of Commissioners,

RECEIVED

9-24-13 (1638 PST)

SEP 24 2013

Washington County Board or Commissioners,

WASHINGTON COUNTY  
BOARD OF COMMISSIONERS OFFICE

Re: Ordinance No. 772

Please accept this email as testimony regarding Ordinance No. 772. I will be unable to attend the Board's first public hearing tonight.

I encourage the Board to affirm the Planning Commission's rejection of Ordinance No. 772 because of the reasons they have stated. In addition:

- 1) The record does not show that the "Sunset Airport" meets the definition of an airport as specified in ORS 836.605 (2) which states, "Airports" means the strip of land used for taking off and landing aircraft, together with all adjacent land used in 1994 in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for the existing commercial and recreational airport uses and activities as of December 31, 1994. [1995 c.285 §3]
- 2) The record does not show that the proposed properties to be affected by Ord. No 772 meet the "all adjacent land used in 1994" qualifier in ORS 836.605 (2).
- 3) The record also does not contain evidence that the Sunset Airport and proposed affected properties are compliant with ORS 836.608 (1&2), which states, "(1) The continued operation and vitality of airports registered, licensed or otherwise recognized by the Department of Transportation on December 31, 1994, is a matter of state concern. (2) A local government shall recognize in its planning documents the location of private-use airports and privately owned public-use airports not listed under ORS 836.610 (3) if the airport was the base for three or more aircraft, as shown in the records of the Department of Transportation, on December 31, 1994. Local

9/25/2013

planning documents shall establish a boundary showing areas in airport ownership, or subject to long-term lease, that are developed or committed to airport uses described in ORS 836.616 (2). Areas committed to airport uses shall include those areas identified by the airport owner that the local government determines can be reasonably expected to be devoted to airport uses allowed under ORS 836.616 (2).

4) The commissioners should be aware that aviation activity creates noise and pollution which extends beyond the property lines of the airport properties. One pollutant in particular is lead which contributes to the development of Attention Deficit Hyperactivity Disorder (ADHD) in children. The CDC has stated that there is NO SAFE LEVEL OF LEAD IN A CHILD'S BLOOD. Allowing an expansion of aviation activity via Ordinance No. 772 benefits a few aviation hobbyists at the expense of our children's neurologic development. The costs of ADHD to the individual and to our society is incalculable. Please reject Ord. No. 772 for the good of Washington County. (See attachments below.)

Thanks,

Jim Lubischer  
503-828-7406

9/25/2013



# NIH Public Access Author Manuscript

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## Confirmation and Extension of Association of Blood Lead with Attention-Deficit/Hyperactivity Disorder (ADHD) and ADHD Symptom Domains at Population-Typical Exposure Levels

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### Abstract

**BACKGROUND**—Recent studies have suggested that child ADHD and its symptom domains are related to blood lead level, even at background exposure levels typical in western countries.

However, recent studies disagreed as to whether lead was related to inattention or hyperactivity-impulsivity within the ADHD domain. More definitive evaluation of these questions was sought.

**METHODS**—236 children aged 6–17 years participated (61 ADHD-Combined type, 47 ADHD Predominantly Inattentive type, 99 non-ADHD control, 29 unclassified borderline, situational, or NOS cases). Formal diagnosis was reliably established by a best estimate procedure based on a semi-structured clinical interview and parent and teacher ratings. Lead was assayed from whole blood using inductively coupled plasma mass spectrometry with a method detection limit of 0.3 µg/dL.

**RESULTS**—Blood lead levels were slightly below United States and Western Europe population exposure averages, with a mean of 0.73 and a maximum of 2.2 µg/dL. This is the lowest level of blood lead ever studied in relation to ADHD. After statistical control for covariates including IQ and prenatal smoking exposure, blood lead was associated with ADHD-combined type but not inattentive type. Parent and teacher report indicated association of blood lead with Conners cognitive problems, but only teacher report showed effects on DSM-IV inattention symptoms. Blood lead was associated with hyperactivity-impulsivity in parent report regardless of measurement method, whereas teacher report effects depended on child treatment history.

**CONCLUSIONS**—These findings confirm that in children with typical U.S. population lead exposure, careful identification of children with ADHD also identifies children with slightly elevated blood lead.

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**Keywords**

ADHD; hyperactivity; inattention; blood lead

Attention deficit hyperactivity disorder (ADHD) occurs in 3 to 7% of children, with etiology believed to be multifactorial. The DSM-IV (APA, 2000) specifies three clinical subtypes: predominantly hyperactive (ADHD-PH), predominantly inattentive (ADHD-PI), and combined (ADHD-C). The subtypes are arrived at through combinations of two primary symptom dimensions: inattention-disorganization, and hyperactivity-impulsivity. These symptom domains may have partially distinct etiological inputs (Nigg, 2006). Because they appear to be an extreme of a behavioral continuum, the symptom dimensions also serve as useful foci to study etiology. Indeed, a factor analytic tradition has arrived at related but slightly different item sets than DSM-IV to capture population variation in "cognitive problems" and hyperactivity/impulsivity (e.g., Conners et al., 2007).

Lead exposure via water, soil, and other sources remains a worldwide health concern (Centers for Disease Control, 2005). Blood lead above 10 µg/dL has been associated reliably with ADHD and related behaviors, with the only real dispute being the magnitude of the effect (Burns et al., 1999; Silva, Hughes, Williams, & Faed, 1988; Thomson et al. 1989). Regulation of commercial uses of lead has markedly reduced the incidence of frank lead poisoning in recent decades in the U.S. (CDC, 2005), Western Europe (e.g., Delschen, Machtolf, Sugiri, & Wilhelm, 2008), and Scandinavia (Stromberg, Lundh, & Skerfving, 2008). Perhaps as a result, lead exposure has not been highlighted as an ongoing concern related to ADHD.

This reassuring picture, however, is eroding. Even at lower blood levels (< 10 µg/dL) lead has been linked to reduced intellectual functioning (IQ; Lanphear et al., 2005). Recent findings point to an association with ADHD as well, even at low exposures. Three years ago, Braun, et al. (2006), in a US population survey, found that blood lead was related to parent report that their child was diagnosed or treated for ADHD. This effect held even at blood levels below 5 µg/dL (i.e., children with blood lead > 2 µg/dL were more like to have ADHD than children with blood lead < 0.7 µg/dL). One year later, Chiodo et al. (2007) reported that blood lead was related to teacher rated symptoms of inattention and activity, but not impulsivity, using the Conners rating scales and other standard scales in a high-risk sample. The next year Nigg et al (2008) conducted the first low-level lead study of children formally diagnosed with ADHD. Blood lead was related to ADHD and to parent reported DSM-IV symptoms of hyperactivity but not inattention. Those results supported an association to ADHD but appeared partially to contradict Chiodo et al (2007) as to the affected symptom domain.

The present study sought more definitive evaluation in a larger, well-diagnosed sample. The aim was to scrutinize relations with both DSM-IV and Conners ratings, by both parent and teacher report, so as to confirm and extend prior findings as well as to clarify the apparent contradiction in the last two studies reported. Dozens of potential confounds have been ruled out in relation to lead exposure and ADHD (Chiodo et al. 2007; Silva, et al., 1988; Thomson et al. 1989), but mostly at higher lead exposure levels. Thus, an expanded set of confounders and covariates was also considered here, as outlined in Methods.

Confirmation of the association of ADHD with lead exposure even at very low blood lead levels would be of major importance to public health, because exposure levels in the range of 1–5 µg/dL remain very common. Yet, most public authorities continue to use 10 µg/dL as the criterion of concern. If the association of low levels of lead exposure with ADHD is

verified, it opens the potential for new insights into the etiology of ADHD, because lead can serve as a model insult affecting frontal-striatal circuitry in ways that are relatively well understood. It also could open potential new opportunities for study of susceptibility-insult or gene by experience models. It could also provide clues to prevention via dietary supplementation (Kordas et al., 2007), via renewed caution before introducing new toxins into children's environments, or via aggressive efforts to continue to eliminate all lead exposure.

## METHODS

### Participants

**Recruitment and Evaluation**—Participant recruitment and characterization followed the same procedures as Nigg et al. (2008), but this was an entirely new sample. In all, 236 children aged 6–17 completed the study. Because some of these children also participated in our sib-pair study of genetics of ADHD, the sample included 78 sibling pairs ( $n=156$  siblings). All children were recruited via mailings to parents in regional school districts, public advertisements, and outreach to local clinics. Parents provided written informed consent and children provided written informed assent. All procedures were approved by the University Institutional Review Board and complied with NIH and APA guidelines for protection of human participants.

Families entered a multi-stage screening process to establish diagnostic groupings. To confirm ADHD and comorbid diagnoses, a semi structured clinical interview (Kiddie Schedule for Affective Disorders and Schizophrenia (*K-SADS-E*)) was completed with a parent by a trained clinician. Interviewers had a master's degree in clinical psychology or social work. Each interviewer double coded 20 tapes with a criterion interviewer to ensure process fidelity and inter-interviewer reliability (all disorders  $k > .80$  in this report). In addition, parents and teachers completed the *ADHD Rating Scale* (DuPaul et al., 1998) and the Conners et al (1997) *ADHD Rating Scale, Revised* (hereafter, Conners).

**Exclusion criteria**—Rule outs were long-acting psychotropic medication (e.g. antidepressants), history of seizure, neurological impairments, a prior diagnosis of mental retardation or autistic disorder, head injury with loss of consciousness, sensorimotor handicap, or other major medical conditions in the child, as reported by the parent. At the diagnostic interview youth were ruled out if they had substance addiction, bipolar disorder, history of psychosis, sleep disorder, medical or neurological condition discovered at the clinical screen, or  $IQ < 75$ . Control children were also excluded for ADHD, learning disability, or conduct disorder.

**Establishment of Final ADHD and Other Diagnoses**—Using all available data, a best estimate diagnosis was arrived at independently by two experienced clinicians (a board certified child psychiatrist and a fully licensed child clinical psychologist) blind to study hypotheses and blood lead levels. Their agreement rates for ADHD, conduct disorder, and oppositional defiant disorder were acceptable (all  $k > .80$ ). Disagreements were resolved by discussion. Consistent with DSM-IV ADHD criteria, the clinicians required that another disorder did not better account for symptoms, evidence of impairment, and evidence of cross-situational symptoms. When ADHD symptoms were situational (only noticeable at home or school) or were subthreshold (5 symptoms), a diagnosis of ADHD-NOS was assigned. Those youth were included in this report for purposes of regression analysis of symptom scores but not for between-group analyses.

## Measures

**Blood Lead**—Over 90% of children approached agreed to the blood draw for the lead assay. Children had 2 ml whole blood drawn through venipuncture in the arm. The blood was drawn into a 2 ml purple-top Vacutainer tube (tubes were lot checked for lead by lab prior to use). Blood samples were labeled with a study number, frozen and stored at  $-20^{\circ}\text{C}$  prior to analysis. Samples were assayed using the process of inductively coupled plasma mass spectrometry (ICPMS). This method had a detection limit for lead of  $0.3\ \mu\text{g}/\text{dL}$ ; inter-run precision was 5.8% (coefficient of variation) at a lead value of  $2.9\ \mu\text{g}/\text{dL}$ . The process began with whole blood samples brought to room temperature and vortexed so no particulate matter remained at the bottom of the sample. Samples were diluted 1:50 with a diluent composed of 1.0% tetramethylammonium hydroxide, internal standard (iridium), 1.0% isopropyl alcohol, 0.01% ammonium pyrrolidene dithiocarbamate (APDC), and 0.05% wetting solution (Triton X). Samples were then mixed by inverting 3–4 times. The analysis then entailed quantitating the sum of masses 206, 207, and 208 based on three replicates per sample on a Perkin Elmer Elan DRC Plus ICP-MS. Three children were below the limit of detection. Following Braun et al (2006; p. 1905), those levels were scored as 0.2 ( $0.3/\sqrt{2}$ ). Following Burns et al. (1999), the blood lead score was  $\log_{10}$  transformed to reduce influence of outliers.

**IQ and achievement**—To estimate full scale IQ, children completed a 3-subtest short form of the Wechsler (2003) Intelligence Scales for Children-4<sup>th</sup> Edition comprised of Vocabulary, Block Design, and Information,<sup>1</sup> with reliability of .93 and validity in relation to the full WISC-IV of  $r=.88$  (Sattler, 2001, p. 771). All completed the word reading and spelling subtests of the Wechsler (2005) Individual Achievement Test-2<sup>nd</sup> edition to estimate academic achievement and enable evaluation of learning disability by the team.

**Behavior Disorders and Symptoms**—Total KSAD symptom counts were used for parent DSM-IV ADHD symptom dimensions. To reduce collinearity, oppositional and conduct symptom scores ( $r=.63$ ) were summed into an “externalizing” total score. For teachers, ADHD symptoms were assessed on the *ADHD Rating Scale* (symptoms scored as absent if rated 0, 1 and as present if rated 2, 3) and summed. The Conners ratings served as additional dimensional measures. Age and sex adjusted T scores were computed for oppositional, hyperactive-impulsive, and cognitive problems/inattention for teachers and mothers.

**Other Covariates and Confounders**—Total gross annual income in the child’s primary household was reported by parents. Maternal smoking during pregnancy has been of keen interest as a possible contributor to ADHD, yet also tends to be correlated with low income and thus with lead exposure (Braun et al., 2006). Maternal smoking during pregnancy was reported retrospectively by the mother and coded as “none” (0) or “any” (1). Although retrospective recall limits the ability to verify these reports, maternal recollection of smoking in pregnancy at child age of six years has agreed with post-partum report at 90% (Hensley-Alford, Lappin, Peterson, & Johnson, 2008). Due to recent interest in nutritional status, particularly the role of iron in the lead-ADHD relationship (Kordas et al., 2007), blood hemoglobin was assayed by standard methods to assess iron status. Normal hemoglobin values for children are 11–13 gm/dL, and in adolescents, 12–16 (women) or 14–18 (men). Values in the current sample ranged from 11.0–15.6. Child history of stimulant medication treatment was reported by mothers on the KSADS interview, and was coded as a 0 or 1 (no

<sup>1</sup>Children over the age of 16 completed the same 3 subtests on the WAIS-III; it has reliability=.95 and validity=.91; Sattler, 2001, p. 825.



history of stimulants, versus treatment history; 43 children had stimulant treatment). It was examined as a potential moderator of teacher reports.

### Data Reduction and Analysis

Unless otherwise noted, analyses were conducted in MPLUS v5.1 (Muthen & Muthen, 1998–2008), with family as a clustering value and analysis set to “type=complex;” this procedure removes variance due to siblings being from the same family. Missing data were handled using full information maximum likelihood procedures in MPLUS. Missing data were minimal with the exception of income (7% missing). Three extreme outliers for the income variable were truncated. All effects were evaluated with the following covariates: household income, maternal smoking, and child age, sex, and blood hemoglobin level. Low IQ is a possible complication yet there is controversy as to whether it represents part of the ADHD syndrome. Results are therefore reported with and without covarying IQ. For regression models, standardized parameter estimates were computed. For continuous measures, these were standardized on X and Y variables. The resulting coefficient is interpreted as the amount of change in Y in standard deviation units for a one standard deviation change in X. For the categorical (0, 1) variables (sex and prenatal smoking), they were standardized on the Y variable—yielding amount of change in Y (in standard deviation units) for a change in the X variable from 0 to 1.

## RESULTS

### Descriptive Overview

The sample comprised four groups: non-ADHD, ADHD-PI, ADHD-C, and ADHD-NOS. “NOS” meant subthreshold, 5 symptoms, or situational. Note that ADHD primarily hyperactive type was rarely identified (n=2). Those two cases were assigned to the “NOS” group. Table 1 provides a descriptive and clinical overview of the sample groups. It supports the validity of the clinical groupings. Only the ADHD-PI and ADHD-C groups consistently exceeded clinical cutoffs on the Conners ADHD Index. The ADHD-NOS group was intermediate on several clinical measures between the control group and the ADHD groups. Groups differed in exactly the way suggested by the diagnostic assignments in teacher and parent ratings. Some suppression of symptoms in teacher ratings was expected, because some children were in treatment (Table 1).

The groups were similar on IQ, but they differed in age, gender ratio, and household income (leading to differences in rate of families estimated to reside in poverty). As shown in Table 1, the sample as a whole was relatively more well off economically than the U.S. national average. The ethnic breakdown of the sample was 75% Caucasian, 7% African American, 3% Latino, 1% Native American, and 14% mixed or other. Race was unrelated to blood lead and was not covaried or analyzed further.

Child blood lead ranged from less than 0.3 µg/dL (undetectable, n=3) to 2.20 µg/dL with a mean of 0.73 (SE=0.04). Table 2 shows that blood lead in the current sample was even lower than in Nigg et al (2008), and equal to or lower than recent averages in the U.S., Scandinavia, and Western Europe (Braun et al., 2006, used the NHANES sample shown in Table 2). Thus, the sample had typical background exposure. This blood lead level was the lowest ever evaluated in relation to ADHD to date.

As expected, and as in prior studies, blood lead was related to lower family income ( $B=-.15$ ,  $p<.05$ ), male sex ( $B=-.43$ ,  $p<.01$ ), and younger age ( $B=-.23$ ,  $p<.01$ ). Before covariates, blood lead was correlated to KSAD inattention ( $B=.19$ ,  $p<.01$ ), hyperactivity/impulsivity, ( $B=.28$ ,  $p<.01$ ), the externalizing composite, ( $B=.21$ ,  $p<.01$ ) and to all Conners scales. Blood

lead in siblings was correlated at  $r=.47$  ( $p<.001$ ), supporting the supposition that it might be a shared environment effect and the importance of controlling sibling status.

#### Association of ADHD Diagnosis with Blood Lead Level

The three-group ANCOVA (omitting the "NOS" group; see Method) was conducted in SPSS v. 17. It yielded nearly a medium effect size for group assignment,  $F(2,200)=5.16$ , partial eta squared=.049,  $p=.007$  (sibling status not controlled). Follow up simple comparisons were conducted using effect coding in MPLUS (controlling for sibling status; blood lead was the dependent variable and all covariates were included). The ADHD-C group had higher lead level than the control group ( $B=.141$ ,  $p=.033$ ; with IQ covaried,  $B=.057$ ,  $p=.041$ ). The ADHD-PI group did not differ from the control group ( $p=.27$ ). Thus, group effects were confined to ADHD-C.

#### Regression Analysis of ADHD and Externalizing Symptom Dimensions

**Parent Report**—Regression models were conducted for symptom domains as dependent variables ( $n=236$ , see Method). Table 3 summarizes the results for parents for both DSM-IV symptoms (KSADS) and the Conners, with and without IQ as a covariate. As it shows, blood lead level was marginally associated with attention problems, but not after covarying IQ. Blood lead was reliably associated with hyperactivity/impulsivity regardless of covariates. On the Conners, both cognitive problems and hyperactivity/impulsivity were reliably related to blood lead.

The KSADS externalizing composite was also related to blood lead ( $B=.21$ ,  $p<.01$ ; with IQ covaried,  $B=.20$ ,  $p<.05$ ); the same held for oppositional behavior on the Conners ( $B=.22$ ,  $p<.01$ , with IQ covaried,  $B=.21$ ,  $p<.01$ ). Specificity was examined for each model by making blood lead the outcome variable. To conserve power, IQ was omitted and other covariates removed in stepwise fashion (income,  $p>.50$ , and hemoglobin,  $p>.20$ , were thus removed in all models). In the DSM-IV model, hyperactive symptoms were specifically related to blood lead ( $B=.144$ ,  $p=.043$ ), whereas externalizing symptoms were shy of significant ( $B=.136$ ,  $p=.121$ ). The same held using the Conners: blood lead was related to hyperactivity ( $B=.18$ ,  $p=.034$ ) but not oppositional behaviors ( $B=.09$ ,  $p=.34$ ) or cognitive problems ( $p=ns$ ).

**Teacher Report**—Table 4 shows the complete models for teacher reported DSM-IV symptoms and Conners ratings. On the ADHD Rating Scale, blood lead was unrelated to inattention or hyperactivity-impulsivity. On the *Conners Rating Scale*, results were similar to those reported for teachers by Chiodo et al (2007) and different from the ADHD Rating Scale results. As Table 4 shows, cognitive problems were related to blood lead level, whereas hyperactivity-impulsivity was related to blood lead prior to covarying IQ, but not after.

Conners oppositional behavior was also related, weakly, to blood lead ( $B=.13$ ,  $p<.05$ ), though not after IQ was covaried ( $B=.11$ ,  $p=.07$ ). The specificity model was computed just as with parent data. Cognitive problems were uniquely related to blood lead ( $B=.16$ ,  $p=.031$ ), whereas oppositional behavior ( $p=.76$ ) and hyperactivity ( $p=.34$ ) were not.

**Interaction of Teacher Findings with Child Treatment Status**—The interaction of child treatment history with blood lead was examined (all covariates included). For DSM-IV inattention, there was no interaction ( $p>.50$ ), but for DSM-IV hyperactivity/impulsivity, there was ( $B=-.193$ ,  $p=.009$ ). For children never treated (including controls), there was a reliable relation of blood lead to hyperactivity (with all covariates;  $B=.151$ ,  $p=.017$ ). For the children who had been treated, the relation disappeared ( $B=-.177$ ,  $p=.19$ ). This result suggested that medication treatment masked the relation of lead to teacher-rated DSM-IV

hyperactive symptoms. For the Conners ratings, the interaction of treatment status with blood lead was shy of significance for hyperactivity ( $B = -.11$ ,  $p = .064$ ), but robust for cognitive problems ( $B = -.18$ ,  $p = .002$ ). Again, for children not in treatment, the effect of blood lead on cognitive problems was easily seen (with all covariates,  $B = .17$ ,  $p = .004$ ); but not in the treated children ( $B = -.13$ ,  $p = .446$ ). These interactions did not reproduce when checked in the smaller Nigg et al (2008) sample (all  $p > .20$ ).

## DISCUSSION

Whereas ADHD carries well-established genetic influences on susceptibility (Waldman & Gizer, 2006), environmental risk factors may interact with that susceptibility in complex ways (Purcell, 2002). Several studies have linked blood lead with ADHD, but usually in samples with lead levels much higher than current population averages in the U.S. or Western Europe. More recent studies have begun to show that even very low levels of lead exposure ( $< 5 \mu\text{g/dL}$ ), blood lead is associated with ADHD. Nigg et al. (2008) was the first low-lead study to look at children formally diagnosed with ADHD by standardized methods and the first to use ICPMS technology to measure blood lead. That technology is important because it has detection limits 3–8 fold lower than other methods typically used clinically or in most prior studies of ADHD. ICPMS was used again in the current report in a new sample.

The present study provides a more definitive confirmation of Nigg et al (2008) in a larger sample, with additional covariates, with more examination of teacher ratings, and at the lowest levels of blood lead ever measured in relation to ADHD. It confirms that in a sample selected for ADHD, there are reliable relations of blood lead with lifetime symptoms of hyperactivity-impulsivity as assessed by structured clinical interview of the parent. Hyperactivity effects are either weak or are moderated by treatment history when based on teacher report. On the other hand, the association of blood lead with inattention (or cognitive problems) was observed in parent and teacher Conners ratings and in teacher but not parent DSM-IV ratings.

Thus, like Nigg et al (2008), we found that blood lead was reliably associated with hyperactivity but not inattention when using DSM-IV ratings. However, like Chiodo et al (2007), we also found that Conners ratings revealed a clearer association of blood lead with cognitive problems than with hyperactivity-impulsivity in teacher ratings. This apparent disagreement across methods and raters could be readily understood. The Conners scales have slightly different items than the DSM-IV and are selected to be sensitive to intervention effects (lead may be an intervention). The Conners scales also had somewhat better normal distribution properties (for inattention, Shapiro-Wilk  $> .90$  for maternal and  $> .80$  for teacher ratings, versus weaker values for the respective DSM-IV scales). Furthermore, it is sensible to expect that teachers would have more opportunity to observe cognitive problems (relevant to classroom behavior), whereas parents and teachers might be equally good observers of hyperactive or impulsive behaviors.

With all that in mind, the pattern that emerges is still rather clear. Inattention/cognitive problems were related to blood lead when measured via the Conners but not when measured via DSM-IV symptoms. This finding, which explains the prior difference between Chiodo et al (2007) and Nigg et al (2008), is due to either the different item set or the better psychometric properties of the Conners T score. Further study to see which of those events is true will be of interest. In contrast, hyperactivity/impulsivity is related to blood lead when rated by parents, but based on these data we tentatively suggest that this effect may be suppressed in teacher ratings by child treatment history. Overall, the conclusion is that both ADHD symptom domains are related to blood lead, but that further consideration of the

measurement scale and treatment effects remains important in quantifying these associations.

Limitations of this study should be noted. Most important, it is unclear how well concurrent lead levels reflect risks that probably occurred earlier in development. Effects of lead on the brain may depend on age of exposure (Manton et al., 2000). The ages of exposure and the peak early exposure level of the children in this study are unknown. However, the exposure levels observed are consistent with U.S. national levels in children at this age. Those U.S. surveys indicate that even preschool children average less than 5 µg/dL of exposure (CDC, 2005). Second, it is possible that hyperactive children ingested more lead, rather than that lead influenced hyperactivity. However, the only study we are aware of to test that question (David et al., 1977) found that lead levels were not elevated in hyperactive children with a known organic etiology (e.g., head injury), but were elevated in other hyperactive children. Further, an extensive animal experimental literature suggests lead has causal effects on neurodevelopment that make it a plausible influence on ADHD (Cory-Slechta, 1995). Thus, the most parsimonious summary of the data is likely that lead influenced ADHD rather than the reverse.

Last, this was not a random population sample, so sampling biases cannot be ruled out (characteristics of refusers were unknown). The sample was economically somewhat more well off, less representative of minority groups, and less lead-exposed than the nation as a whole. This may have resulted in under-estimation of effect magnitudes in relation to lead exposure and ADHD, although effect sizes reported were similar to those reported by Chiodo et al (2007) in a lower income, African American sample. In short, this study confirms that ADHD, both as a diagnosis and as symptom dimension, is associated with blood lead level at low exposure levels, even below 2.5 µg/dL.

In conclusion, background-levels of lead exposure were associated with ADHD in a clinically characterized sample, at the lowest levels of blood lead ever studied in relation to ADHD, and in both parent and teacher reports. This evidence that ADHD and its symptom domains are associated with blood lead has rather significant implications, because exposures in the range studied here remain widespread by definition. Lead exposure is a plausible neurobiological candidate for involvement in ADHD because it disrupts midbrain dopamine and other neurotransmission circuitry (Cory-Slechta, 2005), systems that are also implicated in ADHD (Nigg, 2006). It contributes to what is now an emerging body of literature linking ADHD to lead exposure even at population typical exposures. Implications for prevention, practice, and policy warrant further discussion.

### Key points

- Lead is a known neurotoxicant previously associated with ADHD at high exposure
- Recent studies suggested low, population typical exposures may also related to ADHD
- Current study obtained fresh confirmation in a sample with very low, population typical lead exposure
- Children with ADHD had higher lead level than children without ADHD
- Both parent and teacher reports confirm the association of blood lead with ADHD symptoms.
- Further review of actionable lead level exposure in children is indicated

## Acknowledgments

### Author Statement: Financial Support and Conflicts of Interest

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## ABBREVIATIONS

dL	deciliter=.1 (or 1/10 <sup>th</sup> ) liter
µg	microgram=.001 milligrams
B	standardized regression coefficients
ICPMS	inductively coupled plasma mass spectrometry
NOS	not otherwise specified
CDC	Centers for Disease Control

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**Table 1**

Sample Summary Statistics (Mean and Standard Deviation)

	Control	"NOS"	ADHD-PI	ADHD-C	p
N	99	29	47	61	
% male	43% <sup>a</sup>	48% <sup>a</sup>	68% <sup>b</sup>	74% <sup>b</sup>	<.05
% White	73% <sup>a</sup>	33% <sup>b</sup>	81% <sup>a</sup>	81% <sup>a</sup>	<.05
Child age (years)	11.8(2.5) <sup>a</sup>	11.8(2.4) <sup>ab</sup>	12.4 (2.5) <sup>s</sup>	10.6(2.6) <sup>b</sup>	.05
Annual home income (\$k)	87.1(41) <sup>a</sup>	67.4(27) <sup>ab</sup>	81.4(42) <sup>ab</sup>	63.9(42) <sup>b</sup>	.05
% under poverty line (\$21,200)	4.0% <sup>a</sup>	3.1% <sup>a</sup>	4.2% <sup>a</sup>	21.1% <sup>b</sup>	<.01
Child Full Scale IQ	107.9(12)	104.9(13)	102.2(15)	103.4(15)	ns
KSADS Inattention Lifetime	0.6(1.1) <sup>a</sup>	4.5(2.7) <sup>b</sup>	7.6(1.1) <sup>c</sup>	7.8(1.5) <sup>c</sup>	<.01
KSADS Hyperactive Lifetime	0.4(0.8) <sup>a</sup>	2.8(2.9) <sup>b</sup>	2.1(2.1) <sup>b</sup>	6.9(1.7) <sup>c</sup>	<.01
KSADS Inattention Current	0.6(1.1) <sup>a</sup>	4.3(2.7) <sup>b</sup>	7.4(1.1) <sup>c</sup>	7.8(1.5) <sup>c</sup>	<.01
KSADS Hyperactive Current	0.4(0.8) <sup>a</sup>	2.7(2.8) <sup>b</sup>	1.7(1.8) <sup>b</sup>	6.6(1.8) <sup>c</sup>	<.01
Teacher ADHD RS Inatt Sx	0.33(1.1) <sup>a</sup>	1.4(2.6) <sup>a</sup>	3.1(3.3) <sup>b</sup>	4.3(3.4) <sup>b</sup>	<.01
Teacher ADHD RS Hyp Sx	0.2(0.8) <sup>a</sup>	1.1(2.4) <sup>b</sup>	0.7(1.9) <sup>b</sup>	3.2(3.4) <sup>c</sup>	<.01
% Conduct Disorder (Life)	0% <sup>a</sup>	9.4% <sup>b</sup>	7.4% <sup>b</sup>	13% <sup>c</sup>	<.01
% ODD (Lifetime)	2%	19% <sup>b</sup>	15% <sup>b</sup>	38% <sup>c</sup>	<.01
P-Conners Cognitive	46.5(6) <sup>a</sup>	61.9(11) <sup>b</sup>	71.6(9) <sup>c</sup>	71.4(11) <sup>c</sup>	<.01
P-Conners Hyperactivity	46.7 (4) <sup>a</sup>	59.1(14) <sup>b</sup>	58.2(12) <sup>b</sup>	72.7(12) <sup>c</sup>	<.01
P-Conners Oppositional	45.7(7) <sup>a</sup>	55.7(13) <sup>b</sup>	58.7 (14) <sup>b</sup>	64.3(15) <sup>c</sup>	<.01
P-Conners ADHD Index	46.4(6) <sup>a</sup>	61.5(10) <sup>a</sup>	70.2(10) <sup>b</sup>	72.7(10) <sup>b</sup>	<.01
T-Conners Cognitive	48.2(7) <sup>a</sup>	55.3(10) <sup>b</sup>	57.4(9) <sup>b</sup>	60.2(10) <sup>b</sup>	<.01
T-Conners Hyperactive	49.5(9) <sup>a</sup>	53.8(11) <sup>ab</sup>	54.2(11) <sup>b</sup>	61.7(13) <sup>c</sup>	<.01
T-Conners Oppositional	47.1(4) <sup>a</sup>	52.8(12) <sup>b</sup>	51.3(9) <sup>b</sup>	57.7(12) <sup>c</sup>	<.01
T-Conners ADHD Index	49.1(9) <sup>a</sup>	57.3(13) <sup>b</sup>	60.4(10) <sup>b</sup>	66.3(11) <sup>c</sup>	<.01
% treated stimulants (lifetime)	0%	7%	25%	48%	<.01
% pregnancy smoke	8.2%	13.8%	10.6%	13.1%	ns
Child unadjusted blood lead	0.2(.30) <sup>a</sup>	0.78(.24) <sup>ab</sup>	.72(.35) <sup>ab</sup>	.88(.44) <sup>b</sup>	<.01

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*Notes to Table 1:* KSADS symptom scores and diagnoses are lifetime unless otherwise marked. For dimensional scores, post-hoc Tukey tests were conducted if variances were homogenous; or the Dunnett T3 post hoc if variances were not homogenous. Different superscripts indicate pair-wise differences on post-hoc tests at  $p < .05$ . For example, "a" under control Conners' Cognitive indicates a significant difference from "b" for ADHD-PI for the same variable; because ADHD-C also has a "b" it differs from controls also, but not from ADHD-PI. "ab" indicates does not differ from the group with the "a" or "b" superscript. ADHD-PI = Inattentive type; ADHD-C = combined type. Poverty is defined as < 50% of the median household income of \$50,233 in the U.S. in 2007 (16% of national population below that cutoff), in keeping with one type of convention for defining poverty. The comparisons in this table do not control for sibling non-independence.



Table 2

Median Blood Lead Level of Current Replication Sample, Nigg et al (2008), U.S. National Sample, and Selected European Data By Two Age Groups

Sample	Years Surveyed	%Male	Age in years	Mean/median blood lead $\mu\text{g/dL}$
<b>Adolescents</b>				
U.S.A. (CDC <sup>1</sup> NHANES)	1999, 2002	50%	12–19	0.94–1.10
Western Europe <sup>2</sup>	1996–2000	50%	0–18	3.5
Nigg et al 2007 (n=115)	2005–2006	64%	12–17	1.03 (SE=.05)
Current sample (n=96)	2006–2008	53%	12–17	0.68 (SE=.03)
<b>Children</b>				
U.S.A. (CDC NHANES)	1999, 2002	50%	6–11	1.25–1.51
Sweden <sup>3</sup>	2005, 2007	50%	7–11	1.31–1.32
Chiodo et al (2007)	1996–1997	51%	6–7	5.0
Nigg et al 2007 (n=35)	2005–2006	63%	8–11	1.04 (SE=.09)
Current sample (n=140)	2006–2008	63%	6–11	0.77(SE=.03)

<sup>1</sup> CDC=Centers for Disease Control; the U.S. national (from the CDC NHANES sample) reflect surveys at two points in time, one in 1999 and one in 2002. The lower value represents the 2002 value, and the higher value represents the 1999 value.

<sup>2</sup> Western Europe represents a meta-analytic average computed by Fewtrell et al (2004) from studies in Denmark, Sweden, Germany, France, Israel, and Greece in the late 1990's.

<sup>3</sup> Stromberg et al. 2007. The recent data represent two cities measured two years apart.

Table 3

Regression Analyses of Lead association with Parent-Reported ADHD Symptoms, Standardized Results Showing Parameter (standard error)

	KSADS Lifetime		Conners	
	Inattention	Hyp-Imp	Cognitive	Hyp-Imp
<i>Without IQ covaried</i>				
Age	.06(.07)	-.09(.07)	.13(.07) <sup>+</sup>	.07(.08)
Sex	-.43(.15) <sup>**</sup>	-.30(.14) <sup>*</sup>	-.01(.15)	-.04(.14)
Income	-.14(.06) <sup>*</sup>	-.19(.07) <sup>**</sup>	-.09(.06)	-.18(.07) <sup>**</sup>
Hemoglobin	-.02(.07)	.02(.07)	-.11(.08)	-.07(.08)
Smoking	.29(.20)	.03(.23)	.27(.22)	-.19(.19)
Blood lead	.12(.07) <sup>+</sup>	.19(.06) <sup>***</sup>	.21(.07) <sup>**</sup>	.26(.07) <sup>***</sup>
<i>With IQ Covaried</i>				
Age	.05(.07)	-.10(.07)	.12(.07)	.06(.08)
Sex	-.44(.14) <sup>**</sup>	-.30(.14) <sup>*</sup>	-.02(.15)	-.05(.14)
Income	-.10(.06)	-.17(.07) <sup>*</sup>	-.05(.06)	-.17(.08) <sup>*</sup>
Smoking	.24(.21)	.01(.23)	.22(.22)	-.20(.19)
Hemoglobin	.01(.06)	.04(.07)	-.09(.08)	-.06(.08)
IQ	-.12(.07) <sup>+</sup>	-.09(.06)	-.12(.07) <sup>+</sup>	-.05(.07)
Blood Lead	.11(.07)	.18(.06) <sup>***</sup>	.20(.07) <sup>**</sup>	.25(.07) <sup>***</sup>

Parameter estimates are standardized as explained in Method. Sex is coded 1=male, 2=female.

- <sup>+</sup> p<.10;  
<sup>\*</sup> p<.05,  
<sup>\*\*</sup> p≤.01,  
<sup>\*\*\*</sup> p≤.001.

Table 4

Regression Results for Association of Child Blood Lead with Teacher Behavior Ratings, Showing Standardized Parameter Estimates (standard error)

	ADHD Rating Scale		Conners	
	Inattention	Hyp-Imp	Cognitive	Hyp-Imp
<u>Without IQ covaried</u>				
Age	-.08(.07)	-.25(.07)***	.10(.08)	.08(.08)
Sex	-.60(.12)***	-.43(.10)***	-.02(.13)	.32(.13)*
Income	-.16(.07)*	-.07(.07)	-.33(.07)***	.20(.07)**
Hemoglobin	-.05(.07)	-.05(.06)	.01(.08)	.02(.09)
Smoking	-.03(.24)	-.07(.20)	.12(.27)	-.42(.17)*
Blood lead	.09(.06)	.11(.06) <sup>+</sup>	.19(.07)**	.14(.06)*
<u>With IQ Covaried</u>				
Age	-.10(.07)	-.26(.06)***	.02(.02)	.06(.08)
Sex	-.62(.12)***	-.44(.10)	-.03(.06)	.30(.13)*
Income	-.12(.06)	-.04(.07)	-.23(.06)***	.12(.07) <sup>+</sup>
Smoking	-.11(.24)	-.14(.21)	-.02(.26)	-.53(.15)**
Hemogl	-.02(.06)	-.03(.06)	.05(.07)	.05(.08)
IQ	-.19(.08)*	-.15(.07)*	-.35(.06)***	.30(.07)***
Blood Lead	.06(.06)	.09(.06)	.15(.06)*	.11(.06) <sup>+</sup>

Parameter estimates are standardized as explained in Method. Sex is coded 1=male, 2=female.

<sup>+</sup> p<.10,

\* p<.05,

\*\* p<.01,

\*\*\* p<.001.



## Effects of low-level lead exposure on cell survival and neurite length in primary mesencephalic cultures

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### Abstract

The effects of low-level lead exposure on survival and neurite length of rat E15 primary ventral mesencephalic dopaminergic neurons were studied. Lead acetate (0.001–10  $\mu\text{M}$ ) added to primary cultures for 48 h (in serum-free defined media [DM]) caused a loss of tyrosine hydroxylase (TH)-positive neurons only at the highest concentrations (1 and 10  $\mu\text{M}$ ). In contrast, significant effects on neurite length were observed at concentrations as low as 0.001  $\mu\text{M}$ . Lead-induced decrease in neurite length became more apparent at concentrations of 0.01  $\mu\text{M}$  (mean 37.9% decrease) and 0.10  $\mu\text{M}$  lead acetate (mean 43.9% decrease). These data show that very low concentrations of lead, well below the level necessary to adversely affect neuronal survival, can have dramatic effects on neurite growth. These results support recent clinical findings of detrimental effects of low-level lead exposure on brain development.

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**Keywords:** Lead; Neurons; Ventral mesencephalon; Development

### 1. Introduction

The general toxic effects of lead have been known for centuries, yet lead is still a major environmental poison affecting primarily pediatric populations in the United States as well as in other countries worldwide. Although the level of concern for pediatric lead poisoning, as set by the Centers for Disease Control in 1991, is 10  $\mu\text{g}/\text{dl}$  [6], studies performed over the last decade indicate that, indeed, a safe level of lead in the blood of children has not yet been identified. Evidence for detrimental effects on behavior and cognitive development have been reported with blood lead levels below 10  $\mu\text{g}/\text{dl}$  [17,25].

Although neuropsychological studies of lead's effects in children may differ in basic characteristics of the study groups and in the choice of tests administered, the description of deficits in certain functional domains, such as attention and fine motor skills, has been remarkably consistent (see Ref. [19] for review). In fact, a number of cognitive deficits associated with lead poisoning, such as

attention and executive function problems, may be due at least in part to lead's effects on dopamine systems. Animals with dopamine-depleting lesions of the cortex or striatum have a number of cognitive and behavioral deficits including impairments in attention, impulsivity, short-term memory, cognitive flexibility (and other executive functions), as well as behavioral abnormalities including apathy, low frustration tolerance, and aggressiveness [4,5,23,24]. In addition to the well-documented learning and memory problems in lead-exposed animals, attentional problems have also been described [3]. Attention and executive functioning problems are a known consequence of lead poisoning in children [10,30] and are present with dopamine dysfunction, as in Parkinson's disease [16].

The effects of lead on dopaminergic cells in culture have been described previously [27]. Short-term exposure of cultures to high concentrations of lead (3–50  $\mu\text{M}$ ) killed neurons and glia at the highest concentrations, whereas concentrations at the lower end (3  $\mu\text{M}$ ) significantly inhibited [ $^3\text{H}$ ]dopamine uptake [27]. Lead exposure has also been reported to alter the concentration of dopamine and decrease the activity of the dopamine-synthesizing enzyme tyrosine hydroxylase (TH) in midbrain and diencephalic regions [21] as well as in rat [29] and primate retina [15]. In consideration of the clinical and experimental data described above

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on lead effects on the dopamine system, the present study was conducted to examine effects of low concentrations of lead (0.001–0.1  $\mu\text{M}$ , equivalent to 0.024 and 2.40  $\mu\text{g}/\text{dl}$ , respectively) on survival and growth (e.g., elaboration of neurites) of fetal dopaminergic neurons in culture.

## 2. Methods

### 2.1. Primary cultures of ventral mesencephalic neurons

Timed-pregnant Sprague–Dawley rats were euthanized with carbon dioxide. Embryos (E-15) were removed and the ventral mesencephalon was dissected out and placed in Dulbecco's phosphate-buffered saline, (DPBS; pH 7.4) on ice. The tissue was minced and incubated in a trypsin solution (0.01% in  $\text{Ca}^{2+}/\text{Mg}^{2+}$  free Hank's balanced salt solution) with 0.05% DNase for 20 min at 37 °C with gentle agitation. The supernatant was removed and replaced with Dulbecco's modified Eagle's medium (DMEM) containing 10% fetal calf serum, glucose (6 mg/ml), glutamine (204  $\mu\text{g}/\text{ml}$ ) and penicillin/streptomycin (100 U/ml) and the cells were dissociated by passage through a fire-polished Pasteur pipette. Dissociated cells were then passed through a nylon-filter cell strainer (70  $\mu\text{M}$ ). The number of viable cells were counted for trypan blue exclusion using a hemocytometer and plated at a density of  $1.5 \times 10^5$  cells per well on poly-D-ornithine (PO; 0.01% in borate buffer; pH 8.4) coated Lab-Tek eight-well slides. After 1 h of stabilization at 37 °C in an atmosphere containing 5%  $\text{CO}_2$ , the media was changed to serum-free defined medium (DM) containing DME/F12, 1% ITS supplement, glucose (6 mg/ml), glutamine (204  $\mu\text{g}/\text{ml}$ ) and penicillin/streptomycin (100 U/ml). The cultures were grown at 37 °C in 5%  $\text{CO}_2$  for 3 days before commencing experimental manipulations.

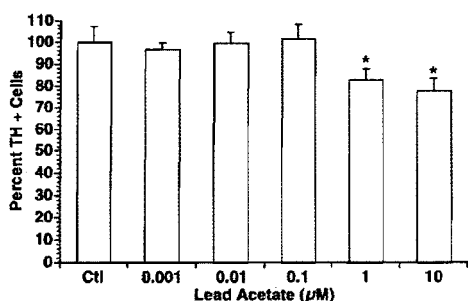


Fig. 1. Effects of lead exposure on the number of TH-positive cells in primary ventral mesencephalic cultures. Addition of lead acetate (0.001–10  $\mu\text{M}$ , in serum-free DM) for 48 h caused a significant loss of TH+ cells at lead acetate concentrations of 1 and 10  $\mu\text{M}$ . Bars show mean cell counts  $\pm$  S.E.M. Ctl = control cultures (no lead); \*  $P < .01$  vs. control. Data were derived from quadruplicate samples for each experimental condition, repeated with four independent cultures.

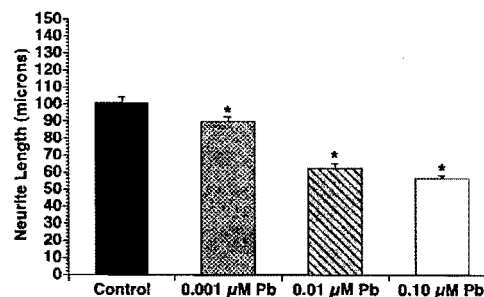


Fig. 2. Effects of lead exposure on length of primary neurites of E-15 dopaminergic neurons in culture. The lowest concentration of lead acetate used (0.001  $\mu\text{M}$ ) caused a significant decrease in neurite length, that was exacerbated by incubation in higher concentrations of lead (0.01 and 0.10  $\mu\text{M}$ ). These effects were observed at lead concentrations below those that caused a decrease in cell survival. Bars show mean length of primary neurites  $\pm$  S.E.M. \*  $P < .01$  vs. control. Data were derived from quadruplicate samples for each experimental condition, repeated with four independent cultures.

### 2.2. Lead exposure studies

To investigate the effect of lead on cell survival and neurite length, lead acetate was added to media (DM) at different concentrations (0.001, 0.01, 0.1, 1.0 and 10  $\mu\text{M}$ ) for 48 h.

### 2.3. TH immunohistochemistry and cell counts

At the end of the lead exposure period, cultures were fixed in 4% paraformaldehyde and stained for the presence of TH using a polyclonal TH antibody (1:2000, 4 °C for 24 h, Pel-Freeze, Rogers, AR), biotinylated goat anti-rabbit IgG (1:1000, 1 h at room temperature, Pel-Freeze, Rogers, AR, Jackson ImmunoResearch Laboratories, Inc., West Grove, PA). TH-positive cells were visualized after incubation in ABC substrate (Vector Laboratories, Burlingame, CA) and metal-enhanced diaminobenzidine (Pierce, Rockford, IL). Immunopositive cells were counted in consecutive fields across the largest diameter of the cell bed using an eye piece reticule at 10 $\times$  magnification.

### 2.4. Neurite length measurement

Neurite length measurements were taken of the longest neurite present on 150 TH-positive cells from control cultures and each lead-exposed culture, using a neurite length measurement macro (provided online by V.I. Pikov) and NIH Image software (v. 1.68). Fields were sampled randomly and the person performing the measurements was blind to treatment condition. Briefly, the images of TH-positive cells were captured at 20 $\times$  magnification and contrast was adjusted until neurites appeared as contiguous as possible with low background. The longest neurite on each cell in the

field was drawn using the pencil tool from the Image program. The length of the outlined neurite was then computed by the macro from a thresholded image.

### 2.5. Statistical analysis

All experiments were run in quadruplicate and repeated on four separate occasions. Cell number and neurite length measurement data were analyzed by one-way ANOVA followed by pairwise post hoc comparisons (Newman–Keuls *t* test). Data from four replicate studies were combined for analysis. Frequency histograms of neurite lengths were also constructed, using GB Stat v.6.5.6 software. Comparisons of frequency histograms were made using a Kruskal–Wallis one-way ANOVA.

## 3. Results

### 3.1. Lead effects on cell survival

No lead precipitation was observed in any of the media used in these studies. In addition, measurement of lead

levels (PPM, performed by ESA Laboratories, Chelmsford, MA) in filtered and unfiltered media samples showed linear increases in measured lead levels after addition of 1, 10 or 100  $\mu\text{M}$  lead acetate.

In primary mesencephalic cultures, a 48-h exposure to lead acetate caused a significant decrease in the number of TH-positive cells only in cultures exposed to high concentrations of lead acetate (e.g., 1.0 and 10  $\mu\text{M}$ ,  $P < .05$  vs. control) (Fig. 1). TH-positive cell number was completely unaffected by lower levels of lead.

### 3.2. Lead effects on neurite length

A dose-dependent effect of lead on neurite length of TH-positive neurons was observed ( $F = 80.08$ ,  $P < .001$ , Figs. 2, 3 and 4). The mean length of primary neurites of TH-positive neurons was decreased by an average of 10.9% after 48 h exposure to as little as 0.001  $\mu\text{M}$  lead acetate ( $P < .01$  vs. control). This detrimental effect on neurite length was exacerbated after exposure to 0.01  $\mu\text{M}$  (mean 37.9% decrease,  $P < .01$  vs. control) and 0.10  $\mu\text{M}$  lead acetate (mean 43.9% decrease,  $P < .01$  vs. control) (Fig. 4). There was no significant difference between

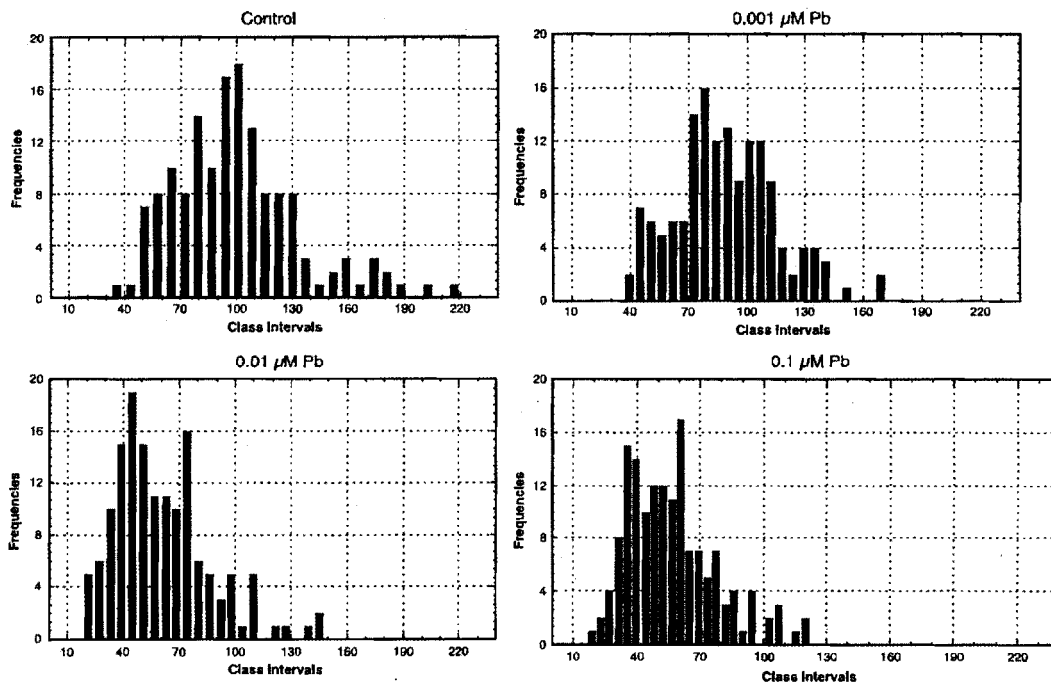


Fig. 3. Histograms showing the distributions of primary neurite lengths in control and lead-treated cultures. After 48 h incubation in 0.001  $\mu\text{M}$  lead acetate, the longest neurites were lost but the overall shape of the distribution was not different from that seen in control cultures. In contrast, after 48 h incubation in 0.01 or 0.10  $\mu\text{M}$  lead acetate, there was a clear shift to the left in the distribution histograms. Data were derived from quadruplicate samples for each experimental condition, repeated with four independent cultures.

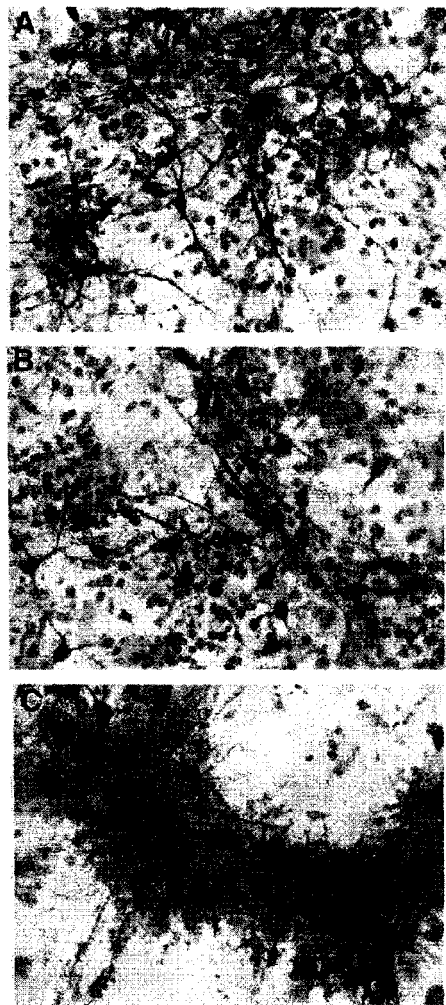


Fig. 4. Photomicrographs of TH-positive neurons in control cultures (A) and in cultures exposed to (B) 0.001 and (C) 0.01  $\mu\text{M}$  lead acetate for 48 h. Note the progressive decrease in neurite length with exposure to increasing concentrations of lead.

neurite lengths measured in cultures exposed to 0.01 or 0.10  $\mu\text{M}$  lead. The distribution of neurite lengths was plotted for each culture condition (Fig. 3). After 48-h incubation with 0.001  $\mu\text{M}$  lead acetate, the longest neurites were lost, although the rest of the distribution of neurite lengths remained essentially the same as in control cultures. However, in cultures exposed to 0.01 and 0.10  $\mu\text{M}$  lead acetate, there was a clear shift to the left ( $P < .05$ ) in the distributions of neurite lengths.

#### 4. Discussion

The present results indicate that exposure of fetal dopaminergic neurons to very low levels of lead (0.001–0.1  $\mu\text{M}$ , analogous to 0.024–2.4  $\mu\text{g}/\text{dl}$  of lead, using the convention for measuring blood lead levels) for a brief period of time (e.g., 48 h) causes significant disruption of neurite elaboration without any appreciable effect on dopamine neuron survival. Although the reasons for this effect are not clear at this time, lead effects on calcium homeostasis may have played an important role. Intracellular and nuclear transport of calcium are involved in elaboration of axons and dendrites. Calcium release from intracellular stores stabilizes dendrites during the period of synapse formation [20]. Local calcium release is a mechanism by which afferent activity (e.g., neurotransmission evoked calcium release) can regulate dendritic structure and arborizations that are critical to attaining a normal pattern of adult synaptic connections [20]. Since lead suppresses activity associated with calcium-dependent release of neurotransmitters [9,18], affects presynaptic calcium channels involved in transmitter release [22] and essentially substitutes for calcium in a multitude of physiological functions [2], it is not surprising that lead would also affect calcium-dependent arborization of neurites. What was surprising was the low level of lead (0.001, 0.01  $\mu\text{M}$ ) needed to adversely affect neurites. However, lead is known to affect physiological processes at levels below that required by endogenous activators. For example, lead at picomolar concentrations activates protein kinase C, an action normally induced by nanomolar concentrations of calcium [1].

Lead may also have affected neurite morphology by directly interacting with cytoskeletal proteins. Previously, lead exposure, in the absence of serum, altered cytoskeletal protein expression (tau, MAP-2b, MAP-2c, and GAP-43) after only a 3-h exposure to 3 or 6  $\mu\text{M}$  lead [26]. Prolonged lead exposure in vivo (through age 15 months) also modified astrocyte cytoskeletal proteins (e.g., GFAP, vimentin) [28]. Slow axonal transport of neurofilament proteins and tubulins was impaired in animals exposed to lead in their drinking water for 13 weeks [32].

Previous studies have described a significant inhibitory effect of high (1 mM) and low (1 nM) concentrations (but not at intermediate concentrations) of lead on neurite initiation in fetal (E-18) hippocampal and cortical neurons grown in culture [14]. Effects of lead on axon length, number of dendrites/cell and number of branches/axon were complex and dependent upon the concentration of serum in the media [14]. Lead's inhibitory effects on neurite development in cultured hippocampal neurons were attributed at least in part to an inappropriate stimulation by lead of protein phosphorylation by calcium/calmodulin-dependent protein kinase or cyclic AMP-dependent protein kinase [13]. Other studies have reported impairment of growth of retinal axons (e.g., reduced area and branchtip number of retinal ganglion cell axon arborizations in the optic tectum) with a

6-week in vivo exposure to nanomolar concentrations of lead [7]. In contrast to the inhibitory effects of lead on neurite growth in vivo or in primary cells in culture, various concentrations of lead (e.g., 0.025–0.05  $\mu\text{M}$  in one study [8]; 0.1–100  $\mu\text{M}$  in another study [31]) were shown to promote neurite outgrowth from PC12 cells in the presence or in the absence of NGF, while higher lead concentrations (1–10 mM) were less effective. At low concentrations, lead did not cause neurite outgrowth in NGF-treated PC12 cells but enhanced NGF-induced neurite outgrowth and promoted the formation of multiple neurites per cell [31]. These latter results, however, are difficult to compare with the present findings due to differences in the type of cells (e.g., primary neurons vs. tumor cell line) and culture conditions utilized.

The finding that neurite morphology is significantly altered at lead concentrations 1/1000th to 1/100th of that necessary to stimulate overt cell death may have significant implications for fetal brain development and the hard wiring of the brain under conditions of lead exposure. Mobilization of maternal bone lead stores is a major source of fetal lead exposure [11] with a strong correlation between maternal and umbilical cord blood lead levels. Emphasizing the danger of transfer of lead from mother to fetus [12], a recent prospective study found increased levels of lead in maternal bone and umbilical cord blood (mean 6.7  $\mu\text{g}/\text{dl}$ ) that were associated with lower Mental Development Index scores on the Bayley Scales of Infant Development at 24 months of age [11]. These findings, together with the current results, underscore the potential danger of even very low levels of lead on fetal neuronal development.

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4.d.

26185 NW Evergreen Road  
Hillsboro, OR 97124  
September 24, 2013

To: Washington County Commissioners

From: CPO 8

Subject, Ordinance 772 - CPO 8 Comments

Dear Chair Duyck and Commissioners:

The following is written to supplement and supersede the comments made in the attached letter from CPO 8 dated September 12, 2013. As we've investigated Ordinance 772 we've found that DLUT Staff has addressed two of the four topics in that letter and that the other two may best fit into a different type of process. The CPO 8 Bylaws provide that the Steering Committee may develop testimony when appropriate between full CPO 8 meetings and we'll ask for ratification of the following at our October meeting.

We would like to acknowledge the support that we've received from the Senior Planner at DLUT for further clarification of the ordinance. Her work has been prompt, thorough and useful.

There remain several areas of concern and we ask that the Commissioners continue the public hearings through the October 22<sup>nd</sup> date in order to address these concerns. The areas of concern are based on the staff report dated September 16, 2013 and include the following:

1. We note that the Federal Aviation Administration has not been asked for comments. The Sunset Airstrip and the Hillsboro Airport seem close in air space terms thus it would seem prudent to ask for their opinion.
2. Section II, Paragraph 4 A. contains reference to ". . . One Hanger . . .") We're not clear on the purpose of this reference. It would appear that this is intended to act as a limit on the aircraft based at this airstrip and thus some limit on the amount of activity. We note that, based on experience at HIO and the Apple Valley Airport that aircraft operations, only very indirectly related to the number of based aircraft, are the primary source of adverse aviation impacts. In addition, many of the lots in the proposed air park could contain a very large hangar. We would like clarification on this topic.

3. This ordinance, through its implementation of a new section (Section 389), provides for a Residential Airpark Overlay District and to promulgate these districts throughout the county. We believe that wider notice of this affect should be provided.
4. Attachment A paragraph 2 "Section 389-4" we request further clarification of this wording.
5. Lastly, we note that at full build-out, there could be 18 hangers, each with its aircraft capacity effectively limited only by lot sizes and building codes. This would add significant aviation activity and impact from the Sunset Air Strip.

On behalf of CPO 8 we thank you for your consideration.

Linda Peters, CPO 8 Vice Chair  
Henry Oberhelman, CPO 8 Steering Committee  
Pat Wolter, CPO 8 Steering Committee

September 11, 2013

To: Washington County Board of Commissioners

From: CPO 8

Re: Proposed Ordinance 772

At the September 9<sup>th</sup> CPO 8 meeting, approximately 23 members unanimously approved a motion in support of the Planning Commission's decision to deny Proposed Ordinance 772.

We suggest that you direct staff to re-write the proposed ordinance with more specificity as to limits on, or exclusions of, air activity consistent with currently allowable private plane uses in EFU and AF20 zoning, for consideration next year.

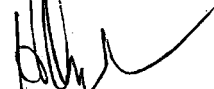
We further suggest that accessory uses provided in this ordinance be processed as a Type II application, and that notification of accessory development applications be sent to residents impacted by the noise, pollution, and hazards associated with increased air activity.

Please find attachments with additional comments and recommendations.

Yours truly,



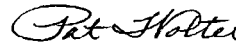
John Driscoll, Chair



Henry Oberhelman



Linda Peters, Vice Chair



Pat Wolter

Sept 24, 2013

To: Washington County Commissions  
155 North First Avenue  
Hillsboro OR 97124

Testimony on Proposed Ordinance #772 To create a new "Residential Air Park Overlay District" CDC Section 389 Policy 28

If the proposed Ordinance #772 is adopted, the relentless procession of low flying, lead polluting, loud, private, aviation flight activities will increase over agriculture land being used for organic farms, equine facilities, dairies, and orchards. An expansion of the existing overlay district has already been rejected. So here we are again with another work-a-round attempting to thwart the already ruled upon expansion. Hillsboro's aerotropolis model would be extended over food production land, making it very difficult for our rural community to provide a sustainable agriculture environment. Many of the rural residents of Western Washington County do not want this very productive and economically important farmland to be contaminated with lead. This airpark is part of the Hillsboro airport training flight path and is subject to the tower at Hillsboro. This new proposed overlay district will possibly bring in as many as 16 new properties housing multiple plains on each lot. The type 1 permits allow for no notification to local residents that will be in the direct flight path. Much of Banks and North Plains will be affected by this expanded use yet the residents are made powerless.

Since the permits on the new Sunset Orchard Estates Air Acres 2 lots for development will be Type 1, with no notification to surrounding landowners, there will be no protection in place to keep these lots from being used for commercially aviation activities such as fuel storage and visitor fly-ins and cargo. Since the already established overlay district allows commercial uses there will be no way to differentiate between uses in the older overlay district and the new overlay district. This set up immediate conflicts between the different uses.

It has been the unfortunate experience of those living in the Western Washington County area near rural airports, that when permit have been granted for aviation privileges for these airports, the privileges become substantially expanded; either when the owner engages in activities beyond the permitted uses or the property changes hands and the new owner pays no attention to the existing permitted uses. Any future conflict over permitted aviation uses vs. actually occurring aviation

activities at rural airports can be avoided by having clear, published regulations that the county is willing to enforce. Since the county is now only addressing violations when complaints are filed, it becomes difficult to see how any action will be taken to enforce the regulations on this proposed expansion given the limited funds for enforcement.

It seems that the Planning Commission Hearing was purposely timed to avoid public comment but many of us did attend and testify. After the hearing, the CPO 8 meeting on the 9 of Sept brought this issue to the attention of those most likely to be affected. Many meeting attendants showed concern. The Planning Commissions recommendation is to reject ordinance 772. I support the recommendation of the Planning Commission. There may be contention and possible legal action regarding this proposed increase in aviation activity if their recommendations are not regarded as the deciding factor in Commissioners votes on this matter.

Ordinance #772 proposing to add a new section (389) to the CDC should be denied.

Respectfully submitted,

Ellen L. Saunders  
47950 NW Dingheiser Rd  
Manning OR 97125  
Ellen\_L\_Saunders@me.com

Submission includes my personal comments plus an 8 page feature story on the health risks of the leaded gas use in private plains published in OnEarth Magazine from NRDC

Saunders Ellen <Ellen\_L\_Saunders@me.com>  
To: Saunders Ellen <ellen\_l\_saunders@me.com>  
Something in the Air | OnEarth Magazine

September 5, 2013, 12:58 PM

## FEATURE STORY



### Something in the Air

The health risks of leaded gasoline are a thing of the past, right? Wrong.

It's impossible to have an uninterrupted conversation with Kelly Kittleson in her home. Kittleson, who lives in Hillsboro, Oregon, is a single mom with four kids. But her children are not the distraction. The two youngest—a boy, age 2, and a girl, age 4—sat quietly with us at the kitchen table. They hardly made a peep while we chatted. Instead, about every five minutes, a low-flying plane screamed above the rooftop. "They are constantly going over all the time," Kittleson complained. "It's crazy. When I first moved here, it felt like they were going to crash into our house."

Kittleson's house is directly beneath the final approach for the primary runway at Hillsboro Airport. The perimeter fence is visible from her backyard, where her kids spend countless hours. But the noise, it turns out, is just a nuisance. What really scares Kittleson is the lead. Like most Americans, she had no idea it was still in use in airplanes—the last remaining mode of transportation in the United States to use leaded fuel. (It was banned from automobile gasoline in 1996 after a phase-out that commenced with the passage of the Clean Air Act in 1970.) When the Oregon Department of Environmental Quality surveyed the airport in 2005, it found a lead cloud hovering above Hillsboro, a circular plume spanning 25 square miles. At its center—right about where the Kittlesons live—lead levels were

twice as high as the National Ambient Air Quality Standard threshold set by the Environmental Protection Agency (EPA).

In children, lead can damage the central nervous system, resulting in learning disabilities, stunted growth, and hearing loss, as well as cause anemia. Recent findings indicate that children who are repeatedly exposed exhibit violent behavior in later life. Adults may be at risk of kidney failure, cardiovascular disease, cancer, stroke, miscarriages, and premature births.

Even at infinitesimal levels in the blood, lead has been linked to ADHD. Kittleson's 8-year-old son has been diagnosed with the disorder; she now suspects her 4-year-old daughter might be showing symptoms too. Valorie Snider, who lives nearby, also has a son with ADHD. "Airplanes circle over the top of our house," she told me over coffee at a Starbucks across the road from the airport. "The windows rattle. Sometimes it feels like an earthquake."

Both families have the same pediatrician, James Lubischer. "I never knew how much [lead] would impact us until Dr. Lubischer told me," Snider said. She herself has been diagnosed with fibromyalgia, Hashimoto's disease (a thyroid disorder), and adrenal fatigue. She wonders if the lead has anything to do with these ailments.

Lubischer told me later that he lives right under the flight-training path, and that his daughter, too, has ADHD. He acknowledges that it's challenging to prove a direct connection to lead in a specific instance—much like a case of lung cancer in an individual smoker. While an inordinate number of residents I met in Hillsboro have health problems, the evidence is anecdotal, and there have been no longitudinal studies tracking illness in populations close to these "general aviation" airports (a term that covers nearly all types of flight activity except scheduled commercial passenger service).

Even so, Lubischer believes the scientific evidence is clear. He cited the work of Joel Nigg, a professor of psychiatry, pediatrics, and behavioral neuroscience at Oregon Health & Science University, who has published two influential papers showing a propensity to ADHD in children with only slightly elevated lead levels. Todd Jusko, now a professor in the University of Rochester's department of public health sciences, conducted an earlier study, published in 2008 in the journal *Environmental Health Perspectives*. Jusko found that children's cognitive abilities declined with blood lead levels of 2.1 micrograms per deciliter—less than half the level currently deemed toxic by the Centers for Disease Control and Prevention.





It was a sunny weekday morning in mid-April when I stopped on the way to the Kittlesons to take a look at the Hillsboro Airport. Single-engine prop planes soared overhead in near-constant succession, dispersing lead into surrounding neighborhoods.

Since 1990 the population of Hillsboro, a bedroom community 15 miles west of Portland, has nearly tripled, to more than 91,000, largely because semiconductor and biotech firms have moved into the area. The boom has transformed the town's airport. Once home to weekend aviators, it has become a hub for corporate jets, a pilot training school, and a spillover facility for Portland International Airport. Training flights, in particular, are problematic. Student pilots perform touch-and-go's—repeated landings that require gunning the engine at each go-around. They also do laps above the airfield. Takeoffs and landings at Hillsboro now total more than 200,000 annually, making it one of the busiest general aviation airports in the United States.

While jets and turboprops run on kerosene-based fuels, the majority of general aviation aircraft are piston-powered and consume aviation gasoline, or avgas, which is produced in several grades. The most common is 100-octane low lead, or 100LL, used by 167,000 aircraft, about 75 percent of the nation's general aviation fleet. (People in the industry use the terms 100LL and *avgas* interchangeably.) No other country in the world has a fleet that still relies predominantly on leaded gasoline.

By the 1940s lead had become the go-to additive to avgas because it produced a fuel with low anti-knock properties, increasing horsepower while adding only a smidgen of extra weight. Lead's toxicity had been well documented in innumerable studies. But most scientists (and pilots) assumed small doses were benign. By the 1960s advances in detecting trace amounts in the blood told a different story.

The lead added to avgas is a clear liquid known technically as tetraethyllead. Only one company in the world makes it: Innespec, a Colorado-based chemical corporation, which produces it at a plant near Liverpool, England. In addition to its anti-knock qualities, tetraethyllead performs several functions in piston-powered airplane engines. It boosts performance and reduces wear and tear. It also prevents something called "early detonation," which can melt pistons and trigger an explosion. At the moment, there is no widely available substitute. Unleaded blends are in development but still experimental. The upshot: piston-engine planes consume about 248 million gallons of avgas a year, spewing out 551 tons of lead.

These planes operate primarily from general aviation airports, of which there are about 3,000 in the United States (though most are podunk airstrips that see little activity). In 2010 the EPA compiled data on avgas emissions at the busiest of these airports—those with emissions of more than 1,000 pounds of lead a year. Hillsboro, with 1,360 pounds annually, ranked 21st on the EPA's list of 58. Many of these airports are situated in heavily populated neighborhoods. In Los Angeles, for instance, some 14,000 people live within a mile of Van Nuys Airport, which sees annual lead emission totals above 1,500 pounds.

At least 3,200 students who attend schools near the Hillsboro Airport are at risk. A Montessori preschool is located across the street from the airport's entrance, and a day care center is situated just 800 yards from the end of the main runway. According to statistics gathered by the Natural Resources Defense Council, nationwide more than three million children attend schools in close proximity to airports where avgas is burned.

No other country in the world has a fleet that still relies predominantly on leaded gasoline.



In 2011 Marie Lynn Miranda, a professor of pediatrics and dean of the School of Natural Resources and Environment at the University of Michigan, published a groundbreaking study in *Environmental Health Perspectives* on the effects of aviation gasoline on children. Miranda sampled 66 airports in North Carolina where air-quality sensors had recorded at least 448 pounds of lead emissions per year and found that blood lead levels in children living nearby were alarmingly high. She explained to me that lead accumulates in human tissue—every exposure adds more of the toxin to your body. “Children are more vulnerable because of their higher metabolic rate,” Miranda said. “So if you and your child were exposed to the same amount of lead, your child would uptake five times as much.”

Miranda’s study has galvanized efforts to ban avgas by local grassroots organizations such as Oregon Aviation Watch, an environmental advocacy group in Hillsboro founded by Miki Barnes, a social worker. In battles with city, state, and federal policy makers, citizens like Barnes are trying—so far largely without success—to stop airport expansions, reroute flight paths, and curb air traffic.

During my visit to Hillsboro, representatives from the Port of Portland and the Federal Aviation Administration (FAA) held a meeting at the town’s civic center to hear public comments on the port’s proposal to add a third runway to the airport. Port officials brought copies of their 246-page environmental assessment, which projects a nearly 40 percent increase in lead emissions by 2021, to 1,840 pounds annually, as a result of increased flight traffic (though not necessarily of the proposed runway.)

The hearing was standing room only. More than 60 residents turned out, and nearly two dozen of them took to the lectern to make impassioned pleas not to approve the project. “Do you know what lead does?” Barnes asked when she testified. “It reduces IQ. It’s linked with ADHD. It’s linked with miscarriages. It’s linked with birth defects. It’s absolutely toxic. [The runway project] is shameful.” Residents could each speak for five minutes, but it took Barnes only two before she got teary-eyed.

During a break in the proceedings, I spoke to Renee Dowlin, the Port of Portland’s manager for the project. Lead, she told me, “is not the Port of Portland’s issue. It is a federal issue, which the EPA and FAA will deal with. Nor do we have control over the number of planes that can come to the airport. We are preempted by the FAA because we accept federal money.”

Barnes is unconvinced. “There are legal precedents for airport operators to limit these flights,” she insists. “The Port of Portland simply chooses not to do so because it values the revenue generated from the sale of leaded avgas over the well-being of the community.”





So why has the federal government done nothing to halt the use of avgas? By law, the EPA is required to make an “endangerment finding” when it deems that a pollutant or toxin presents an imminent threat to public health—and the health risks of lead are well established. Under the Clean Air Act, the agency must promptly set rules to regulate or ban harmful emissions from any source once it makes such a finding. But it hasn’t done so with avgas, despite having published dozens of studies on lead’s toxicity, including a 2000 report warning that “there currently is no demonstrated safe concentration of lead in blood, and adverse health effects can occur at lower concentrations.”

In March 2012, Friends of the Earth filed a lawsuit against the EPA, accusing the agency of having “unreasonably delayed” its duty to make an endangerment finding. Between the passage of the Clean Air Act in 1970 and 2007, piston-powered planes burned 14.6 billion gallons of avgas, expelling 34,000 tons of lead into the environment. Each year avgas accounts for nearly 60 percent of total lead emissions in the United States. (The remainder derives mostly from the metals industry.)

“We got rid of lead in cars,” says John Froines, a professor of environmental health sciences at UCLA, “and there is no argument that says we should allow it in aircraft.” Froines directed the Occupational Safety and Health Administration’s Office of Toxic Substances in the 1970s, where he wrote the first lead standards.

Meanwhile, the EPA has commenced yet another study, which it expects to complete in May 2014. Justin Cohen, communications director for the agency’s Office of Transportation and Air Quality, would not speak about the new study or allow me to interview anyone at the EPA about it (or anything else avgas-related) on the record. Instead, he pointed me to the agency’s website, where I learned how scientists will use computer models to calculate lead emissions at various airports. But if computers can already determine lead pollution at any airport, why does the EPA need another investigation to conclude that avgas is endangering public health? Cohen wouldn’t comment, and Kim Hoang, air toxics risk coordinator for the EPA’s air division, whose staff created the computer models in 2011, declined requests for an interview.

Marianne Engelman Lado, an attorney with Earthjustice who is leading the legal team for Friends of the Earth, told me, “[The EPA] has argued that they need to do more monitoring. And after they study the results, they can think about doing an endangerment finding. So we could be looking many, many years down the road before there’s even any set of deadlines for getting lead out of avgas. But when you think about the harm that lead causes, there’s grounds to be calling for major change at a very fast pace.”

“We know what the answer to the question about the problem of lead is,” Froines says. “It’s not something that needs further study. That’s ridiculous.”

Instead of dealing directly with lead in aviation fuel, the Clean Air Act left it to the EPA administrator to decide whether to tackle avgas emissions; if that happened, any new regulations could not “adversely affect safety.” Remember that part about lead preventing engines from exploding? That’s why industry groups, including the Aircraft Owners and Pilots Association, the National Air Transportation Association, and the General Aviation Manufacturers Association, have been reluctant to support a ban on avgas until a “drop-in” replacement fuel is available. They insist that such a fuel must match the performance of avgas across all parameters, cost the same or less (now about

\$6 per gallon), and require no changes to aircraft or the fuel distribution infrastructure, such as pumping stations, tanker trucks, and pipelines.

Peter White, who manages the FAA's new Fuel Programs Office—created specifically to focus on avgas—doubts that many petroleum companies would invest the cash and assets needed to develop a spec-for-spec substitute until the EPA is compelled to make a move. In February 2012 the FAA announced a set of formal recommendations, known as the Fuel Development Roadmap, to “support [the] transition to an unleaded aviation gasoline.” EPA officials have indicated they won't ban avgas (unless forced to by a judge) until a suitable substitute is available. Doing so, they say, would wreak economic havoc, grounding most of the general aviation fleet. The Fuel Programs Office is bringing the EPA and FAA together in an unprecedented partnership to resolve the stalemate. “We're trying to incentivize fuel producers to help develop new [unleaded] candidates,” White told me.

Nonetheless, he reckons a free-market solution is going to need some legislative prodding. So does Representative Henry Waxman of California. Last October Waxman, a Democrat, wrote to FAA administrator Michael Huerta, pleading with him to fast-track the availability of unleaded avgas. “There is a cloud of uncertainty hanging over the future of 100LL and it's stymieing growth,” White said. “Without some sort of regulatory change, some sort of requirement, there's really no other force that's going to drive 100LL off the market and bring in a replacement.”

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At the moment only two small firms are exploring replacements for 100LL. Swift Fuels, based in West Lafayette, Indiana, has developed an unleaded avgas by blending isopentane, a chemical found in mouthwash, with mesitylene, an industrial solvent. According to project co-founder Jon Ziulkowski, the fuel, called 100SF, can be manufactured from renewable biomass sources, such as switchgrass and sorghum, and burns cleaner than 100LL, with 30 percent fewer greenhouse gas emissions.

In Ada, Oklahoma, engineers at General Aviation Modifications Inc. (GAMI) have developed a rival fuel to the Swift blend called G100UL. GAMI co-founder George Braly hopes to license the formula, for which a patent is pending, to a major refiner, such as Phillips 66, the nation's largest producer of avgas. “But avgas is a specialty fuel,” Braly said. “It's a pain for [Phillips and other companies] to make because the volume is so small. So they want status quo until there's no other alternative.” Phillips declined to comment.

Could either fuel emerge as a drop-in replacement? Brian Watt, Innospec's vice president of strategic planning and regulatory affairs, is doubtful. “People have been looking at 100LL replacements for 40 years, and there is still not a credible alternative,” he told me. “Legislation would help.”

Peter White sees things differently. “I don't want to say yes or no until we really have the chance to evaluate all the data,” he said. It's up to the FAA to certify specific engine models permitted to burn any new fuel, but that will take years. “It's a huge effort,” White observed. “You need to collect data, there are material compatibility issues, there are operability issues, there's performance, there's weight—a whole bunch of things you need to address and a very large number of models.”

FAA officials have said they're committed to certifying a drop-in avgas replacement by 2018. But as Waxman pointed out in his letter to Huerta, certification is only the initial step. After 2018, he wrote, “it may be 11 years or more before the new fuel will be phased in. This extended time frame is simply too long, given the certain and serious harms to human health from lead exposure.”

Ordinary unleaded gasoline—mogas—might, in fact, offer the simplest and quickest interim solution. While its octane is lower than that of 100LL, “it has been conclusively shown that over 80 percent of all current piston-engine aircraft can operate on mogas,” notes Kent Misegades, director of the Aviation Fuel Club, a nonprofit group formed to champion unleaded alternatives to 100LL. The hurdle with mogas is finding it without ethanol. Because of the EPA's

2005 Renewable Fuel Standard (RFS) requirement, automotive fuel in the United States must be blended with ethanol. This works fine for cars but can be catastrophic in airplanes.

The reason is that ethanol is hygroscopic, meaning it absorbs water—for example, water that forms from condensation in a fuel tank. In cars, ethanol can damage engines but (usually) isn't life-threatening. In airplanes, however, ethanol not only is corrosive but can retain moisture that may freeze in the frigid air at higher altitudes. "It's like throwing ice cubes through your fuel system," Ziulkowski explains. "It will cause the engine to stop in midair."

For his part, Misegades is making headway. He says, "Despite all the odds against us—and with no help from the FAA, EPA, avgas suppliers, or our own aviation lobbies—we have been able to slowly increase the number of airports now offering mogas." In the United States, all gasoline is produced initially without ethanol. Petroleum refiners add just enough to fulfill their RFS quota. Once that has been met, the untainted surplus is sold to consumers who prefer it for engines more susceptible to ethanol damage, including those in boats, snowmobiles, farm equipment, power tools, lawnmowers, and vintage automobiles. Misegades's group taps into this supply. Of the 3,600 airports that carry avgas, at least 118 have an adjacent pump supplying ethanol-free mogas. As for 100LL, Misegades, who is an aerospace engineer and recreational pilot, admits, "Our continued use of a substance that was banned decades ago in cars makes us look like cavemen."



In March U.S. District Court judge Amy Berman Jackson dismissed the Friends of the Earth lawsuit against the EPA. She didn't address the obvious hazards of avgas or dispute that mitigating lead emissions was one of the principal objectives of the Clean Air Act. Instead, her written opinion hinged on the language of the act, which she found ambiguous. She ruled that the EPA's responsibility to make an endangerment finding was discretionary, not mandatory.

So what comes next? "We're weighing our options," says Lado of Earthjustice. "I think legal action is still needed to put the pressure on." One possibility is to petition the U.S. Court of Appeals for the District of Columbia Circuit. But there is also a wild card: the entity with the greatest power to eliminate lead in avgas may be Innospec, its sole producer. In 2012 tetraethyllead generated one-tenth of Innospec's \$776 million in revenue, down from 90 percent in

2000. Today, sales of tetraethyllead to avgas producers account for just 3 percent of Innospec's business. The remainder comes from their customers in Algeria, Iraq, and Yemen, which still blend the additive into gasoline for older cars. But with phase-outs under way in those countries, demand is waning fast. "As soon as they get their refineries and motor fleet sorted out, [tetraethyllead] there will be gone," Innospec's Watt predicts.

For the time being, Watt says that the company is committed to keeping its Liverpool plant running until there is a suitable 100LL replacement. And yet, he admits, "If we weren't making money on it, we'd obviously do something different." Annually, Innospec sells about 450,000 gallons of tetraethyllead to avgas producers. "But we've already been stepping down [production] every year," Watt says. Outside the United States, there are about 60,000 aircraft that require avgas, but most can operate on the mogas that's readily available in the rest of the world, which doesn't blend ethanol with fuel. "Our position with the aviation market is that we don't want to be in this business long term," he says. "There is no future for tetraethyllead."

All the more reason, urges Lado, "to get the phase-out process under way now. [The EPA] is wasting time. The handwriting is on the wall that lead is bad, that lead is being spewed from these airplanes, and that lead has to go."

*All photos by Lori Nix*

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WASHINGTON COUNTY  
 DEPARTMENT OF LAND USE  
 & TRANSPORTATION  
 PLANNING AND DEVELOPMENT  
 SERVICES DIVISION -  
 LONG RANGE PLANNING  
 155 NORTH FIRST AVENUE  
 HILLSBORO, OREGON 97124  
 (503) 846-3519

CASE FILE: **Ordinance No. 772**  
**Quasi-Judicial Hearing Notice**

## AFFIDAVIT OF MAILING

STATE OF OREGON  
 COUNTY OF WASHINGTON } SS

**Linda Schroeder**, declares as follows

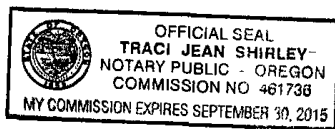
That at all times herein mentioned, she was an employee of the County of Washington, that acting for the County on the **14th** day of **August, 2013**, she did on that date, mail notice to the landowners (on Assessment and Taxation Computer Printout) within 1000 feet of the property described in **Ordinance No. 772**, in accordance with the requirements of the Washington County Community Development Code

Attached is a copy of the notice mailed and a list of the property owners and/or other affected parties to whom the notice was sent

I, **Linda Schroeder**, being first duly sworn depose and say that I am the party in the foregoing statement and that the same is true

*Linda Schroeder*

Subscribed and sworn to before me this 16<sup>th</sup> day of **September, 2013**



*Traci Shirley*

Notary Public for Oregon

My Commission Expires Sept. 30, 2015

APPROVED AS TO FORM

*Alan G. Ruppberg*

County Counsel  
 For Washington County, Oregon



WASHINGTON COUNTY  
DEPARTMENT OF LAND USE & TRANSPORTATION  
PLANNING AND DEVELOPMENT SERVICES  
LONG RANGE PLANNING  
155 NORTH FIRST AVENUE, ROOM 350-14  
HILLSBORO, OREGON 97124  
(503) 846-3519 fax (503) 846-4412  
www.co.washington.or.us

# NOTICE OF PUBLIC HEARING

PROCEDURE TYPE III

CPO: 8

COMMUNITY PLAN: Rural/Natural Resource Plan

EXISTING LAND USE DISTRICT(S):

EFU – Exclusive Farm Use

AF-5 – Agriculture and Forest 5 Acre

RR-5 – Rural Residential 5 Acre

AF-20 – Agriculture and Forest 20 Acre

PROPOSED PLAN AMENDMENT:

Apply the proposed Residential Airpark Overlay District designation to 14 tax lots surrounding the Sunset Airstrip

CASE FILE NO.: Ordinance No. 772

APPLICANTS:

Robert & April Jossy

31965 NW Beach Road

Hillsboro OR 97124

APPLICANT'S REPRESENTATIVE:

Applicants

OWNERS:

Applicants

PROPERTY DESCRIPTION:

ASSESSOR MAP AND TAX LOT NO(S): 1N3 12, TLs 1900, 1902, 3400, 3500, 3600, 3700, & 3800, 1N3 11, TLs 1400, 1900, 1200 & 1300, 1N3 1CC, TLs 1100, 1200 & 1400

SITE SIZE: Approximately 100 acres

ADDRESS: (Various site addresses)

LOCATION: South of the city of North Plains and north of NW Beach Road

Initial public hearings on this ordinance will be held in the auditorium of the Washington County Public Services Building, located at 155 North First Avenue, Hillsboro OR 97124

Hearing before the Planning Commission:  
September 4, 2013 at 2 00 PM

Hearing before the Board of County Commissioners:  
September 24, 2013 at 6 30 PM

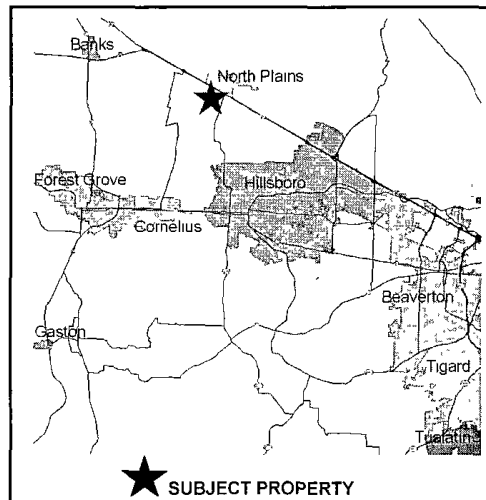
The Planning Commission will make a recommendation to the Board of County Commissioners on this matter at its public hearing. Additional hearings before each Commission may be scheduled if deemed necessary by either body. The decision of the Board is final unless appealed.

All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to a hearing). Only those making an appearance of record shall be entitled to appeal. The public hearings will be conducted in accordance with the rules of procedure as adopted by the Board of County Commissioners. Reasonable time limits will be imposed.

Assistive Listening Devices are available for persons with impaired hearing and can be scheduled for this meeting by calling 503-846-8611 (voice) or 503-846-4598 (TDD – Telecommunications Devices for the Deaf) no later than 5 00 pm, Monday. The County will also upon request endeavor to arrange for the following services to be provided: qualified sign language interpreters for persons with speech or hearing impairments, and qualified bilingual interpreters. Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the County of your need by 5 00 pm on the Monday preceding the meeting date.

FOR FURTHER INFORMATION, PLEASE CONTACT  
**Paul Schaefer, Senior Planner, at 503-846-8817**

## AREA MAP



**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.**

All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to the hearing but not after the conclusion of the hearing) Only those making an appearance of record (those presenting oral or written testimony) shall be entitled to appeal. Failure to raise an issue in the hearing, in person or by letter, or failure to provide sufficient specificity to afford the Review Authority (Planning Commission and/or Board of County Commissioners) an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on the issue.

The public hearing will be conducted in accordance with the following rules of procedure as adopted by the Board of County Commissioners Reasonable time limits may be imposed.

#### **RULES OF PROCEDURE**

1. The staff will summarize the applicable substantive review criteria
2. A summary of the staff report is presented.
3. The applicant's presentation is given.
4. Testimony of others in favor of the application is given.
5. Testimony of those opposed to the application is given.
6. Applicant's rebuttal testimony is given.

Unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall be subject to the limitations of ORS 215.428 or 227.178

When the Review Authority reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost at the Department of Land Use & Transportation A copy of this material will be provided at reasonable cost

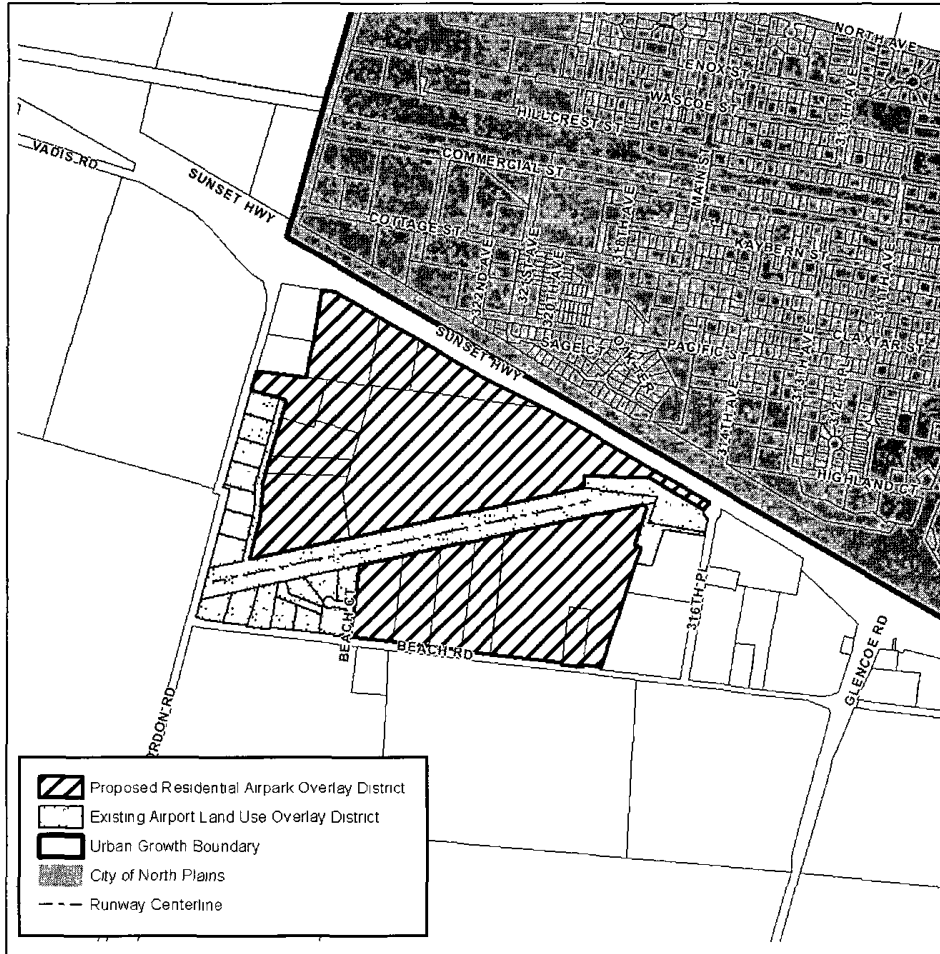
A copy of the staff report will be available for inspection at no cost at the Department of Land Use & Transportation at least seven days prior to the hearing A copy of the staff report will be provided at reasonable cost.

For further information, please contact **Paul Schaefer, Senior Planner**, Department of Land Use & Transportation, at 503-846-3961.



**Tax Map/Lot Number:** 1N3 12, Tax Lots 1900, 1902, 3400, 3500, 3600, 3700, 3800  
 1N3 11, Tax Lots 1400, 1900, 1200, 1300  
 1N3 1CC, Tax Lots 1200, 1100, 1400

**Case File Number:** Ordinance No. 772



Applicable Land Use Districts:

EFU AF-20  
 RR-5 AF-5

Applicable Goals, Policies & Regulations:

- A LCDC Statewide Planning Goals 1, 2, 3, 9, 10, 12
- B Oregon Revised Statute 836 600
- C Oregon Administrative Rule 660-013 (Airport Planning)
- D Washington County Rural/Natural Resource Plan Policies 1, 2, 15, 17, 18, 28
- E Washington County Transportation Plan

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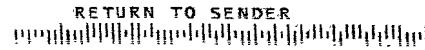


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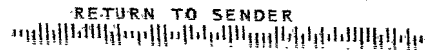


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 PO BOX 171  
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 97133-0171-0001

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 31730 NW MEADOW DR  
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 BYBEE, VERNA L  
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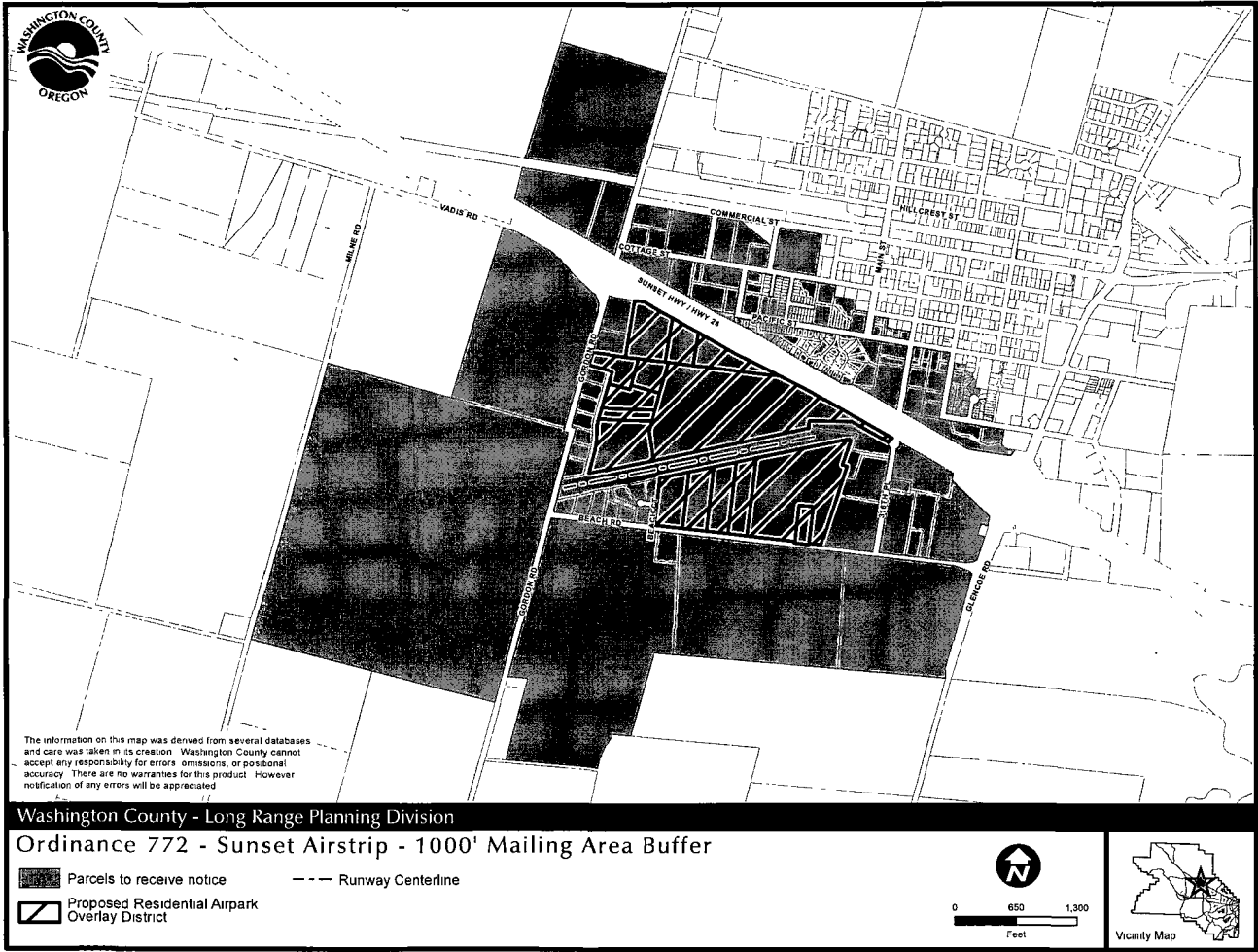
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2000-071 PARTITION PLAT  
OWNERS OF LOTS 1-3  
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ADAMS, JAMES & SUZANNE  
LIVING TRUST  
87 S 20TH AVE #B  
CORNELIUS, OR 97113

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AMARO, BRENDEN J  
10155 NW 312TH PL  
NORTH PLAINS, OR 97133

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AMORINE, MATTHEW R &  
RICHARDSON, QUINN N  
10230 NW 313TH AVE  
NORTH PLAINS, OR 97133

1N301CD08300  
ANDERSON, PAUL A &  
ANDERSON, VICTORIA N  
PO BOX 720  
NORTH PLAINS, OR 97133

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ARNOLD, BILL J  
PO BOX 833  
NORTH PLAINS, OR 97133

1N301CD01600  
ARNOLD, SHAUN & AMBER  
PO BOX 1046  
NORTH PLAINS, OR 97133

1N301CD11900  
BAGGENSTOS, CHRISTOPHER T & ANNE  
THURMAN, RANDY N & LOUISE G  
31850 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N311AA00500  
BAILEY, MATTHEW T  
9930 NW GORDON RD  
CORNELIUS, OR 97113

1N301CD13000  
BAKER, VALERIE M  
31893 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CD07500  
BARBOUR, WARREN K &  
BARBOUR, DOLORES R  
PO BOX 1516  
NORTH PLAINS, OR 97133

1N301CD10300  
BARRAZA, MANUEL C &  
BARRAZA, SUSAN Q  
88 JEANETTE WAY  
WATSONVILLE, CA 95076

1N301CD12800  
BENALLY, BENJAMIN  
31927 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301DC12300  
BIERMAN, THOMAS L  
PO BOX 917  
NORTH PLAINS, OR 97133

1N301CD01100  
BIGGI CONSTRUCTION LLC  
11605 SW NORMANDY LN  
WILSONVILLE, OR 97070

1N301CD08400  
BLACKWOOD, JACK F &  
BLACKWOOD, PAMELA K  
10305 NW 317TH AVE  
NORTH PLAINS, OR 97133

1N3120000701  
BLAZEVSKI, JAMES N & MARIKA  
20252 SW ANGIE LN  
ALOHA, OR 97006

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BOYLE, JOSEPH T &  
ROSADO, KREANNA K  
10560 NW 321ST AVE  
NORTH PLAINS, OR 97133

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BRAL, PETER J/TERESA M  
PO BOX 183  
NORTH PLAINS, OR 97133

1N301CD12900  
BRANDT, ERIC &  
BRANDT, KRISTA V  
31899 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CC00101  
BRAUKMAN, KATHERINE ANN  
PO BOX 195  
NORTH PLAINS, OR 97133

1N301CC01600  
BRECKEL, ANGELA K &  
BRECKEL, DAVID A  
32182 NW PACIFIC ST  
NORTH PLAINS, OR 97133

1N301DC04300  
BREESE, CAROLE V &  
BREESE, DONALD G  
2950 SE 64TH AVE  
PORTLAND, OR 97206

1N301CD13300  
BUSSOM, WILLIAM C &  
BUSSOM, EVA M  
10574 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301CD08500  
BYBEE, RANDALL W &  
BYBEE, VERNA L  
PO BOX 1488  
NORTH PLAINS, OR 97133

1N311AA01200  
CALARCO, RICHARD A &  
CALARCO, SALLY A  
32785 NW BEACH RD  
HILLSBORO, OR 97124

1N301DC04400  
CANNON, TAMMERA J &  
CANNON, JOHN J  
PO BOX 953  
NORTH PLAINS, OR 97133

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CANNON, TAMMERA J &  
CANNON, JOHN J  
PO BOX 953  
NORTH PLAINS, OR 97133

1N301CD06000  
CARLSON, RICHARD A &  
CARLSON, LINDA L  
PO BOX 1893  
NORTH PLAINS, OR 97133

1N301DC10500  
CHAD E DAVIS CONSTRUCTION LLC  
2420 PACIFIC AVE  
FOREST GROVE, OR 97116

1N311AA02100  
CHAREST, ROBERT D  
32715 NW BEACH RD  
HILLSBORO, OR 97124

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CLARE, JAMES S &  
CLARE, AGNES J  
9980 NW GORDON ROAD  
CORNELIUS, OR 97113

1N301CD05300  
CLITES, DARREN R  
PO BOX 10  
NORTH PLAINS, OR 97133

1N301DC05500  
COOK, WADE T  
PO BOX 549  
NORTH PLAINS, OR 97133

1N301CD04700  
COX, LINDA  
10262 NW OAK TER  
NORTH PLAINS, OR 97133

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COX, ZACHARY T  
10550 NW 321ST AVE  
NORTH PLAINS, OR 97133

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CRONK, CHRISTOPHER EUGENE  
10238 NW 314TH AVE  
NORTH PLAINS, OR 97133

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CUMMO, COURTNEY A &  
CHAMBERS, MARSHALL F,  
10552 NW 320TH AVE  
NORTH PLAINS, OR 97133

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DASKALOS, CARMEN A  
10600 NW 321ST AVE  
NORTH PLAINS, OR 97133

1N301DC11700  
DAVIS, CHAD E  
2420 PACIFIC AVE  
FOREST GROVE, OR 97116

1N311AA01600  
DAVIS, RONNIE L & DIANE M  
PO BOX 483  
TROUT LAKE, WA 98650

1N311AA01100  
DEBORDE, ROBERT M LIVING TRUST &  
DEBORDE, BERNADINE C LIVING TRUST  
PO BOX 238  
NORTH PLAINS, OR 97133

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DEMARIS, ANNA MARIE &  
DEMOURA, GAIL IRENE  
10150 NW 312TH PL  
NORTH PLAINS, OR 97133

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DICKSON, WALTER C GALETTA  
PO BOX 292  
NORTH PLAINS, OR 97133

1N301DC09100  
DIMEO, TERRY E I  
2576 NW SAVIER ST  
PORTLAND, OR 97210

1N301DC09200  
DIMEO, VICTORIA  
10005 NE IRON RIDGE PL  
NORTH PLAINS, OR 97133

1N301CD08600  
DUYCK, KATHLEEN  
31825 NW MEADOW DR  
NORTH PLAINS, OR 97133

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EAGLE, RAVEN COLLEEN  
31859 NW PACIFIC ST  
NORTH PLAINS, OR 97133

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EAST ORCHARDS LLC  
31965 NW BEACH RD  
HILLSBORO, OR 97124

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EAST ORCHARDS LLC  
31965 NW BEACH RD  
HILLSBORO, OR 97124

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ELKINS, YVONNE E  
10303 NW OAK TER  
NORTH PLAINS, OR 97133

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EWING, DERRIC A &  
EWING, AMANDA L  
10580 NW 321ST AVE  
NORTH PLAINS, OR 97133

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FLEMMING FAMILY TRUST  
PO BOX 781  
NORTH PLAINS, OR 97133

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FOGG, RAYMOND C/DIANE M  
10020 NW GORDON RD  
CORNELIUS, OR 97113

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FORD, JANET MARIE  
31975 NW MEADOW DR  
NORTH PLAINS, OR 97133

1N301DC03700  
FREDERIKSEN, JONATHAN M &  
FREDERIKSEN, SHAANETTE RAE  
31330 NW PACIFIC ST  
NORTH PLAINS, OR 97133

1N301CD10200  
FRENCH, JOSEPH J  
10569 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301DC11000  
FULLER, JOSEPH A &  
KATHERINE A  
10122 SW MORRISON ST  
PORTLAND, OR 97225

1N312AB00200  
GALAWAY FAMILY TRUST  
12130 NW LOVEJOY  
PORTLAND, OR 97229

1N312AB00100  
GALAWAY FAMILY TRUST  
BY ALBERTA K GALAWAY TR  
12130 NW LOVEJOY ST  
PORTLAND, OR 97229

1N301CD10100  
GANTENBEIN, ERIC L &  
GANTENBEIN, PAMELA A  
10583 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301CC00500  
GONZALES FAMILY LLC  
PO BOX 187  
NORTH PLAINS, OR 97133

1N301CD04600  
GREEN RIVER PROPERTIES &  
NORTH PLAINS HOLDINGS LLC  
6770 SW CANYON DR  
PORTLAND, OR 97225

1N301CD07200  
GROBE, ROBERT W &  
GROBE, O NADINE &  
GROBE, JAMES W  
4316 GOLDEN OAK  
SCHERTZ, TX 78154

1N301CD12000  
HALL, JAMES T &  
HALL, TARA J  
31860 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CD01000  
HANSEN, GORDON J & TAMELA G  
PO BOX 792  
NORTH PLAINS, OR 97133

1N301DC11400  
HARRIS, MELANIE L &  
HARRIS, TYLER J  
10160 NW 312TH PL  
NORTH PLAINS, OR 97133

1N301DC04000  
HAYDEN, DONALD A & PATRICIA L  
PO BOX 64  
NORTH PLAINS, OR 97133

1N301CD03300  
HAYS, TIMOTHY ANDREW  
10555 NW 321ST AVE  
NORTH PLAINS, OR 97133

1N301DC10700  
HELMICK, WILLIAM J &  
HELMICK, STEPHANIE M  
10145 NW 312TH PL  
NORTH PLAINS, OR 97133

1N301CD10600  
HERNANDEZ, MATTHEW W  
10513 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301DC10200  
HINOJOS, JUAN &  
HINOJOS, JULIE  
10245 NW 312TH PL  
NORTH PLAINS, OR 97133

1N301CD06100  
HOLAH, CHRISTOPHER &  
HOLAH, KAREN  
PO BOX 603  
NORTH PLAINS, OR 97133

1N301DC09500  
HULTS, PEGGY E &  
WILLIAM C SR, TRUSTEES  
PO BOX 633  
NORTH PLAINS, OR 97133

1N311AA01900  
JACKSON, WM A BETTE  
9615 NW BEACH COURT  
HILLSBORO, OR 97124

1N301CD05200  
JEWELL, DEBRA L  
PO BOX 962  
NORTH PLAINS, OR 97133

1N3120000903  
JEWETT-CAMERON LUMBER CORP  
ATTN DONALD BOONE  
PO BOX 816  
NORTH PLAINS, OR 97133

1N3120000703  
JEWETT-CAMERON LUMBER CORP  
ATTN DONALD BOONE  
PO BOX 816  
NORTH PLAINS, OR 97133

1N301DC04200  
JONES JOINT LIVING TRUST &  
JONES, CRAIG S LIVING TRUST  
21129 NW PUMPKIN RIDGE RD  
NORTH PLAINS, OR 97133

1N301CD06800  
JONES, JEFFREY MICHAEL &  
JONES, CRYSTAL ANN  
PO BOX 122  
NORTH PLAINS, OR 97133

1N3120001900  
JOSSY, APRIL J REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N3110001400  
JOSSY, APRIL J REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N3110001900  
JOSSY, APRIL J REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N3120003600  
JOSSY, APRIL J REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N3120003700  
JOSSY, APRIL J REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N3120003800  
JOSSY, APRIL J REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N3120001902  
JOSSY, APRIL J REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N301CC01200  
JOSSY, ROBERT D  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N301CC01100  
JOSSY, ROBERT D  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N301CC01400  
JOSSY, ROBERT D  
31965 NW BEACH RD  
HILLSBORO, OR 97124



1N3120002700  
JOSSY, ROBERT D  
REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N3110001200  
JOSSY, ROBERT D REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N3110001300  
JOSSY, ROBERT D REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N3120000702  
JOSSY, ROBERT D REVOCABLE TRUST  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N3120000501  
KELLY, BRIAN W AND NANCY B  
9765 NW 316TH PL  
HILLSBORO, OR 97124

1N301CD05900  
KIDDER, SEAN &  
KIDDER, VILLA  
PO BOX 462  
NORTH PLAINS, OR 97133

1N3110000101  
KIGER, LAWRENCE/FREDA  
32490 NW BEACH RD  
HILLSBORO, OR 97124

1N301CD07900  
KINDEL, BRANDI  
31795 NW SAGE CT  
NORTH PLAINS, OR 97133

1N301CD11800  
KNIGHT, ROSS K &  
KNIGHT, RACHELLE K  
31849 NW PACIFIC ST  
NORTH PLAINS, OR 97133

1N301CD10400  
KONOPASEK, KAREN  
10541 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301CD05000  
KRAUSEL, GRACE D  
PO BOX 235  
NORTH PLAINS, OR 97133

1N301DC05602  
KRUG, DARRELL L & JUDITH E  
PO BOX 402  
NORTH PLAINS, OR 97133

1N301DC05600  
KRUG, DARRELL L & JUDITH E  
PO BOX 402  
NORTH PLAINS, OR 97133

1N301DC05601  
KRUG, DARRELL L AND  
JUDITH E  
PO BOX 402  
NORTH PLAINS, OR 97133

1N301CD06600  
LABONTE, LEE M &  
LABONTE, HEATHER M  
32000 NW MEADOW DR  
NORTH PLAINS, OR 97133

1N301CD04500  
LANCASTER DEVELOPMENT CORPORATI  
6770 SW CANYON DR  
PORTLAND, OR 97225

1N301CD09800  
LARSON, STEPHANIE R &  
CURRY, SHAWN  
21163 NW GALICE LN #305  
PORTLAND, OR 97229

1N301CD03100  
LEN WAI, BRIDGETTE K  
10595 NW 321ST AVE  
NORTH PLAINS, OR 97133

1N301DC11100  
LILLIE, JOHN T  
10190 NW 312TH PL  
NORTH PLAINS, OR 97133

1N301CD07700  
LYTLE, TOMMY D &  
LYTLE, PUALETTE  
PO BOX 783  
NORTH PLAINS, OR 97133

1N301CD08800  
MACKRIS, RONALD P  
PO BOX 218  
NORTH PLAINS, OR 97133

1N301CD13600  
MACY, RUSSELL A &  
MACY, LISA D  
10618 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301CD06400  
MANUEL, DONALD L  
PO BOX 605  
NORTH PLAINS, OR 97133

1N3120000500  
MARCO, PATRICIA E REVOC LT  
9875 NW 316TH PL  
HILLSBORO, OR 97124

1N301CD04300  
MAY, JOY L &  
WIREN, CHARLES A JR  
PO BOX 243  
NORTH PLAINS, OR 97133

1N311AA01000  
MCCANDLESS, WILLIAM H &  
MCCANDLESS, HELEN I  
32905 NW BEACH RD  
HILLSBORO, OR 97124

1N301CD06900  
MEAD, CHARLES D  
32025 NW MEADOW DR  
NORTH PLAINS, OR 97133

1N301CD13200  
MILLER, ALYCE  
31883 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N311AA00600  
MOSELEY, JEAN REYNOLDS  
REVOCABLE LIVING TRUST  
9870 NW GORDON RD  
CORNELIUS, OR 97113

1N301DC11800  
MUNOZ, ROSALINDA &  
WILLIAMS, MARCUS J  
10020 NW 312TH PL  
NORTH PLAINS, OR 97133

1N301DC10400  
NAVA, JULIO C & MARIA J  
PO BOX 176  
NORTH PLAINS, OR 97133

1N301DC10300  
NELSON, BRENT R  
10225 NW 312TH PL  
NORTH PLAINS, OR 97133

1N301CD12200  
NORMANDIN, MEGAN J  
31888 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CC00400  
NORTH PLAINS FOREST PRODUCTS INC  
PO BOX 279  
NORTH PLAINS, OR 97133

1N301CC00300  
NORTH PLAINS FOREST PRODUCTS INC  
PO BOX 279  
NORTH PLAINS, OR 97133

1N301CC00200  
NORTH PLAINS FOREST PRODUCTS INC  
PO BOX 279  
NORTH PLAINS, OR 97133

1N301CC00900  
NORTH PLAINS FOREST PRODUCTS INC  
PO BOX 279  
NORTH PLAINS, OR 97133

1N301CC01000  
NORTH PLAINS FOREST PRODUCTS INC  
PO BOX 279  
NORTH PLAINS, OR 97133

1N301CC01800  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CC01700  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD07000  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD06700  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD07300  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD07400  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD08000  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD04400  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD08700  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD06200  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD09000  
NORTH PLAINS HOLDINGS LLC  
ATTN BARTHOLEMY, EDMUND  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD09100  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD09200  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD05800  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD05600  
NORTH PLAINS HOLDINGS LLC  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD02000  
NORTH PLAINS HOLDINGS LLC  
19495 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD05100  
NORTH PLAINS HOLDINGS LLC  
ATTN BARTHOLEMY, EDMUND  
18485 SW SCHOLLS FERRY RD  
BEAVERTON, OR 97007

1N301CD04100  
NORTH PLAINS, CITY OF  
31360 NW COMMERCIAL ST  
NORTH PLAINS, OR 97133

1N301CD02001  
NORTH PLAINS, CITY OF  
31360 NW COMMERCIAL ST  
NORTH PLAINS, OR 97133

1N312AB00300  
NORTH PLAINS, CITY OF  
31360 NW COMMERCIAL ST  
NORTH PLAINS, OR 97133

1N301CD09600  
OAK MEADOW PARK HOMEOWNERS ASSN  
31905 NW MEADOW DR  
NORTH PLAINS, OR 97133

1N301CD02200  
OCHOA, RODRIGO A & PATRICIA J  
PO BOX 1580  
NORTH PLAINS, OR 97133

1N301CC01300  
OCHS, LEWIS M &  
OCHS, LINDA C  
10380 NW GORDON RD  
CORNELIUS, OR 97113

1N301DC12000  
PACIFIC MEADOWS NO 2  
OWNERS OF LOTS 7-12  
00000

1N301DC10900  
PATTERSON, MATTHEW W  
10165 NW 312TH PL  
NORTH PLAINS, OR 97133

1N311AA02000  
PEDERSON, WM K JR SUSAN  
32655 NW BEACH RD  
HILLSBORO, OR 97124

1N301DC05501  
PETIT JEAN, BONNIE GENE  
PO BOX 793  
NORTH PLAINS, OR 97133

1N301CD04900  
PIERCE, LOIS J &  
PIERCE, BILLY  
PO BOX 762  
NORTH PLAINS, OR 97133

1N301CD13100  
PLUMLEY, ROBERT G &  
DOROHA, STANCY  
31891 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CD10500  
PRINCE, BRADLEY  
10527 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301CD13500  
PRINCE, DENISE REVOCABLE  
LIVING TRUST  
17150 SW ELDORADO DR  
TIGARD, OR 97224

1N301CD12400  
PRINCE, STEVEN M &  
PRINCE, DENISE A  
17150 SW ELDORADO DR  
TIGARD, OR 97224

1N301CD12100  
PROPECK, JAMES &  
PROPECK, HILARY  
31880 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N3110000100  
R & R COUSSENS, INC  
18009 NW ANASTASIA DR  
PORTLAND, OR 97229

1N3120001800  
R & R COUSSENS, INC  
18009 NW ANASTASIA DR  
PORTLAND, OR 97229

1N301CD08200  
RALPH, RONALD &  
RALPH, ALICE  
PO BOX 1895  
NORTH PLAINS, OR 97133

1N301CD01606  
RANES, RONALD L &  
KOLAR-RANES, ANDREA J  
31597 NW PACIFIC ST  
NORTH PLAINS, OR 97133

1N311AA00200  
ROBINSON, DAN C & NIKKI N  
PO BOX 2000  
NORTH PLAINS, OR 97133

1N311AA02200  
ROTH DEVELOPMENT, INC  
3450 NW 65TH ST  
SEATTLE, WA 98117

1N301CD13800-  
RSP DEVELOPMENT LLC  
17150 SW ELDORADO DR  
TIGARD, OR 97224

1N301CD13700  
RSP DEVELOPMENT LLC  
17150 SW ELDORADO DR  
TIGARD, OR 97224

1N301CD05700  
SAGAR, JAMES &  
ROSSETTI-SAGAR, CHRISTINE K  
PO BOX 719  
NORTH PLAINS, OR 97133

1N301CD08100  
SAGAR, THOMAS M &  
SAGAR, CYNTHIA K  
10365 NW 317TH AVE  
NORTH PLAINS, OR 97133

1N301DC10600  
SCHELLENGER, DANIEL D & LISA A  
10135 NW 312TH PL  
NORTH PLAINS, OR 97133

1N3120000700  
SCHLOTTMANN, CRAIG J & DARCEY M  
PO BOX 606  
NORTH PLAINS, OR 97133

1N301CD09900  
SCHMIDT, WILLIAM C &  
CAREY, PAMELA  
10613 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301CD07800  
SEGGERMAN, DENISE  
PO BOX 121  
NORTH PLAINS, OR 97133

1N301CD04200  
SHEETS, STEPHEN R &  
SHEETS, ANGELIA L  
PO BOX 656  
NORTH PLAINS, OR 97133

1N301DC11600  
SHEPHERD, MELODY A &  
SHEPHERD, KERRY J  
10140 NW 312TH PL  
NORTH PLAINS, OR 97133

1N301DC11900  
SIMMONS, KIM M &  
COOK, TOBBY L  
31125 NW HIGHLAND CT  
NORTH PLAINS, OR 97133

1N301CD01101  
SKIPPER, WILLIAM E AND MARY L  
TRUSTEES  
4174 NE JACKSON STREET  
HILLSBORO, OR 97124

1N301CD01202  
SLIVINSKI, JOSEPH A & SHARALYN K  
PO BOX 251  
NORTH PLAINS, OR 97133

1N301CD12300  
SLOPER, KELLI &  
SLOPER, GERALD D &  
SLOPER, CONNIE D  
31890 NW CLAXTAR ST  
NORTH PLAINS, OR 97133

1N301CC00100  
SPIERING, ROGER E AND  
ALECIA J  
PO BOX 417  
NORTH PLAINS, OR 97133

1N301CD03600  
SPRAGUE, SHARON L  
15070 NW 321ST AVE  
NORTH PLAINS, OR 97133

1N301CD12600  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD10700  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD12500  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD10800  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD10900  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11100  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11200  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11300  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11400  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11000  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11500  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD11600  
STEVEN PRINCE HOMES INC  
17150 SW ELDORADO DR  
PORTLAND, OR 97224

1N301CD07600  
SWANEY, RAMONA A  
3312 VALLEY CREST WAY  
FOREST GROVE, OR 97116

1N301CD13400  
TERESI, LAURIE A  
10586 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301DC04100  
THOMPSON, ANNIE L AND  
MEYERS, ANDREW J  
P O BOX 372  
NORTH PLAINS, OR 97133

1N301CD03000  
THOMPSON, STEVEN J &  
THOMPSON, CYNTHIA A  
3130 E 4TH AVE  
HILLSBORO, OR 97124

1N301DC03900  
THURBER, TIM R & ROBERTA M  
PO BOX 273  
NORTH PLAINS, OR 97133

1N3020000290  
TONGES FARMS LLC  
PO BOX 807  
NORTH PLAINS, OR 97133

1N3110001600  
TONGES FARMS LLC  
PO BOX 807  
NORTH PLAINS, OR 97133

1N3120002000  
TWIN CEDARS LLC  
31965 NW BEACH RD  
HILLSBORO, OR 97124

1N301CD05500  
UMLANDT, MICHAEL W &  
UMLANDT, JARED BENJAMIN  
14575 SW WALKER RD #D24  
BEAVERTON, OR 97006

1N301CC01301  
UNGER, NICHOLAS A & JEANNIE L  
10300 NW GORDON RD  
CORNELIUS, OR 97113

1N301CD01605  
UNITED STATES OF AMERICA  
SECRETARY OF HUD  
BY MICHAELSON CONNOR & BOUL INC  
4400 WILL ROGERS PKWAY #300  
OKLAHOMA CITY, OK 73108

1N311AA01700  
USHER FAMILY TRUST  
BY KARL & SANDRA USHER TRS  
9650 NW BEACH CT  
HILLSBORO, OR 97124

1N311AA00700  
USHER, DARRYL G LIVING TRUST &  
USHER, BARBARA L LIV TRUST  
9810 NW GORDON RD  
CORNELIUS, OR 97113

1N301DC03600  
VALENTINE, THEODORE H &  
JACQUE  
10215 NW 313TH AVE  
NORTH PLAINS, OR 97133

1N301CD08900  
VANDERZANDEN, MICHELLE D &  
VANDERZANDEN, STEVE J  
PO BOX 691  
NORTH PLAINS, OR 97133

1N3120002601  
VANGRUNSVEN, RICHARD E &  
DIANE E  
9899 NW 316TH PL  
HILLSBORO, OR 97124

1N301CD04800  
VICE, LORELLA M  
PO BOX 194  
NORTH PLAINS, OR 97133

1N301DC12400  
VINCENT, ANDREW J  
PO BOX 1044  
NORTH PLAINS, OR 97133

1N301CD01203  
VUYLSTEKE, JOHN & ALVINA  
PO BOX 661  
NORTH PLAINS, OR 97133

1N301CD06500  
WEBB, PATSY C TRUST  
31960 NW MEADOW DR  
NORTH PLAINS, OR 97133

1N311AA02300  
WEITMAN, JIM G  
9690 NW BEACH CT  
HILLSBORO, OR 97124

1N311AA01500  
WEITMAN, JIM G &  
WYLDER, TAYNA  
9690 NW BEACH CT  
HILLSBORO, OR 97124

1N301CD05400  
WHEELER, WAYNE S  
PO BOX 171  
NORTH PLAINS, OR 97133

1N301CD09400  
WILCOX, MERLENE  
PO BOX 1062  
NORTH PLAINS, OR 97133

1N301CD10000  
WILLSON, BRANDON C &  
WILLSON, KAYLA I  
10597 NW 320TH AVE  
NORTH PLAINS, OR 97133

1N301CD09300  
WILSON, STEVEN E  
10245 NW OAK TER  
NORTH PLAINS, OR 97133

1N301CD02400  
WING, DENNIS L & ALEXIS V  
PO BOX 285  
NORTH PLAINS, OR 97133

1N301CD02500  
WING, DENNIS L & ALEXIS V  
PO BOX 285  
NORTH PLAINS, OR 97133

1N301CD02600  
WING, GARY & STEPHANIE  
PO BOX 303  
NORTH PLAINS, OR 97133

1N301CD01603  
WING, KENNETH D &  
FRANCES MAUREEN  
PO BOX 302  
NORTH PLAINS, OR 97133

1N301CD01500  
WING, KENNETH D & FRANCES M  
PO BOX 302  
NORTH PLAINS, OR 97133

1N301CD01700  
WING, KENNETH D/FRANCES M  
PO BOX 302  
NORTH PLAINS, OR 97133

1N311AA00100  
WITTENBERG, DENNIS E &  
WITTENBERG, SHANNON COLETTE  
10160 NW GORDON RD  
CORNELIUS, OR 97113

1N3120000600  
WOLTER, CHESTER A & PATRICIA C  
9555 NW 316TH PL  
HILLSBORO, OR 97124

1N301DC04102  
WOODWARD, MICHAEL J & DIANE M  
PO BOX 663  
NORTH PLAINS, OR 97133

1N301CD06300  
YOUNG, JERRY T &  
YOUNG, BE  
PO BOX 479  
31920 NW MEADOW DR  
NORTH PLAINS, OR 97133

1N301CD03200  
ZIELSDORFF, CASEY & AUNDREA K  
10575 NW 321ST AVE  
NORTH PLAINS, OR 97133

1N3020000200  
*Current Resident Or*  
PJ PROPERTIES LLC  
7409 SE EVERGREEN HWY  
VANCOUVER, WA 98664

1N3020000300  
*Current Resident Or*  
PJ PROPERTIES LLC  
7409 SE EVERGREEN HWY  
VANCOUVER, WA 98664

1N301CB01300  
*Current Resident Or*  
WEAVER, WESLEY F  
PO BOX 56  
NORTH PLAINS, OR 97133

1N301CB00300  
*Current Resident Or*  
NORTH PLAINS FOREST PRODUCTS, IN  
PO BOX 279  
NORTH PLAINS, OR 97133

1N301CB00301  
*Current Resident Or*  
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1N301CB00500  
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1N301CB01400  
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1N301CA02501  
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1N301CD04000  
*Current Resident Or*  
COTTAGE POINTE OWNERS OF  
LOTS 1-12  
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1N301CD09700  
*Current Resident Or*  
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1N301CD02900  
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- VIII. **PROPOSED ORDINANCE NO. 772 - An Ordinance Amending the Rural/Natural Resource Plan Element of the Comprehensive Plan and the Community Development Code to Develop a Residential Airpark Overlay District**
- IX. **PROPOSED ORDINANCE NO. 773 – An Ordinance Amending the Community Development Code Relating to Home Occupation Standards**
- X. **ADJOURN**

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**WASHINGTON COUNTY PLANNING COMMISSION**  
**MINUTES OF WEDNESDAY, SEPTEMBER 4, 2013**

**ALL PUBLIC MEETINGS ARE RECORDED**

**I. CALL TO ORDER: 2:00 P.M. Room 140, Public Services Building**

The meeting was called to order by Chair Marc San Soucie

**II. ROLL CALL**

Planning Commission (PC) members present: Marc San Soucie, Liles Garcia, Ed Bartholemy, Mary Manseau, Jeff Petrillo, and Scott Rickard. Herbert Hirst and Richard Vial were absent.

Staff present: Andy Back, Suzanne Savin, Steve L. Kelley, Paul Schaefer, Steve Szigethy, Angela Brown, Clare Fuchs, Dyami Valentine, Michelle Pimentel, Anne Kelly, Carina Arendes, Barbara Blake, Connie McCracken; Planning and Development Services. Jacquilyn Saito-Moore, County Counsel.

**III. DIRECTOR'S REPORT**

**Andy Back:** First news is that you are short one commissioner as of about 25 minutes ago. Commissioner Matthew Wellner has resigned. That's something we'll start recruiting for.

The Board did continue Ordinance No. 771 yesterday to the September 17 hearing.

**Chair San Soucie:** Could I ask that when we get into discussion on 771 that we could just get an update of any substantive commentary that came up?

**Mr. Back:** Sure, Suzanne is going to address that. Just for your information, you do have a hearing on the 18<sup>th</sup> on Accessory Dwelling Units, Area 93, and the housekeeping changes. All those are topics for the work session today. Given the amounts of new information that was provided a few minutes ago, I think using your time reading that information may be a better than diving into a lot of details, so we'll just have brief presentations for you to ask questions.

We don't have any quasi-judicial plan amendments on the platform right now. I want to mention a few staffing items. We've had some interesting turnover. Clare Fuchs, who has been here a couple of times, is now a senior planner at the City of Tualatin. Also, we're losing two prominent folks in the Current Planning section. Nadine Cook and Ross Van Loo are both retiring in early October.

**Chair San Soucie:** Questions for Mr. Back? Ok, let's take some quick summaries on the ordinances for next time.

**Department of Land Use & Transportation • Planning and Development Services Division**  
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#### **IV. WORK SESSION** **Discussion of Upcoming Ordinance Topics**

**Paul Schaefer:** I'll be very brief.

**Ordinance No. 774 - Accessory Dwelling Units** - The changes would allow them in R-5 and R-6 through a Type 1 process. Currently, in R-5 they are a Type 3. In R-6 they are Type II. In R-9 through R-15 they are a Type 1 process.

There is existing language that allow ADUs designed to comply with the ADA (Americans with Disabilities Act) are proposed to increase in size. However, the CDC language doesn't say how much. So this change would provide certainty for how much increase would be allowed for ADA as a matter of right.

**Chair San Soucie:** Quick question on that. What is the principal motivation for the change to a Type 1 process for the R-5 and R-6?

**Mr. Schaefer:** It encourages them, to get more of them. Other issues are that in the lower districts you have a larger lot sizes, so it makes more sense that you might have them there, as opposed to the R-9 or R-15, where the lot sizes are much smaller, and it would be more difficult to get them. It encourages ADU, whereas Type III is very onerous, it could be \$6,000 or more to process them. As I recall from the Current Planning folks, they get a few of these. The hearings are basically unattended. They go pretty quickly through, there's not a lot of opposition to these.

**Chair San Soucie:** One other related question. Are the North Bethany residential districts also included? I noticed they are not in the ordinance.

**Mr. Schaefer:** Since I didn't work on the ordinance, I don't know why. I'd have to look into that for you.

**Commissioner Manseau:** Is it a way of increasing density, gently, within those districts?

**Mr. Schaefer:** I think that's a by-product, but I don't think that's the main motivator. I think it's more to encourage these types of uses, where you have older folks that want to stay on a property with family. You know, just different ways to provide senior housing. It encourages in-fill, but I wouldn't say you want to get more units.

**Mr. Back:** I would note that much of the county has developed since 1980, and a lot of existing CC&R's restrict these, so even though our code may allow them, underlying CC&R's may not, so that's still an impediment.

**Chair San Soucie:** Other questions for Paul on Ordinance No. 774? Thank you. 775? I love the name of this one - Ordinance No. 775 - Area 93 (FD-20). That communicates everything we need to know.

**Suzanne Savin:** (Distributing a handout.) Pretty much. So, PC, all of you have this one-page briefing sheet. Basically Ordinance 775 will apply the FD-20 district to Area 93 when that area is brought into Washington County on January 1, 2014. It also identifies the service providers that will apply. Last week both the Washington County and Multnomah County Board of Commissioners approved the transfer plan agreement. The last step is for Governor Kitzhaber to issue a proclamation. He's scheduled to do that some time in the next ten to twenty days.

When that happens, then it's final and official that Area 93 is coming into the county on January 1, 2014. If there are any questions on the ordinance I'd be happy to answer those.

**Commissioner Garcia:** How big is it?

**Ms. Savin:** It's about 160 acres.

**Chair San Soucie:** Other questions on this one? Housekeeping?

**Joy Chang:** Hello everyone, here's my handout. You all should have received a copy of this in the mail. Ordinance No. 776 is the Housekeeping general update ordinance. It's non-substantive, it needs to fit under the housekeeping umbrella. There were about 30 changes recommended. It's a mixed bag. If you have any questions, I can answer them.

**Commissioner Manseau:** Neighborhood meetings for a single-family residence require just a future development plan. Is there some reason for that being exempt, other than it's current practice of Current Planning? It seems like there are some people within the community that really feel that it's an area where a neighborhood meeting could really add some added information.

**Ms. Chang:** One of the key things is that it's typically required now even if they're submitting for a single-family residence. A future development plan means that in the future, they will develop the site to the maximum density that would be allowed. So the justification basically is that the development resulting from just one single family dwelling does not warrant a neighborhood meeting, because its impact is very limited. What's going to happen is that when the remaining tax lot does come in for redevelopment, that will be the opportunity for the neighborhood meeting to occur, because the bulk of the impact on the area would be at that time.

**Commissioner Manseau:** I'm aware of a situation in CPO 7 that really brought this issue forward. Very clearly, there was input that the community could have offered that would have prevented, potentially, the appeal from being filed. I think the applicant was inexperienced with the process and had he been required to have the neighborhood meeting, he could have seen the issue of not having sidewalks through that area, and it could have alleviated the need for an appeal. So I think that's a really good example of why you should have a neighborhood meeting for a single-family home that is being developed on an oversized lot.

**Ms. Chang:** I do understand what you're saying as far as there's opportunity for input early on, but at the same time, the impact of a single family home, versus ten or twenty at the next stage when they redevelop, that would be the time that a meeting should be required.

**Commissioner Garcia:** Is it a Type I if you just put one house on one lot, zoned appropriately?

**Commissioner Manseau:** It's a Type II, and it's a Type II because it's on the oversized lot.

**Ms. Chang:** A lot of times when the development community do hold their neighborhood meeting, a lot of neighbors don't come up to the table because they're reviewing a single-family home, and they don't provide the input like CPO 7 might. It all depends on the community, but typically they're the only ones sitting at that neighborhood meeting.

**Mr. Back:** So this is something that can clearly be deliberated.

**Ms. Chang:** Yes.

**Chair San Soucie:** So we're scheduled to hear these three ordinances in two weeks. Because preliminary questions can be addressed in the staff report so we want to get them in by early next week.

**Mr. Back:** By Tuesday would be great.

**Chair San Soucie:** Is there anything else? We do have some reading to do.

**Mr. Back:** I do want to introduce one staff person. Barb Blake is here. She's Connie's new sidekick, so you'll see her at future meetings helping out with minutes and administrating these fine proceedings.

**Chair San Soucie:** Ok, we're got some reading to do, so we'll meet in the other room in fifteen minutes.

#### **V. ORAL COMMUNICATIONS – AUDITORIUM – 2:00 PM**

**Chair San Soucie:** Welcome everyone to the regular session of the Washington County PC for September 4, 2013. We have quorum of commissioners today, unlike at our last attempt at a meeting, which is great, so we can get some work done. First item of business on our agenda is communications to the PC on a subject matter that is not part of our regular agenda, which is a subject other than the three ordinances that we have to deal with. Does anyone want to address the PC about something else? I don't have anyone signed up and seeing none, we'll move on from that to consideration of the minutes.

#### **VI. CONSIDERATION OF MINUTES August 7, 2013**

**Chair San Soucie:** We got a 247-page packet of minutes from our August 7, 2013 meeting. Thank you very much. It was very, very detailed minutes. Does anyone up here have any recommendations for modifications for motions regarding minutes?

**Commissioner Manseau:** I would suggest that we approve them as submitted.

**Commissioner Garcia:** Second.

**Chair San Soucie:** Motion by Commissioner Manseau, second by Commissioner Garcia to approve the minutes as submitted. Any other discussion or comment? Seeing none, all those in favor please say aye. Any opposed? And any abstentions? I think we were all present. Okay, the minutes are approved as submitted. Thank you very much.

**VOTE: 6-0** San Soucie, Bartholemy, Garcia, Manseau, Petrillo, and Rickard - **Aye**

#### **VII. PROPOSED ORDINANCE NO. 771 - An Ordinance Amending the Bethany Community Plan, the Community Development Code, and the Comprehensive Framework Plan for the Urban Area as Related to Implementation of the North Bethany Subarea Plan (Rescheduled from August 21, 2013)**

**Chair San Soucie:** Our next item of business is continuation of public hearing on Proposed Ordinance No. 771 – An ordinance amending the Bethany Community Plan, the Community

Development Code, (CDC) and the Comprehensive Framework Plan for the Urban Area as related to implementation of the North Bethany Subarea Plan. We have met to discuss this item twice before, I believe, plus a meeting that didn't quite happen, so maybe once before. We have in the intervening time received large quantities of written testimony, which is great because we've had for the most part an opportunity to read it and we've had updates from staff in response to some of the issues and we will begin as usual with a report from staff and then after conversation with staff, we will get back into our public hearing.

**Suzanne Savin:** Thank you, Chair San Soucie and Commissioners. This is the continued hearing for Ordinance No. 771 and the PC direction at the August 7, 2013 hearing was for staff to provide additional information on filed ordinance topics and the proposed ordinance engrossment amendments that were Attachment A to the August 7, 2013 staff report. That additional information was, in large part, provided in the subsequent staff report dated August 14, 2013. We've received several items of testimony since that initial August 7, 2013 hearing. We received three separate submittals from Commissioner Manseau that addressed questions and comments about sidewalk standards, pedestrian and bike accessway widths and steep slopes.

We also received comments from Chair San Soucie about the description for public utilities and we received two submittals from CPO 7. One was about development on steep slopes and the other was about pedestrian and bicycle accessway width. We also received some testimony from Commissioner Petrillo on development of steep slopes. We received testimony from Save Helvetia and K&R Holdings on development for steep slopes, and THPRD submitted testimony about the half-street requirements and development on steep slopes.

More recently, we received testimony from yesterday's Board hearing from K&R Holdings and from Mr. Joe Rayhawk, and copies of that testimony has been provided to the PC too. To briefly summarize that testimony, the K&R Holdings testimony included copies of some letters that had previously been provided to the PC expressing requests for allowing development within the Natural Features Buffer and also included some attachments showing development schematic for development of one of their parcels that's partially within the Natural Features Buffer with a proposed lotting pattern. That lotting pattern was predicated on a 50-foot Natural Features Buffer running parallel with the north edge of North Bethany.

There was also a letter, I believe it was 2011, from their Geotechnical consultant with his opinion that the stability of that area was appropriate for development. Mr. Rayhawk's testimony yesterday included information about earthquake hazards in North Bethany, and within the steep slopes area and a position advocating that development not be allowed in steep slopes because of the earthquake hazard issues. And then, even more recently, toward the end of the day yesterday and today, we've gotten three additional pieces of testimony. One of them is from the Bicycle Transportation Alliance, one is from Oregon Walks, and one is from Peter Welty. And all three of those pieces of testimony had to do with the pedestrian accessways and requests for design standards for those.

Again, going back to the August 7, 2013 PC hearing, some additional information was requested from staff about the proposed engrossment amendments and one question that came up as August 7, 2013 was:

- Whether the proposed engrossment amendments could be addressed by a separate ordinance in 2013, and the answer was they could not because the last day for us to file a separate ordinance was on August 13, 2013 but we did not have Board authorization to do any additional ordinance filing.

- There was a question about whether it was permissible for the Board to engross Ordinance No. 771 to include language about steep slopes. The County Charter does allow that as long as the required engrossment hearings are held.
- Then Chair San Soucie had asked about top of slope and further getting some clarification on the meaning of that and I believe the concern was it may not always be a definite transition from level ground to a steeply sloping area and how would that be defined. Staff agrees that is not a crystal clear issue, but it's one that, for the time being, we would like to address on a case-by-case basis and we think that the PC could request that this topic be examined as part of the 2014 work program.

There were proposed changes to the filed ordinance that were included as Attachment A to your August 14, 2013 staff report and those included:

- Revisions to the public utilities description that were in accordance with Chair San Soucie's recommendations.
- There was also striking an exemption for public utilities for light rail facilities in accordance with a recommendation from Chair San Soucie and Commissioner Manseau.
- There was also clarifying language for the half-street improvement requirements, making it clear that those apply to public facilities such as parks, and that they don't apply to single family residences. And also providing an exemption from those requirements for the linear park that is along Road A.
- Lastly, Area of Special Concern north/south pedestrian-bike accessway. A handout was provided to the PC today and it was in response to comments received from Commissioner Manseau at the August 7, 2013 hearing, and also written comments we got from CPO7 having to do with concerns about the accessway widths, given that the lengths of these accessways are likely to be longer than 300 feet.
- To attempt to sum up that handout, what staff was looking at was the conditions in which a longer accessway could potentially create a sort of tunnel-like character for the accessways, and how that could be mitigated and when it would be appropriate to require a 30-foot wide right-of-way for those accessways consistent with a greenway, rather than the 20-foot right-of-way. So what the handout is advocating is for a 30-foot right-of-way to be required when three conditions are in place. Those three conditions would be that the accessway would be flanked on both sides by buildings for a distance of more than 300 feet; and that the buildings in question on either side of the accessway be less than 70 feet apart; and that the building walls within that distance constitute at least 75 percent of that more than 300 foot length. Staff feels that when those three conditions would be present together, that there would be potentially tunnel-like effect and that would warrant the accessways being 30 feet wide rather than 20 feet wide – the right-of-ways. So that is what that handout is advocating, that language to that affect be added to Area of Special Concern 5 regarding the north/south accessways.
- Additionally, the handout is recommending that the east-west accessway language have a clause recognizing that east/west accessway may have segments that could exceed 300 feet in length.
- There are also some proposed changes to the steep slope amendments that were described in the August 14, 2013 staff report and shown in Attachment A of that staff report. These had to do with issues that were brought up at the August 7, 2013 hearing. One of those issues was brought up by Commissioner Manseau. She had noted that the CDC section regarding density restricted lands had a potential conflict that would allow both residential development and trails at the top of slopes, and questioned which would have precedence. So staff has added proposed language that's in Attachment A of the August 14, 2013 staff report to clarify that in that case, trails would take

precedence. Residential development would only be allowed at the top of steep slopes if it didn't conflict with a trail location.

- The other issue that was clarified in the same attachment also was identified by Commissioner Manseau. It was a clarification that in the density restricted lands section, to make clear that density transfers from density restricted lands in particular are not allowed. She noted that in our CDC for community service uses, which are not density restricted lands, we do have an allowance for density transfers there.

Staff's recommendation is to recommend to the Board that Ordinance No. 771 be engrossed to include the proposed amendments that were shown in Attachment A of the August 14, 2013 staff report and the proposed amendments in staff's handout at today's work session regarding the accessways. This concludes the staff report – available for questions.

**Chair San Soucie:** Can you begin just by giving us a quick summary of what discussion took place with the Board yesterday, since I know they had their first meeting on this ordinance yesterday.

**Ms. Savin:** Staff had recommended that the hearing be continued to September 17, 2013 and we had noted to the Board there was no PC recommendation. So the Board took testimony yesterday and asked questions of people that were offering testimony. A good bit of the testimony involved development on steep slopes, with people recommending a variety of ways that should be addressed. The Board simply asked questions and then voted to continue the hearing until the 17<sup>th</sup>.

**Chair San Soucie:** Thank you, questions for Suzanne or staff on this matter. Anyone? Commissioner Petrillo.

**Commissioner Petrillo:** I was in attendance at the Board hearing yesterday on 771. I think K&R testified that they are requesting an engrossment to remove the steep slope restrictions. Is that correct?

**Ms. Savin:** The testimony that they submitted yesterday, both oral and written, was requesting that development be allowed within the Natural Features Buffer, and I think the written testimony – my recollection is that Mr. Wellner had summarized the written testimony that was submitted and the PC now has a copy of that written testimony. What he was indicating was that K&R was requesting that the Board engross the ordinance to allow developments within the Natural Features Buffer, and they were requesting to revise the Natural Features Buffer to provide a 50-foot wide buffer along the north edge of the subarea. And that's shown, I think in the final sheet, in their submittal that the PC has. It's shown in the map that has the proposed lotting pattern, the proposed residential development.

**Chair San Soucie:** For the commissioners' benefit, Mr. Wellner is here today and is signed up to give testimony. Other questions for staff at this time? Okay, we will continue with public testimony then, and first on the list is Mr. Wellner. Next on the list is Mr. Grossnickle. We'll have five minutes for testimony for everybody today, and there may be questions as well.

**Matt Wellner:** Good afternoon Commissioners and Chair San Soucie. I just dropped off with Connie I think the packet that Suzanne mentioned that you already have, which is a letter from us to the PC that was a cover letter and a series of maps. (**Exhibit 3** in meeting file.) I just wanted to make sure you have it because with this, I'm going to kind of walk through it and explain what it is you have in your packets. But first I wanted to let you know that the genesis of this slopes issue was work program request that K&R Holdings made earlier this year. That

work program request, although it affected multiple properties, it was for us specific to one property, because of the amount of impact the Natural Features Buffer had on that specific property. That property, which we refer to as the Robinson property, is about 28 acres gross in area, and with this Natural Features Buffer that was adopted for the North Bethany Community Plan it reduced that buildable area by five acres.

So in effect we lost 20 to 25 percent of the buildable area on that property. For our company, that represented a land value of a couple million dollars. In response we felt like we had to come and bring this issue back up and raise it as a concern and raise it as a concern that in fairness and equity the way we looked at the buffers around the North Bethany area, this one specific area that impacts four or five parcels along that north edge we felt was impacted a lot heavier than a lot of other areas in North Bethany. Staff prepared a "white paper" on the issue per the work program request that we made, and unfortunately that white paper didn't really address the issue specific to this property. It allowed for development in the sloped areas in North Bethany, but only in those areas that fell outside of the Natural Features Buffer. All of the area that we're dealing with on this Robinson property is within that Natural Features Buffer. So that's why we're here before you today and that's why we prepared this packet of materials.

The cover page was just an introduction to the PC about the letter which is Attachment A that we wrote to the Board in July of this year. That letter lays out our concerns and lays out a solution, which Suzanne spoke to just a minute ago. That solution is to have a 50-foot Natural Features Buffer along the north edge of North Bethany where a Natural Features Buffer is shown today. We feel that is a far more fair and equitable approach, and one that also provides the protections to those property owners north of North Bethany where a Natural Features Buffer exists. The second document is a letter from GeoDesign. It's stamped inside by George Saunders, who is the principal geotech with GeoDesign. Mr. Saunders has been on this Robinson property, as well as other properties that we have in North Bethany. He looked at the very high-level work that was done by planning staff and he didn't really concur with the conclusions that they drew about there being potential slope stability issues. What he sees the work that's been done previously as is kind of guidance, and a lot of the other testimony you've heard about there being slope stability concerns in this area. It's a light that's been put on this area where we have to do our work to make sure we are building projects in a safe and effective manner. That we are designing our projects and engineering our projects so that there aren't slope stability issues.

That work was never done with the intent of saying that area is off-limits, and Mr. Saunders says that these areas, especially that all along the Robinson property is one that, in his view, is suitable for development and again he's a registered professional geotechnical engineer. This first colored map is a representation of where that Robinson property is and how that Natural Features Buffer falls on the property. It just kind of illustrates the fact that there's a big chunk of this parcel that's really heavily impacted by that buffer. It also is intended to point out where the other buffer locations are and what those buffers are. In some areas it's just a fence, in some areas it's a 200-foot plus setback. The map that sits behind that is just an aerial photo showing the Robinson property. All it's intended to depict is the fact that the buffer that we have here is not just found on the south side of the urban growth boundary, that there's a lot of existing vegetation, there's flood plain, there's drainage corridor. All those features together serve to act as a very effective buffer, and it will for the long term.

In the final piece that I had provided is a mapping exercise we went through. This isn't anything that we ever submitted for approval. Don't know if it's what we'll submit in the future for approval, but the intent of it was just to simply show us what the impact of the Natural Features Buffer is. (I'll be done in just one second.) Both designs have an allowed density of 105 units.



That doesn't change for either one of them. Where you have the Natural Features Buffer in the buildable area that's constrained, you are only able to accommodate 77 units. So you lose 28 units which were intended to go somewhere in this area, but because that Natural Features Buffer constrains the property so much, you can only get so many roads in there to provide frontage, to be able to layout the site in an efficient and effective manner. I'll close with that and if you have any questions I'll do my best to answer them.

**Chair San Soucie:** Thank you Mr. Wellner. Questions?

**Commissioner Manseau:** Mr. Wellner, I'm confused. You talk about the loss to K&R, the financial loss because of the Natural Features Buffer, yet I'm told that K&R is not the property owner. So can you explain to me what the financial arrangement is for these properties? Is it outright owned by K&R or is it an option, when do these options happen and what are the details?

**Mr. Wellner:** I can just simply say we have an option agreement with the property owners. I'm not sure if that's a planning related question, but it's an option to purchase the property at some point in time in the future.

**Chair San Soucie:** Questions, others? Let me just get clarification on something because either I have misread some information in one of the previous letters or staff reports or whatever, but the two diagrams that you're referring to that are sort of conceptual diagrams, and I appreciate that they're just conceptual, show different number of units in the two configurations. The configuration with the larger Natural Features Buffer, there's a smaller number of units. You're saying that should the Natural Features Buffer remain as it is, you would not be able to build as many units as you could if the Natural Features Buffer were reduced. Is that what you're saying?

**Mr. Wellner:** Simply because you can not fit them on the property but the allowed density remains the same between the two designs.

**Chair San Soucie:** So density remains the same but available building area is reduced and so fewer units as a result of that.

**Mr. Wellner:** Correct.

**Chair San Soucie:** Other questions for Mr. Wellner? Thank you for all the written testimony as well. Appreciate it. Mr. Grossnickle. Name and address for the record please.

**Jerry Grossnickle:** My name is Jerry Grossnickle. (Mr. Grossnickle provided written testimony, labeled **Exhibit 1** in the meeting file.) I'm President of Forest Park Neighborhood Association. My address is 13510 NW Old Germantown Road. That's a Multnomah County address if you'll notice. The Forest Park Neighborhood Association has been long been interested in the planning of North Bethany project because it sits right next to our neighborhood and we quite a number of neighborhood properties that are adjacent to it. Also we have had a very strong interest in preserving a buffer between the development and the agricultural uses adjacent in our part of Multnomah County. And of course, reducing the conflict is very much helped by the existence of this Natural Features Buffer.

The Natural Features Buffer also serves another interest that we have that's very strong in our neighborhood and that is protecting the wildlife corridor that goes along Abbey Creek. You've heard lots of testimony, I'm sure, about the conflicts between the agricultural uses but also I

don't know if your planning has considered the effect of a Natural Features Buffer on the actual wildlife of this Abbey Creek drainage area. But when we made an application to the Department of Land Conservation Development, and Metro and Multnomah County for rural designation as a rural reserve, we did quite a bit of research on the effect of these corridors. This is a very important corridor. It connects the Forest Park natural features with the lands at the base of Abbey Creek where it spreads out. It's quite an effective corridor for large animals and for natural habitat in general.

We'd like to point out that the Natural Features Buffer was defined in Ordinance No. 739, and it was the result of a very extensive process. It included developers, including K&R, and a lot of other people involved in this process including quite a number of neighborhood meetings and open houses and PC hearings. We feel that it was a long and deliberative process and to discard it now without a full and robust public review would dishonor the many hours of community service and effort that were involved in making this decision. Our interest in maintaining this Natural Features Buffer is strong and it's felt very viscerally by our neighborhood.

I have a little question I'd like to throw in at the end of my presentation, and that is how would you respond to this recent clear cut on the North Bethany slope adjacent to Abbey Creek? I know that the draft ordinance 771 Section 390-18.4 Subsection C6 specifically prohibits clearing of any kind until final approval of a development application. I'm wondering whether this was an attempt to create facts on the ground prior to approval of Ordinance No. 771 – just a question. This clear cut occurred right at the bend to the curve as you go down to the Abbey Creek drainage.

**Chair San Soucie:** Thank you. Questions for Mr. Grossnickle? Commissioner Manseau.

**Commissioner Manseau:** Actually while Mr. Grossnickle is there I'd like to ask a question of staff. The question is, is there protection currently within code for the vegetation within the steep slope area, or are areas that are going to be farmed exempt from that protection?

**Ms. Savin:** The areas that are going to be farmed, it's been determined jointly by our department that if an area is going to be farmed, that that is not necessarily part of the protections of the Natural Features Buffer. The Natural Features Buffer does have a prohibition about clearing of vegetation, but that prohibition is connected with prior to approval of a development. So it is assuming there is a development that's going to be occurring there.

**Commissioner Manseau:** I guess as I read that code section, I'm not seeing that there is an exemption there for agricultural purposes, yet it appears that any sort of action should protect the areas within the 25 percent slope area. But I guess that's open to interpretation. And is this something we should be looking at addressing in trying to make recommendations to the Board to strengthen the protections for the areas within the 25 percent slope areas.

**Ms. Savin:** That's certainly something the PC would have the ability to make the recommendation about.

**Commissioner Manseau:** Thank you.

**Chair San Soucie:** Other questions?

**Commissioner Petrillo:** Just for Ms. Savin. So what Commissioner Manseau raised is this is really a code enforcement issue. This doesn't really have any direct bearing on what we're discussing today, right?

**Ms. Savin:** She was asking about a recent code enforcement action yes.

**Commissioner Petrillo:** Okay, thank you.

**Chair San Soucie:** Thank you, Mr. Grossnickle.

**Mr. Grossnickle:** My question is whether that's creating facts on the ground.

**Chair San Soucie:** Understood, thank you.

**Commissioner Manseau:** Follow up comment. It is a code enforcement issue but the question is does code need to be clarified. What's happened has happened but do we need a change in code to prevent this from happening again in the future?

**Chair San Soucie:** Understood, we will address that a little bit later when we get into deliberations. Next testimony will be from Mr. Rayhawk, and he will be followed by Mr. Wegner.

**Joe Rayhawk:** Good afternoon Commissioners. I will address the two topics today. The land near the edges of North Bethany is unstable.

**Chair San Soucie:** Your name and address for the record please.

**Mr. Rayhawk:** My name is Joe Rayhawk. I operate Abbey Creek Stables at **15248 NW Germantown Road, Portland, 97231**. (Mr. Rayhawk provided written testimony, labeled Exhibit 4 in the meeting file.)

**Chair San Soucie:** Thank you.

**Mr. Rayhawk:** I will address the two topics today. The land near the edges of North Bethany is unstable, is known to be unstable, and the language defining the Natural Features Buffer does not actually protect the buffer. Per the attached Metro map the northern and western edges of North Bethany are rated as earthquake risk. This is due to the soil structure and the high probability of a quake on the nearby Oatfield fault. All of the County is at risk of intense shaking from a quake on the Cascadia fault. Staff introduced DOGAMI (Oregon Department of Geology and Mineral Industries) maps several years ago that show the steep slopes have been subject to landslides both deep and shallow. These slides happen without earthquakes, the land is just unstable. Building on steep slopes weakens the soil structure and increases the stress. This has led to landslides that have caused severe damage, including houses collapsing, trees falling on houses, and houses sliding downhill into other houses. All of these things have happened in the metro area. These events cause individual families great economic and mental damage and even put lives at risk.

Members of the PC, although unpaid volunteers, have serious responsibilities. Given that the PC as a whole and as individuals are aware of these conditions, it is neither reasonable nor prudent to recommend allowing construction on these slopes. I've attached a copy of Section 390-19.4 of the CDC. It's about the Natural Features Buffer. The Natural Features Buffer was defined with at least two goals in mind. The first goal is to protect open habitat with a known large animal migration corridor. Some of those words come from OAR 660 Division 23.

The second goal is to protect nearby agricultural activities. I operate a nearby agricultural activity. It is my opinion that the Natural Features Buffer is not wide enough to meet the two goals. There is risk to my agricultural activities if development near the Natural Features Buffer or pre-development changes to the buffer weakens soil structure, increase erosion, or lead to untreated storm runoff. Recently K&R cleared much of the land of the Natural Features Buffer west of the eastern tributary of Abbey Creek and some of the land within the buffer. They are now within 10 feet of the County line. They did this using large equipment that ripped trees down to the ground, damaging stability. They have stated they did this as a favor to the landowner, so he can farm until sometime in the future.

The County Compliance Officers ruled that this is not a violation of code. They also did some clearing last year east of the tributary. Again large equipment was involved ripping trees down to the ground. The Code Compliance Officer has also ruled that this was not a code violation. Referring to the Code Section 390-19.4, Paragraph A is the section designed to affect the protection. Clearly it does not protect the buffer now. A review will show there are native plants and trees in the buffer, that if there are native plants and trees in the buffer at the time of development, the County can not force any further planting. In particular, if the area is planted with native shrubs and native but short trees, the County can not enforce the introduction of large trees. If such is the stated buffer at the time of development it will protect neither the wildlife corridor nor my agricultural activities.

To be clear, this section implicitly assumes a Natural Features Buffer is not at risk of harm until development occurs. Sadly, this is a false assumption. You've seen plans from K&R showing they want to build larger than average homes on the steep slopes. They will want these homes to be view property, hence they will want to not have tall trees in the Natural Feature Buffer, elsewhere that will interfere with the views. They have eliminated the tall trees west of the Abbey Creek tributaries. One can expect they will not be planting large native trees in that buffer. East of the tributary, they have a different problem. There's a set of tall Douglas Fir trees on my property immediately north of the County line. In order to create view property, they need those trees to be gone. Their clearing activity east of the tributary weakens the soil. It will cause increased run off, potentially eroding and weakening the ground around the trees. Finally, the trees in the Natural Features Buffer and on the steep slopes act like a windbreaker protecting the Douglas Firs from the strong south winds we get in the rainy season when the ground is saturated and weak. If the firs begin to fall, it will eliminate my riding trails on the woods immediately below the Natural Features Buffer.

It will also make it very hard for the elk to use the upland habitat land on my property. Along with the clearing in the adjacent Natural Features Buffer, this is likely force them down into the wetlands. Because the wetlands are under water during the rainy season, the elk may not be able to use them. They will have to look for a new migration path well to the north. In summary, the developers have already taken actions that reduce the probability the Natural Features Buffer accomplishing legal requirements. If the rules are changed such they can build on the steep slopes, they have significant motivations to continue those actions. Given the language of 390-19.4, the County cannot stop them. Not in my written material, but in response to Commissioner Manseau, there is a great risk of a takings issue if any effort is made to change the language of 390-19.4. They have the right to farm there now, and you're not giving them anything if you try to take that right away. However, the large issue means that it is not safe to build on the unstable land that is expected to undergo severe shaking. Please recommend no change be made allowing building on these slopes. Thank you.

**Chair San Soucie:** Thank you Mr. Rayhawk – questions? Commissioner Manseau.

**Commissioner Manseau:** Actually a question for staff again. Is there a distinction between areas that are landslide prone and areas that are earthquake hazards, or are they one and the same?

**Ms. Savin:** The North Bethany subarea plan includes maps of landslide hazard areas. It does not include any earthquake hazard area maps. So I don't know whether they are one and the same.

**Commissioner Manseau:** It's my understanding that there's an earthquake fault line that runs, I think, contiguous with the bank of Abbey Creek. So the County doesn't map the earthquake faults or is this kind of getting out of your area of knowledge?

**Ms. Savin:** Well, it's definitely getting out of my area of knowledge, but the one thing I do know is that the maps in North Bethany don't include any maps of earthquake hazards or faults. They are limited to landslide hazard maps that we obtain from DOGAMI (Department of Geological and Mineral Industries).

**Commissioner Manseau:** So the geotechnical reviews that a property would need to go through would evaluate both land stability for landslides but it also takes into account earthquake faults or again is this a question that somebody else would better be able to answer?

**Ms. Savin:** I can't offer a definitive answer to your question Commissioner Manseau, but one thing I can say is in CDC Section 410, there is language that was added in 2010 that states when the requirements for submitting a geotechnical report kick in. My recollection is that they are connected with when the property in question is designated as a landslide hazard area. So the maps that we have in North Bethany subarea plan for landslide hazard areas would identify those are for North Bethany. I don't recall that there's any reference to earthquake hazard maps in CDC Section 410, but I could be wrong about that.

**Commissioner Manseau:** Thank you

**Chair San Soucie:** Commissioner Bartholemy.

**Commissioner Bartholemy:** So if this area is in the hazard map and they want to develop this area, they would be required to have a licensed geotech sign off on that, is that correct?

**Ms. Savin:** That is correct. Right now in CDC section 410, there are requirements that if someone is proposing to do development on lands within landslide hazard areas, that they need to provide additional information as determined by the building official. One of those pieces of information is a geotechnical report. The building official, I believe, has the discretion to require other pieces of information in addition to that.

**Chair San Soucie:** Other questions at this time? Thank you, Mr. Rayhawk. Mr. Wegner and after Mr. Wegner we'll be hearing from Mr. Bergsma. Name and address for the record kindly.

**Brian Wegener:** I'm Brian Wegener, representing **Tualatin Riverkeepers at 11675 SW Hazelbrook Road in Tualatin 97062**. (Mr. Wegner provided written testimony, labeled **Exhibit 2** in the meeting file.) Tualatin Riverkeepers is very concerned about relieving restrictions on steep slopes for stormwater purposes. You can't control stormwater running off of steep slopes, so that's why you shouldn't develop it. These concerns about stormwater are also contained in

a lot of other regulations besides the County's regulations, including the Tualatin Basin Plan that was adopted by Metro as part of the Regional Goal 5 process which protects lands containing 25 percent slopes from development. Metro's ordinance that brought North Bethany into the urban growth boundary restricts development on lands of over 25 percent slopes. The municipal storm sewer permits are requiring that stormwater runoff be reduced in volume duration and rates of discharge with the goal of meeting the natural hydrological flows in the local creeks. Under the 4D rule for Upper Willamette's Steelhead Endangered Species Act, the National Marine Fishery Service reviews municipal ordinances that would impact threatened steelhead trout here in the area of upper Willamette above Willamette Falls. They consider steep slopes as not developable because of the stormwater runoff. Anything that would increase stormwater runoff is also following under their scrutiny.

Just on a practical sense, developing on slopes is going to increase stormwater runoff is our primary objection and that impacts habitat, it impacts the hydrological flows that support our fish and wildlife communities, it increases pollution in the streams. As far as a political and legal strategy by removing these restrictions from Ordinance No. 771, you are inviting the scrutiny of various state, regional, and federal agencies of your ordinance. I suggest that the County's got better things to do than to defend provisions in an ordinance that are really impractical where development on steep slopes wouldn't be allowed by all these other regulations. We ask that you do not reduce the restrictions on development on steep slopes.

**Chair San Soucie:** Thank you. I want to start with a question for you. There are two issues that have been brought up related to this. One that relates to the steep slopes that are in the Natural Features Buffer area on the north part of North Bethany. The other relates to what is in the filed Ordinance No. 771 relating to the steep slope areas that are outside of the Natural Features area. With regard to those, how do you see the distinction between the fact that the staff proposition is to remove that restriction on those properties and the fact that development on steep slopes is permitted in other parts of the County? I guess I'm wondering from your perspective in terms of stormwater management and basin management, how North Bethany's different from the rest of the County.

**Mr. Wegner:** Well I would say under the law of gravity it isn't different. Stormwater follows gravity. So these steep slopes are going to cause runoff if you develop on them. How North Bethany is different is because of protections that were in Metro's Ordinance No. 02987A which brought North Bethany into the Urban Growth Boundary has these restrictions. Other areas don't fall under that ordinance. Also, the Tualatin Basin Plan which was adopted as part of Metro's Goal 5 process had additional protections for lands that are newly urbanizing.

**Chair San Soucie:** Thank you, other questions for Mr. Wegner. Commissioner Manseau.

**Commissioner Manseau:** Actually the same question, follow up. The change that staff is suggesting at this point to 771 is to allow development on the 25 percent slopes outside of the Natural Features Buffer. K&R is proposing that development be allowed on all 25 percent slopes. Do you see any distinction between the 25 percent slopes outside the Natural Features Buffer and the 25 percent slopes that are inside the Natural Features Buffer?

**Mr. Wegner:** I see no distinction in terms of stormwater runoff.

**Commissioner Manseau:** Okay great — answers the question.

**Chair San Soucie:** Others? Thank you very much. Mr. Bergsma followed by Ms. Chesarek.

**Hal Bergsma:** Good afternoon, Chair San Soucie and members of the PC. I'm Hal Bergsma, **Director of planning for the Tualatin Hills Park and Recreation District.** Our office is at **15707 SW Walker Road** in Beaverton. I'll be brief. Basically we're going to step away from this steep slopes issue for a moment and get back to the issue we have raised and two letters that we've sent to your Commission. That is the issue of requiring half-street improvements in association with development of linear parks in two locations in North Bethany along Road A and along primary street P2.

As was indicated in our original letter dated, August 6, 2013 and restated in our most recent letter dated August 21, 2013, we think that is unfair and it doesn't really relate to the impact of a linear park, which is essentially a trail in a green strip, and we think it's potentially illegal. In their August 14, 2013 staff report, staff did indicate that they thought the requirement to do a half-street in association with the development of a linear park along Road A was unnecessary. Largely, I think, because I think there was another way of funding that half-street improvement and they wanted to delay consideration of removing that requirement for the linear park along road P2. I guess the problem we have is that the staff report doesn't really address our issues and doesn't really address the issue of is it fair and is it legal. We think if it's not fair and it's not legal, then you shouldn't require it for either linear park, so we continue to ask that requirement be removed from the code and from the plan as it's referenced in the findings for Policy 44 of the Comprehensive Framework Plan for the urban area.

Stepping back into the steep slopes issue, we do have sort of a tangential concern with that issue, in that we have a couple of trail segments that are located at the top of slope along the edge of the natural buffer. We are concerned about how that trail alignment might be affected by this change in standards. Staff has indicated that there is a way to deal with that and the trail would take precedence. And we appreciate that, but I think the broader question of what is "top of slope" which remains undefined still needs to be answered. If I heard correctly from staff, they seem to be saying we'll do it on a case-by-case basis, we'll make it up as we go. We think there needs to be more consideration given to how you define top of slope.

Finally, listening to Mr. Wegner's testimony a moment ago, I was, as a former urban planner, not a parks planner, I was struck by his statement that he thinks that the conditions of addition for adding this area into the UGB back into 2002 required that development not be allowed in areas over 25 percent slope. I think that's important to determine. If you're in violation of that I think you have a real problem, and so I certainly suggest you take a close look at that matter. Any questions?

**Commissioner Manseau:** It seems odd to me that we're putting in place rules that when you're building essentially a transportation facility with an off-street trail in linear parks, you're being required to also build a road. Is there ever a situation in the County where the County is responsible for building a road and they would take responsibility for building the off-street trail because of the proximity to the road?

**Mr. Bergsma:** There have been limited situations where we've worked that out with them. For example, the new overpass for Bethany Boulevard or the widening of the overpass for Bethany Boulevard over Highway 26 is also shown on our plans, as well as the County's plans, as the alignment of what we call the Waterhouse Regional Trail. We did ask the county in designing that overpass include room for the trail to go through there, as well as to at the point where it intersects with Bronson Road head west and intersect with the present alignment for the trail. So that was something we initiated with discussion with the County but they, in the end, were willing to do that with financial assistance from THPRD.

**Commissioner Manseau:** But there was financial assistance from the park district and it's not a separate off-street trail — it is actually a wider sidewalk.

**Mr. Bergsma:** In that case it's a widening of the bridge itself, and it is separate from the sidewalk. There is a separate part of that bridge that's dedicated to the trail.

**Commissioner Manseau:** Okay, thank you.

**Chair San Soucie:** I'd like to ask you a quick question about the genesis of the linear parks in North Bethany. Were those parks part of the parks master plan prior to the North Bethany process? Was the need for those part of the ongoing development of the North Bethany plan in developing in collaboration?

**Mr. Bergsma:** Those parks and their location were defined through the North Bethany planning process. I didn't get into that process at the beginning. I sort of stepped into it after it was partly done. But definitely it was not something that was shown on the parks districts plans prior to that planning process.

**Chair San Soucie:** Okay, thank you.

**Commissioner Bartholemy:** Generally the bordering property owners are responsible for improving the frontage. If you own that property and are not responsible for that, who do you propose would be?

**Mr. Bergsma:** I'm not going to be able to answer that question. It could be the owner of the property just beyond the limits of the linear park, but that's just one option. I know for Road A, for example, part of that road alignment is proposed for development as part of the project I believe going through, or actually went through, a hearing before the County hearings officer last month. I believe received tentative approval and in that case the developer of the overall project is proposing to build the complete street, and we're only responsible for the park development itself in terms of giving the developer a system developing charge credits.

**Chair San Soucie:** Other questions for Mr. Bergsma?

**Commissioner Manseau:** Actually this is a question for staff. Is the primary concern with if the park district is not responsible for the half-street improvements, that there would be gaps in the sidewalk? Is that the primary concern?

**Ms. Savin:** I think that's one of the concerns. I think it's more than just the sidewalk though.

**Commissioner Manseau:** Because if we're talking about a linear park being put in, there is an alternative route for pedestrians and bicyclists to take off the street and potentially at that point the narrower road could function because the bicyclist also would be able to be removed from that road segment, or am I missing something?

**Ms. Savin:** I believe the other part of that though is that the half-street requirement does not only impact the sidewalks, it also impacts curb and other aspects of that street.

**Commissioner Manseau:** And that is an issue with aesthetics as well as stormwater management, and is there something beyond that?



**Ms. Savin:** I'm going to look to Mr. Back whether there's anything in addition to what you've just said, Commissioner Manseau.

**Andy Back:** Yes, I believe so. The stormwater management would be the other issue. If the half-street was in place, another issue would be, I believe, in North Bethany have a 24-foot minimum cross section we would allow as a half-street so the road would be slightly wider to not only allow better vehicle movement, but also bicycle movement along the street.

**Commissioner Manseau:** But the off-street trail would be a bike/ped facility through the linear park. Am I correct there?

**Mr. Bergsma:** That's correct. As I recall from looking at the designs, if we have a trail along a street then you don't need the sidewalk or the on street bike path. The trail provides for those needs.

**Chair San Soucie:** Further questions? Thank you, Mr. Bergsma.

**Carol Chesarek:** Good afternoon Planning Commissioners and Chair San Soucie. Thank you very much for the opportunity to testify today. My name is Carol Chesarek. I live at **13300 NW Germantown Road, Portland, 97231**. I'm here today on behalf of myself. I found it interesting yesterday at the Board of Commissioners hearing on Ordinance No. 771 that K&R Holdings was there in strength to request the engrossment changes that the Board engross changes to the Natural Features Buffer and reduce it down to 50 feet. Matt Wellner was there, John O'Neil was there, and they had their lawyer with them. In contrast to that at your first hearing, there was no one from K&R here and you had no letters to consider. This creates an impression that if citizens had not brought their requests to your attention that K&R would not have sent you their letter of August 11, 2013, and would have attempted to skip over your process entirely.

It seems difficult for Mr. Wellner, as a Planning Commissioner, to claim that he doesn't understand your process and your timelines, and he can't claim that he didn't know the PC hadn't received copies of K&R letters to the Board. So it seems clear this was an effort to avoid PC consideration of their request, and to minimize public input and scrutiny by going straight to the Board. This was disrespectful to the PC and to the lengthy community process that led to the Natural Features Buffer.

I would remind you that the community did not get everything they wanted out of the ag/urban buffer discussion. My neighborhood in particular argued for much larger buffers around the other edges, and if that request had been granted, K&R would have lost many more than 5 developable acres. So they've already won quite a lot in the existing compromise. Community members including CPO representatives, North Bethany residents, and North Bethany property owners have invested hundreds of hours in attending work group meetings and hearings over the last seven years. K&R has admitted yesterday at the Board hearing that it would be at least five years before they would even break ground on this property. There's plenty of time for a full community process.

There are many reasons to avoid development on steep slopes, as Mr. Wegner has partially explained to you, even if you do get a geotechnical to sign off on it. I find it amusing that K&R is arguing that there is no difference between the Abbey Creek Stables equestrian operation and a wheat field. The Natural Features Buffer is different because the conditions are different. The adjacent agricultural uses are different. If you're riding on a horse at a fast pace through trees and somebody starts up a leaf blower, you could be killed, your horse could be injured. That's a lot different than the reaction of a wheat field with a leaf blower starting up 50 feet away.

If K&R had truly wanted more homes in North Bethany to save farmland, they should not have argued for the lowest possible densities elsewhere in North Bethany. We could have had a lot more homes on that land if we'd upped the densities in the core of North Bethany. Thirty-three extra homes on the northern edge don't buy us a lot. I believe that an open process that involves the community is important. I believe that this PC matters. I hope that you will recommend to the Board that they not change the Natural Features Buffer without a full community work group process. I would, however, welcome a PC recommendation to better protect the vegetation within the existing Natural Features Buffer.

**Chair San Soucie:** Thank you, Ms. Chesarek. Questions? I have no other names on the list to provide testimony today. Is there anyone else that has not had a chance to speak to us that would like to? If you please, address the clerk and get a form to fill out. You can fill it out later but we need your name and address for the record. Please step forward.

**Casey Ogden:** Good afternoon, Chair San Soucie and Commissioners. My name is Casey Ogden and I'm here today **representing Oregon Walks**.

**Chair San Soucie:** Oh, I'm sorry, Mr. Ogden. You were on the list.

**Casey Ogden:** I did sign up, yes. Our address is **240 N. Broadway in Portland**. It's where our offices are. I'm here today to address you about within Ordinance No. 771, the North Bethany subarea design elements, which is Exhibit 1, page 7. The ordinance states there should be no fewer than four north/south streets intersecting the park blocks that are between Waterhouse Powerline trail corridor and Kaiser Road. And that if fewer than five north/south intersecting streets are provided that a minimum of two north/south pedestrian and bicycle accessways shall be provided between Powerline corridor and Kaiser road. We have a couple of comments to submit regarding the potential development of these pedestrian and bicycle accessways.

Our concerns are motivated by our work trying to improve pedestrian crossings and conditions for vulnerable populations, including those people with mobility impairments, the elderly, and the young. We feel that some sections of this specifically the requirement that the right-of-ways have a ten foot minimum. That's a great starting point. With the pedestrian accessway that could potentially exceed 300 feet in length, we feel that a 10-foot wide pedestrian right-of-way is perhaps insufficient to create the kind of pedestrian environment that is safe and convenient for everyone. We think that the development of pedestrian accessways should ensure that new facilities are safe, comfortable, and provide adequate lighting after dark along the entire length of the facility and also, convenient access to the adjacent buildings and a sufficient width. The ordinance states that all of these will be subject to CDC Section 408.9.

In regards to the lighting requirements for that, 408.9 Section 8 states that where lighting is not present at any accessway entrances, that pedestrian-scale lighting should be provided at entrances to the accessways and may be required at intermediate points along the accessways determined by a registered engineer. We would like to see that development of these accessways provide adequate lighting along the entire length of the facility as a safety concern. And also to improve public safety through an "eyes on the street" affect of these potential accessways, development plans should incorporate buildings with windows and doors facing the pedestrian accessways. There are other examples of developments in Washington County and in Portland of developments with back doors and patios that are adjacent to what's usually a short pedestrian street. This improves safety, aesthetics, property values, and helps an accessway to provide access.

Additionally, to ensure a healthy public process and adequate civic involvement, it would be helpful for the County to illustrate one or two potential street layouts, to give an example of what the text in Ordinance No. 771 is attempting to describe in regards to the pedestrian accessways. It would also be helpful for developers who are sharing maps or plans of the County to involve the public as well. Providing safe, attractive, well-lit convenient pedestrian connections in North Bethany will help create a distinctive neighborhood in the area, and we hope that these concerns are addressed both in the ordinance and in future development. Thanks.

**Chair San Soucie:** One question from me for you. I realized that we've only just seen some of this information today. Have you had an opportunity to see the current staff proposal for modification to the language that would clarify some design characteristics to the accessways that would be perhaps a little bit more generous than what was originally written in code.

**Mr. Ogden:** I don't know if I've actually seen that. I have only seen the original code requirements.

**Chair San Soucie:** I understand. We just saw it today ourselves.

**Mr. Ogden:** I would be interested in seeing that definitely.

**Chair San Soucie:** Other questions for Mr. Ogden?

**Mr. Ogden:** Thank you so much.

**Commissioner Manseau:** I have a question for staff. Is there a possibility of getting a copy of those responses to Mr. Ogden so he'll have a chance to review them?

**Ms. Savin:** Yes, there is.

**Commissioner Manseau:** He brought up the issue of lighting. What's currently within code for lighting of the accessways — both the north/south and east/west?

**Ms. Savin:** Basically the east/west and north/south accessways — the standards and then this plan both point to Section 408-9, so they both point to the existing CDC sections for lighting.

**Commissioner Manseau:** So that includes pedestrian scale?

**Ms. Savin:** Yes it does. Section 408-9 talks about pedestrian scale lighting for the entrances to accessways when there is not street lighting present at the entrances.

**Commissioner Manseau:** So if we're talking about ones that are like 600 feet long, a light at the entrance is not going to do you a whole lot of good, is it?

**Ms. Savin:** The code standard goes on to state, and I think Mr. Ogden quoted it, that additional intermediate lighting may also be required.

**Commissioner Manseau:** Great, thank you.

**Chair San Soucie:** Other questions? Thank you for coming out today.

**Mr. Ogden:** Thank you.

**Chair San Soucie:** We have two more names that have come forward — Dale Feik, to be followed by Linda Peters.

**Dale Feik:** I'm Dale Feik, I live at **3363 Lavina Drive, Forest Grove**. I've testified at a PC meeting in Forest Grove because there was an annexation issue and I was against annexing Zone Number 10 because I live within a certain distance of that. So I testified before the PC before the City Council made a decision because the PC made recommendations to the Council. In that, I questioned the slope issue because the proposed zoning or the criteria was 20 percent or less slope and so the developer then would want to develop more property because they can make more money, if they put more houses to make it denser. And so after testifying and talking about the slope requirement and the stormwater runoff and also the stability for building, the PC then made the decision to recommend to the Council to make it an R10, not an R7 which is 7,000 versus 10,000 square foot lots in that area. I say that as just background but I would make a recommendation that you approve Ordinance No. 771 in its current form which retains the slope restrictions in the Natural Features Buffer. Two, I recommend that the Board through your recommendation first to them approve Ordinance No. 771 without any engrossment or alteration of the 25 percent slope restrictions within the Natural Features Buffer because as an integral component of the urban agriculture buffer that was established as a result of the UGB expansion. I believe that you as Planning Commissioners and the Board should not make material changes to the Natural Features Buffer and the codified UGB decision should be subject to a more extensive and broader public review process and should not be shoe horned into a housekeeping ordinance at the eleventh hour of the ordinance season.

**Chair San Soucie:** Thank you Mr. Feik — questions? I appreciate you coming forward. Thank you. Ms. Peters?

**Linda Peters:** Good afternoon Commissioners. Linda Peters, and you have my address on file. As usual I wasn't sure I was going to say anything this afternoon but this is the most interesting ordinance process I can remember in years and years. When I first came to it, I thought it was a pretty simple situation where a public process had resulted in an ordinance that was adopted. Not everybody got what they want, but the product was for the most part a pretty good one and there was one party to that long process that wanted to come back and get another bite at the apple and see if they couldn't cut a better deal for themselves by asking for more. I thought it was a big favor that the Board had granted that applicant to do it on the Board's initiative which meant that they didn't have to pay the fee for this coming to you as a Type IV. As it's developed it's become so intricate and it's clear there are so many unanswered questions between agencies about the applicability of the original Metro agreement and I'll know when you finish debating whether there's more clarify than I know about with response to all of the questions that have been raised.

When I spoke to you the last time I said I thought I was okay with you going ahead with the staff recommendation, that it was the safest thing to do. I've heard enough myself to have changed that opinion and I want you to know that I think you're far better off with what Mr. Feik was suggesting, which is no change to steep slopes even with what the staff recommended. There's too much that needs to be thought through, studied more carefully, and involving more stakeholders before you go ahead and recommend even the rather modest change that the staff was proposing be instrument at this time. So my advice now is you especially since they've not in that much of a hurry — 5 years they said yesterday before they developed perhaps, let's take the time to do this right. North Bethany is supposed to be a community of distinction and that means not just a lot of big fancy homes that people can make some money off of because they

invested at the right time and the right place. That means also a place that people can really enjoy living once they have bought into it and once the structures are in place it'll have some environmental value and some aesthetic value as well as the monetary value that the investors might enjoy right off the bat. I hope you will take that into account and I hope you will recommend no change at this time in the steep slope stuff.

**Chair San Soucie:** Thank you — Just a quick comment to clarify for anybody who is confused by the situation. The current recommendation in Ordinance No. 771 is to allow development on the steep slopes outside the Natural Features area so what you're recommending and what Mr. Feik is recommending was that we recommend to the Board engrossment of the ordinance to remove that element of Ordinance No. 771. That would permit development on those slopes. Is that correct?

**Ms. Peters:** My understanding is that the removal of the steep slopes would be an amendment to 771 as filed and that you can either approve that amendment or recommend approval to the Board or you can recommend not including that amendment in the engrossment of 771. You can other recommendations along with that, that might involve a fuller public process if the ordinance were to be carried over to the next ordinance year.

**Chair San Soucie:** Thank you — questions? Thank you Ms. Peters — appreciate it.

**Ms. Peters:** Thanks

**Chair San Soucie:** Now with apologies to anyone I accidentally stepped over before, I have gone through all the names on the list and all the sheets of paper that have been brought forward. Is there anyone else that wants to address the Planning Commission today on Ordinance No. 771? We have another. After you're done, I'll ask you to speak with our clerk. Your name and address first please.

**Russ Dondero:** Russ Dondero, **1506 Limpus Lane, Forest Grove.** With Linda, I'm involved with the WCCAN (Washington County Citizens Action Network). I'm their chief policy analyst and I'm a former political science professor and I testified last month before you. I've had the advantage of not only seeing all the materials but also of driving up to the site yesterday because I was concerned I was speaking about an area that I've driven through many times but never particularly paid attention to. So I decided I better go up there and I did and the map that you have before you reflects what I saw on the west side of the development since there is no road access to the east side as far as I can tell. We went up the Kaiser area and stopped in that project area. What I'm pleased about is the process has now included the PC as it should have. My concerns last time were the tendency to avoid the PC's input before the Board makes a final decision. I'm confident that will not happen, at least I certainly hope it will not happen depending upon your deliberations. But when I look at the larger context of this issue aside from the steep slopes and I basically am in favor of the existing recommendation without the amendment offered to you by the Board. So if I were in your shoes, I would be voting for the original engrossed ordinance minus the 25 percent amendment that came from K&R.

What I'm concerned about is when I drove up from Bethany from Highway 26 to Bethany to Kaiser and then to Germantown, was the significant separation between the existing developments in Bethany and the North Bethany area. There's a lot of land between the existing Bethany area and this proposed area and granted it's going to be five years before the developer forecasts that they might be building property and selling property on this land. The unintended consequences of such a process is going to impose significant cost on the taxpayers of Washington County, not unlike the cost we're now bearing in the expansion of

Bethany road. So I wonder at some point in five or ten or fifteen years whether if the development takes the shape that it currently is planned to take down the road. Whether the next question is going to be how do we get people to and from this area efficiently from their place of work on Highway 26 up Bethany and I would predict that we'll face the same question the Board and you faced in the expansion of Bethany itself and the road. They'll probably be several roads which will require such an expansion from two lane to three lane or three lane to four lane or whatever. That's a cost to the public down the road and the other related costs that occurred to me as I was listening today is police and fire protection. If I were living in the proposed development, I would want to make sure particularly fire protection is within a reasonable amount of time and my reasonable would be two to four minutes. Given the existing road structure, I would be very surprised if that kind of goal could be maintained down the road.

So I think again there's long term consequences to the planning process that may not factor into your decision today but I guarantee you will be faced with them and a future Board will be faced with them. I think as we plan to accommodate the hundreds of thousands of people that are going to move into the Metro area over the next twenty years, we need to be aware of these indirect costs or these unintended consequences. My final comment, as a housing advocate and I know the developer somewhat — he's a good friend of mine and is a fine young man and a responsible developer and I'd like to wonder whether or not as a housing advocate particularly for people below the 50 percent median family household — are any of these homes that are proposed to be built would be marketable to people say 60 percent or below. Again, if we're going to address the serious housing problem of people in poverty or near poverty or the working poor, we've got to get developers to wake up to the reality that if we're going to bring people into Washington County who are below the minimum wage, we've got to have housing for them. So I'm concerned whether or not this property in fact does begin to mitigate that long term concern as well.

**Chair San Soucie:** Thank you Professor Dondero — questions? One thing I can say is the North Bethany planning process which is now in its tenth or eleventh year has addressed all of those questions. Whether the solutions that have been developed are adequate to solve all the problems is still being discussed obviously.

**Mr. Dondero:** I'm not sure they're being addressed.

**Chair San Soucie:** I know that I have seen documents relating to every point you have brought up. However, time will tell, thank you. Comments or questions — anyone else care to address the PC on Ordinance No. 771 today?

**Commissioner Petrillo:** Procedurally I don't know how it's handled but I was wondering if — several statements were made regarding K&R's intentions and I'm wondering if K&R wants an opportunity to respond to any of those and if that's possible within our procedure.

**Jacquilyn Saito-Moore, County Counsel:** I don't see anything that prohibits it as long as there's an opportunity for other folks to also respond. I think this is an open hearing.

**Chair San Soucie:** I'm just a little bit reluctant to start a large room filling debate.

**Commissioner Petrillo:** I'll defer to the chair's decision on this but just wanted to raise it as a consideration.

**Chair San Soucie:** Typically in a quasi-judicial procedure there would be rebuttal opportunities and discussion back and forth. I'm a little bit concerned about opening up to conversation,

conversation, conversation, conversation back and forth. Personally I feel that we have a substantial volume of both written and verbal material that's been presented to us but let me ask other members of the Commission if there's a sense we should go further.

**Commissioner Garcia:** If Commissioner Petrillo has a question, it's okay by me if we bring a speaker back to the table to answer questions. That's fine with me.

**Chair San Soucie:** Can we do that?

**Ms. Saito-Moore:** I believe you can and I believe you also have the authority to limit the amount of time for each speaker.

**Chair San Soucie:** Commissioner Petrillo, why don't you ask your question and then we'll see if anyone cares to step forward to answer.

**Commissioner Petrillo:** It's not a question. I'm sorry, I was just trying to address a potential issues of fairness regarding statements made that K&R's plans or intentions or even representations of what were considered facts of how their development timeline and K&R didn't reference that in this hearing. If they feel they have no need to comment I'm fine. I just wanted to offer that in terms of fairness.

**Chair San Soucie:** Mr. Wellner, I will offer that opportunity if you'd like. I'm going to hold you to three minutes this time if that's alright.

**Mr. Wellner:** I won't take much of that but I do rarely turn down an opportunity to speak. I appreciate that Mr. Petrillo. Just to respond as far as what our intentions are for this property, it's to be determined. As far as timing goes...

**Commissioner Petrillo:** Sorry I just wanted to interrupt real quick. I think the intention of how your request was introduced into the decision making process. There was some statement that you were bypassing the PC and I don't know if that was your intention or if that's just the way the process evolved.

**Mr. Wellner:** Absolutely not. To be perfectly honest, it was me trying to figure out what my role on the PC was and how it may conflict with my ability to sit in this seat and I had to work through those issues. So any accusations counter to that are absolutely false. As far as our timeline on our property, it could be two years, it could be five years, it could be ten years but we've got a lot of work we have to do between now and then to figure out how to make this project work. We have a lot of big decisions to make and the loss of 28 units on a piece of property that we've already got a lot money and time and effort invested into is a big deal. We have a fairly good idea of how we want to develop it but when exactly it's going to happen is going to be dependent upon how long it takes for us to bring services to it (transportation, sewer, water, etc.).

**Chair San Soucie:** Other comments, questions? Thank you, Mr. Wellner.

**Commissioner Garcia:** I have a question. Is K&R in favor of the 771 as is written which means the slopes greater than 25 percent outside of the buffer are developable or are they advocating taking part of the natural buffer?

**Mr. Wellner:** We would like the slopes within the Natural Features Buffer to be developable. What our proposal is, is to have a 50-foot Natural Features Buffer along the north edge and all

other slopes would be developable per existing County requirements. It's just the way they are applied to the rest of Washington County.

**Commissioner Garcia:** Thank you very much for clearing that up. I was confused about that.

**Chair San Soucie:** Did anyone else feel highly motivated to give us the last word? With that we will close public testimony. We're going to take a five minute break and then enter PC deliberations on 771.

#### 5 MINUTE BREAK

**Chair San Soucie:** Thank you to everyone who has come forward today to provide us with testimony and to those who provided written testimony in advance of our prior hearing and this one. It's been a very interesting process. First of all, let me begin with just a clarification about what we're being asked to do and then I'm going to list a few additional items that have come up during this and then we'll get into discussions with staff and amongst ourselves and decide what kind of a recommendation we want to make. But as I understand it from Ms. Savin's presentation at the beginning, it has been recommended by staff that we suggest to the Board that they engross Ordinance No. 771 with the set of changes that were in Attachment A to the August 14, 2013 staff report and with a set of changes that were handed to us today in a memo titled staff response ASC5 accessway issues. Is that correct?

**Ms. Savin:** That's correct.

**Chair San Soucie:** In addition to that we have had a large amount of testimony relating to whether or not to leave the language in Ordinance No. 771 that would permit development on the 25 percent slopes outside of the Natural Features Buffer. We have had testimony asking us to recommend to the Board that development be permitted on the 25 percent slopes in the Natural Features Buffer and also to even consider supporting the K&R request for a 50 foot Natural Features Buffer as opposed to what's currently there. We have had testimony sort of related to that from the park district expressing some concerns about coordination of trail locations and top of slope in the 25 percent slope areas. We've had a lot of testimony both from members of the Commission as well as from people outside the Commission about the greenway versus accessway versus accessway standards matter, which is the one that is address in the staff response ASC5 accessways issues memo where staff has proposed some language that they believe addresses most of the issue that were raised regarding that. We've had testimony from THPRD on two occasions regarding the concern about the half street requirements along the linear trail corridors.

Those are the principal issues I've listed so far and then there were two items that came up that staff had said that we could if we so choose include in a recommendation to the Board for future consideration. One being clarification of the definition of top of slope which was suggested and perhaps if we feel strongly about that one, recommend that for the 2014 work program and the other one was to discuss whether we want to make a recommendation regarding additional tree protection or natural area protection in the undeveloped areas of North Bethany. Then there's a question I wanted to ask Ms. Savin regarding something that somebody said in testimony today with respect to the Metro ordinance and whether it has any language which is regulatory with respect to steep slope development. Ms. Savin, do you have any thoughts on that?

**Ms. Savin:** Yes I do. Back in 2011 when staff was working on developing the urban/rural buffers, we combed that 2002 Metro ordinance pretty thoroughly to see if there was any conditional language or anything else that stated that the steep slopes were off limits and we



didn't find anything. If we had, it would have been a more straightforward cut-and-dried matter to establish the urban/rural buffers than it actually was in 2011 if there had been that kind of language in the Metro ordinance.

**Chair San Soucie:** So the steep slope restriction that's currently in North Bethany code is a County restriction, not a Metro restriction.

**Ms. Savin:** That's correct.

**Chair San Soucie:** Just wanted that clarification. Let's start by seeing if anyone here has questions for staff on any of the items that have come before us in this proceeding.

**Commissioner Petrillo:** Whatever action the PC recommends this afternoon, what is the date and time for the follow-up Board hearing?

**Ms. Savin:** The Board's next hearing is September 17, 2013 and that is a morning hearing, so it's a 10:00 a.m. hearing on the 17<sup>th</sup>.

**Commissioner Petrillo:** And this ordinance will be part of that public hearing?

**Ms. Savin:** Yes it will.

**Commissioner Petrillo:** Thank you.

**Chair San Soucie:** Other questions for staff? Commissioner Garcia.

**Commissioner Garcia:** The way 771 is written now, what's the requirement for the half street improvement on the recreation district?

**Ms. Savin:** The filed ordinance states that Type I and II parks are subject to the public facilities requirements that include half streets so that's what the filed ordinance states. The proposed amendments to the ordinance that are in Attachment A of the August 14, 2013 staff report state that an exception is made for the linear park along Road A so it grants an exception for one specific linear park within North Bethany from the half street requirements.

**Commissioner Garcia:** Thank you.

**Chair San Soucie:** Commissioner Manseau

**Commissioner Manseau:** Thank you very much for the revised language on accessways and thank you very much for catching the issue with the east/west accessways as well as the north/south and the length of those east/west accessways may end up being. But I do have additional questions. What sort of fencing would be allowed along the edges of these accessways?

**Ms. Savin:** The accessways are subject to the design standards in section 408-9 and section 408-9 states that fencing is allowed along accessways or within 10 feet of lot lines along accessways. But the language in 408-9 also states that the height of such fences is limited to 5 feet and that the fencing material is limited to either metal or wood and there's a prohibition for solid fences.

**Chair San Soucie:** What's the maximum extent of any single segment of fencing or is that part of the standard?

**Ms. Savin:** There isn't a statement about that, however 408-9 when it talks about accessway length, it talks about a limit on 300 foot lengths. So I'm assuming the fencing length if you were to look at the fencing, would basically go hand in glove with the limit on the accessway length.

**Chair San Soucie:** Although the filed ordinance even with the modifications you've proposed here would allow longer than 300 foot accessways.

**Ms. Savin:** That's correct.

**Chair San Soucie:** So potentially, not that it's likely given the configuration up there, but potentially you could have a fairly substantial run of fencing.

**Ms. Savin:** That is a possibility.

**Commissioner Manseau:** Is that something that we could recommend a change within the proposed wording to include fencing and length of fencing?

**Ms. Savin:** I think the PC has a lot of latitude in what they can recommend for the ordinance.

**Commissioner Manseau:** Great. So these accessways — who will own those and who will construct and then maintain them?

**Ms. Savin:** The north/south accessways, my understanding is that those will be owned, constructed and maintained by the developers.

**Commissioner Manseau:** Okay so we actually have a situation in Bethany where there was a community plan requirement for a pedestrian accessway that ended up that current planning approved it without any requirement for public access through that accessway and it's just kind of disappeared. So is this a trust situation where there's adequate detail written into the Community Plan that will prevent that from happening?

**Ms. Savin:** Well the Community Plan refers back to section 408-9 and so the expectation is that the standards in the Community Development code that we're referring back to will apply.

**Mr. Back:** The dilemma we have with accessways is that the urban road maintenance district does not govern maintenance of these accessways so there's currently no County vehicle to maintain them. That's why they end up in tracts and that's why they end up being maintained by Homeowners Associations. That is a concern and it is a dilemma but we haven't figured out a better approach.

**Commissioner Manseau:** I know with roadside landscaping, there were provisions within North Bethany that adjacent Homeowners Associations would take responsibility for that maintenance. Is there something similar for these accessways as long as they are, you may have multiple Homeowners Associations needing to take responsibility for them?

**Mr. Back:** Right, and that's the language in 408-9 that would generally lead to these being placed in tracks or easement and concurrent with that, having an agreement in place that the Homeowners Association is responsible for maintenance and some do a good job at that and some don't.

**Commissioner Manseau:** So there's actually language with 408. Sounds like I need to read 408.

**Mr. Back:** That's at your discretion.

**Commissioner Manseau:** Another question. Shelly Oylear — has she reviewed the provisions within this staff response (ASC5)?

**Ms. Savin:** She has not.

**Commissioner Manseau:** Will there be an opportunity for her to review that? As the pedestrian/bike person on staff, I think it would be really important for her to have an opportunity to review this.

**Ms. Savin:** We can provide that to her.

**Commissioner Manseau:** Great, thank you.

**Chair San Soucie:** More questions for staff?

**Commissioner Manseau:** The sidewalk issue. I'm not ready to give up on that. I'm really concerned. I have specifically looked at North Bethany but if you have a 5 acre parcel with a house that's ready to fall down and somebody comes in and buys that 5 acre parcel and says this is where I'm going to build my dream home, they could go through the process, shadow plat it and not be responsible for half street or sidewalk improvements. There's nothing that we can do to prevent that from happening?

**Ms. Savin:** The sidewalk standards that apply in North Bethany are the same as the sidewalk standards that apply in the rest of the County. My understanding is there are some issues with proportionality to require a single family residence to provide and construct a sidewalk and counsel may have some additional information about that, that they want to share.

**Commissioner Manseau:** But if you have a single family home in a subdivision, that single family home has a responsibility to build a sidewalk in front of their property. I can understand there's a difference between building a sidewalk on a 100 foot wide lot versus one that has 500 feet of sidewalk. I would think there would be a situation where you could set up a trust and agency account or some sort of fund that they could pay into to pay their rough proportional share.

**Mr. Back:** Commissioner Manseau, the difference is in a subdivision it's through the creation of the subdivision that conditions or created that require when the single family house is developed on the lot that was created through the subdivision that then they have to build the sidewalk. So that's different from an existing lot of record that a particular parcel hasn't gone through that process.

**Commissioner Manseau:** One of the differences in North Bethany is that if a developer comes in and develops a parcel and there is a gap in the sidewalk between the school or the bus stop and I'm getting hazy here because it's been a while since I've read that code section, the developer can be conditioned to construct off site sidewalk improvements. So potentially you could have someone come in, build on their five acre parcel and then a developer come in next

door and be responsible for building the sidewalk in front of that five acre parcel because of the provisions in North Bethany.

**Mr. Back:** Right, the triggers in North Bethany in some cases to do off site improvements are greater than in the other portions of the County. That said, those regulations were created with the proportionality and nexus relationships that we have to constitutionally abide by in mind. So, the fundamental question of what action you take and what we can do to condition that action doesn't change and that's why we could put everything we wanted in the code and say you have a lot of record, you can go ahead and build a house and we're going to require you to do certain things. Our advice from our legal counsel is the risk of doing that is far greater than the benefit of getting the sidewalk out of it based on legal action that the particular land owner may take. So that's the basis of our recommendation.

**Commissioner Manseau:** Well I may be really thick but I can't understand why when a house is being built, that you can't prove any sort of rough proportionality or nexus for that house. I guess I'll just be thick about this one.

**Chair San Soucie:** Commissioner Petrillo

**Commissioner Petrillo:** It's a comment, not a question. I just don't know when it's appropriate to enter into that. I want to make a comment about other questions that were asked.

**Chair San Soucie:** Please go ahead.

**Commissioner Petrillo:** It relates to your question about the connection with the steep slopes and the Metro decision. Using the Supreme Court's reference of the word "nexus" in several court decisions, I think that's the issue – you know what's the nexus between the steep slopes issue and the Metro decision. I think it's important to recognize that they're not unrelated. There is a nexus and if you read through the County's – you know the North Bethany land wasn't just one parcel, it was several sub parcels that were considered and each parcel had it's own considerations to be evaluated in terms of findings. The area that involves the parcel that K&R's concerned about was referenced in the Metro staff report and the ordinance. Just to quote from it, it says, "a portion of area 87 should be included to provide a natural buffer from the surrounding agricultural lands by urbanizing north to Abbey Creek and to the east of the BPA transmission line". It says, "Metro council finds that the most efficient land to provide both a buffer from agricultural areas to the north to Abbey Creek and west to the power lines can be accomplished by bringing in this area", which is the subject area. It goes on and that was a staff report. It goes on within the Exhibit C to the ordinance, which was a Metro ordinance, four different areas referring to buffering the farm operations from development, referring again to riparian corridors, Abbey Creek and bringing them in to create a well buffer and to clearly demarcated UGB boundary for the Bethany expansion. So there was an intention to create an effective buffer and the requirement was that upon the County and the public process to develop what that buffer would be essentially. So there was developed as I recall a Natural Features Buffer and one component of that was the slope restriction. So I do believe they are connected in that I just want to make sure there is a nexus there.

**Chair San Soucie:** Alright, thank you very much. Other questions for staff? Okay so I have a suggestion for how we can work through the questions that have been brought forward to us. We have a staff recommendation with two sets of proposed amendments to the ordinance. Let me ask what the sense of the Commission is with respect to the language that is in the filed ordinance that would permit development on the 25 percent slopes outside the Natural Features

Buffer. We'll talk about the Natural Features Buffer next. There's language in the proposed ordinance, not even in the proposed amendments that would permit that.

**Commissioner Manseau:** Marc, I don't believe that development on the 25 percent slopes outside the Natural Features Buffer was part of the originally filed ordinance. I believe that was part of the engrossment.

**Chair San Soucie:** Is that the case?

**Ms. Savin:** Commissioner Manseau is correct. The filed ordinance doesn't have the development restrictions on steep slopes was a proposed engrossment amendment.

**Chair San Soucie:** See how easy it is to get spun in different directions on all this business? Let me just ask the question then in a slightly different way. One of the issues that have been brought forward, is whether or not to accept staff's recommended amendment to permit development in the 25 percent slopes outside the Natural Features Buffer.

**Commissioner Garcia:** I would support that.

**Chair San Soucie:** Other comments? I see three head nods yes over here. I'm a head nod yes. It sounds like the leaning of the PC is to support that change. Okay, the Natural Features Buffer – we've been asked to consider going a little further than what staff has asked us to do. Let's see where people are on that. Obviously Commissioner Petrillo has offered more than a little bit of comment.

**Commissioner Petrillo:** Well I support retaining the slope restriction within the Natural Features Buffer to effectively create the buffer that was intended by the Metro ordinance. I think if we remove it or recommend to remove it, I think we're undermining the UGB decision potentially and maybe even risking credibility in future UGB decisions or requests.

**Chair San Soucie:** Any others? Commissioner Rickard.

**Commissioner Rickard:** If the Natural Features Buffer was 300 feet all the way around the subject area, I think I'd have a much greater problem with allowing development on the steep slopes within the Natural Features Buffer. Because the buffer is so varied depending on which side of the subject area you're in, I don't know if there's any specific reason other than the fact that we had decided this sort of buffer area for the northern border previously. There's no other sort of logical rational reason why one area should be treated differently than another. So I'm actually a little bit on the fence, no pun intended as to whether development should be allowed on the steep slopes with a Natural Features buffer. I could probably go either way at this point but based on the strength – I mean the arguments are what they are, it's a very small contingency is looking out for their economic best interests and a much larger contingency wants things to remain the same.

You know I don't think anyone has the right to expect that their property is going to remain usable the way it is from now to eternity. Time marches on, development occurs and to me it's just finding what's the appropriate balance here and whether the County should be the one fighting the fight for the larger contingency or whether there are other options available to people who care quite much about this Natural Features Buffer. For example, acquiring the parcel or part of the parcel if they want to make sure it's never developed. There are lots of options out there and I question whether the County is the one that should be swinging the sword to do this. But again, at this point I could go either way on that point.

**Commissioner Garcia:** I'm in favor of retaining the Natural Features Buffer.

**Chair San Soucie:** I'll offer my comments here. I think that my thoughts on this are the same as they were when we first talked about this which was in the context of Ordinance No. 739 which was not the first time we talked about development on slopes in North Bethany. For those who haven't been through this process from the very beginning, this is about the fourth time we've talked about this in four consecutive calendar years and we've gone back and forth. The original ordinance, I think it was Ordinance No. 730 allowed development on steep slopes and there was no buffer and then Ordinance No. 730 introduced the buffer and introduced the restriction on slopes. We had some discussion and argument about that. I know that I'm on record, you'll find me in the staff reports and in testimony related to that because I missed one meeting as actually agreeing with the current position of K&R which is that a smaller Natural Features Buffer in my opinion would be adequate both to satisfy the Metro requirement and to satisfy the buffering requirements. But in the Ordinance No. 730 process the Board of Commissioners made a choice to establish the Natural Features Buffer and it is the Board of Commissioners right to do so. And the Board, when asked by K&R and asked by staff to consider rethinking the Natural Features Buffer, chose not to and they let staff bring forward this one engrossment related to areas outside the Natural Features Buffer.

So my preference hasn't changed. I think that our goal with an urban growth boundary expansion area is to maximize the development potential within that area within reason and with respect to the environment, with respect to stormwater and all the other factors that we value. You know it's inside the urban growth boundary and I think the considerations obviously are different than they are outside. I still think that it would be very appropriate to have a narrower buffer and to allow the development on the steeper areas. But I am also very well aware that the Board has chewed on this little bit of gristle more than once before and they will again and I don't expect this to be my decision.

**Commissioner Bartholemy:** I would agree. Looking at the maps, K&R's 50 foot buffer is substantially wider than they have in other areas and I do think we have an obligation to – if we can get more capacity of the land inside the urban growth boundary, it would just make sense to do that. Also, to tell somebody that we're going to take away 30 percent of the capacity of their property for no reason, I mean if a soils engineer signs off that it's safe to build on and I'm sure they'll have to build stormwater facilities to engineer standards, yet that smells like a taking to me. I would support K&R's proposal.

**Chair San Soucie:** Commissioner Manseau.

**Commissioner Manseau:** I do not support impacting the steep slopes within the Natural Features Buffer and I feel it's very inappropriate for this to be addressed through Ordinance No. 771 which is a housekeeping ordinance. You know even some of our Planning Commissioners weren't aware whether it was part of the proposed engrossment or if it was part of the original ordinance. I think it's too big of an issue to be decided within this ordinance and I would like to recommend that one of our recommendations go forward that the Board not address this issue as part of 771.

**Commissioner Petrillo:** I wanted to comment. You know I don't object to K&R's requesting of what they're asking. The issue though is you know it's a reasonable request of an interested party but a decision of this level of materiality in that where there is a nexus to the UGB, it should be deliberated separately and not – I would agree with Commissioner Manseau, not as part of a housekeeping ordinance particularly at the eleventh hour of the ordinance season. I

would like to see a motion – I would even like to make a motion that any changes to the Natural Features Buffer including the steep slopes within it, that we recommend that the Board defer any decision until the 2014 ordinance season to allow it to be really a sort of stand alone separate consideration for full public input. That's what I've heard from the public as well, is they want it to be a more involved or a more extensive public process and I hope you'll honor that.

**Chair San Soucie:** I heard a motion there to include in our recommendation, a recommendation that, that issue of the Natural Features Buffer, which is not currently in the ordinance or the staff recommendation be considered by the Board no sooner than next year.

**Commissioner Petrillo:** I have a formal motion if you're willing to entertain it at this time.

**Chair San Soucie:** Only if it's related to that narrow issue. If it's related to all of Ordinance No. 771, we're not there yet.

**Commissioner Petrillo:** I would like to see part of the motion recommend to the Board that any modifications to the Natural Features Buffer be postponed until the 2014 ordinance season.

**Chair San Soucie:** Okay, we have that motion. Do we have a second for that?

**Commissioner Manseau:** I second.

**Chair San Soucie:** We have a second – discussion on that. This is going to be an independent recommendation, independent of our general recommendation on Ordinance No. 771. My only comment on that is sort of procedural. We asked staff if that could be taken up as a separate ordinance in this year and once again we are bumping up against our October 31 deadline. Oh heavens can we eliminate this limitation on handling land use ordinances only up until October 31. Wouldn't it be sweet if we could actually do this work in the time that it takes to do this work? Just a memo to the Board, once again it would be really nice to put that item before the voters and ask them if they would be willing to let them County do 12 month legislation as opposed to 8 months legislation. But having said that, any other thoughts on the motion to make a recommendation to the Board to defer consideration of the Natural Features Buffer work until next year? Okay, all those in favor of that motion please say aye.

**VOTE: 3-3** Garcia, Manseau, and Petrillo - **Aye.** San Soucie, Rickard, and Bartholemy - **Nay**

**Chair San Soucie:** Okay so what I heard in the discussion about Natural Features Buffers is we have three people out of the six of us who are inclined to make any recommendation to change Natural Features Buffer characteristics. I'm going to assume based on that, that we will not be including a recommendation for amendment to the ordinance related to buffer so I'm just going to strike that issue from the list. Commissioner Rickard.

**Commissioner Rickard:** Actually you can put me down for the group that would support the change by K&R.

**Chair San Soucie:** We have three who are opposed to making changes: Commissioner Petrillo, Commissioner Garcia and Commissioner Manseau. So a motion to amend would fail. I'm going to strike that issue from our list for today although we have not made a recommendation to defer until next year. So that one is at least, we'll see, probably behind us. With respect to the accessways, staff has made a recommendation for some changes to the ordinance that would clarify and improve the standards for accessways that would be longer

than 300 feet. Do we want to recommend acceptance of those or do we want to go further? There were two issues Commissioner Manseau raised, one relates to fencing and long runs of fencing and the other relates to maintenance and whether anything more needs to be done there. Would it be satisfactory to you, let me ask for the PC to consider recommending to the Board that they investigate those questions or staff investigate those questions and make a suggestion to the Board with respect to them.

**Commissioner Manseau:** Somebody passed me a copy of 408 and I feel satisfied that if Current Planning implements or follows code, the maintenance issue will be addressed. I still feel that fencing needs to be further investigated by staff. I'm happy within our recommendation just asking that staff address it before it's presented to the Board.

**Chair San Soucie:** Okay. Any other thoughts on the accessway matter? Is there anyone who is uncomfortable with what staff has recommended or with a suggestion that the long run of fencing question be explored a little bit? Okay, so we'll include that in the recommendation. THPRD brought forward the question about the requirement for building half streets along the linear park corridors. Staff have proposed to strike that requirement for the Road A area but not for the Road P2 area and the district have asked us to consider recommending that that requirement be stricken for the Road P2 area as well. What is the sense of the Commission on that? Commissioner Manseau.

**Commissioner Manseau:** I support the Parks District's position. I believe that they're putting in a pathway and that should suffice. So for both Road A and P2, THPRD should not be required to build half streets.

**Chair San Soucie:** Okay, others?

**Commissioner Garcia:** I'll support the rec district's position also.

**Commissioner Bartholemy:** I'll support the rec district's position as long as the bicycle and pedestrian (ped) portion of the road can get transferred over to that area so that we weren't doubling up on the cost.

**Chair San Soucie:** Okay, partial support. Commissioner Rickard.

**Commissioner Rickard:** I would also support THPRD's request. I do, at least I think they have half street improvements for other types of parks throughout the County. This is a specific type of park that is a park in name only and really the proportionality of the cost of the half street improvement versus the landed issue is a real question in my mind, but I leave that to county counsel to kind of think over. For those reasons I would support THPRD's request.

**Chair San Soucie:** Commissioner Petrillo

**Commissioner Petrillo:** I have no objection.

**Chair San Soucie:** And I also support the district's request without conditions. So I think our recommendation will be that the language requiring half street improvements along the two linear park corridors be modified to not require that. Okay, sidewalk development. Commissioner Manseau raised some questions about requirements regarding sidewalks. Is there anything in there you think needs to be fashioned into the form of a recommendation or for us to consider.



**Commissioner Manseau:** I think as long as the County is hiding behind Nolan and Dolan, there really isn't much we can do.

**Chair San Soucie:** Okay, other than perhaps we could bring it to the attention to the County that we would love to see them consider perhaps the Urban Road Maintenance District's capacities be expanded to address some of those kinds of issues. I agree that it's a problem. So what we have right now is a recommendation to support the staff proposals for amendments to Ordinance No. 771 plus a request that they look closer at the long run of fencing issue on the accessways, plus an additional modification to relieve THPRD of the requirement to build half streets along the P2 linear park corridor. Then we have some sort of related recommendations. One is to explore ways to improve on the sidewalk gap problem. We had a discussion about the top of slope question and staff's suggestion is that we could consider recommending that that be included in the 2014 work program to clarify what's meant by top of slope. What's the sense on that? I think it needs to be defined and then I'd love to see it get defined.

**Commissioner Petrillo:** I'd support that.

**Chair San Soucie:** Others?

**Commissioner Manseau:** I support it being addressed at some future point in time. Maybe we should be specific. We'd like to see it as a Tier 1 in 2014, how's that?

**Chair San Soucie:** I would support that.

**Commissioner Garcia:** I would support that too.

**Commissioner Rickard:** I'll skip the tier request. I'd just be happy to see it in the 2014 work program. We'll make that recommendation that top of slope be included in the 2014 work program.

**Chair San Soucie:** There was a question also about whether we want to have staff and the Board consider looking at Natural Features protection for as yet undeveloped areas in North Bethany. Thoughts on that?

**Commissioner Rickard:** My thought is we have code in place that deals with what can and can't be done. The way the particular parcels are being used today is no guarantee that that's the way they're going to be used in the future. So I would prefer to leave things as is and not provide any additional natural protection features for fear of opposing additional restrictions on the valid use of people's property up there.

**Chair San Soucie:** Okay others? Commissioner Garcia.

**Commissioner Garcia:** I agree with Commissioner Rickard.

**Commissioner Bartholemy:** I agree with that also.

**Chair San Soucie:** Commissioner Manseau?

**Commissioner Manseau:** I respectfully disagree. We have provisions that protect significant natural resources. We have provisions that well and it's kind of they get protected in significant natural resource areas. This is a Natural Features Buffer – it's a different animal from where code provides protection. The purpose of the Natural Features Buffer is to provide screening

and buffering to agricultural areas. If you go in and the purpose of this land is to be urbanized – if you go and remove vegetation under the guise of farming – you know the purpose of the land is not to be farmed, the purpose of the land is to be urbanized. The Natural Features Buffer, the function of it is to have that vegetated corridor and I very much feel we need better protections for that Natural Features Buffer.

**Chair San Soucie:** Okay. Commissioner Petrillo.

**Commissioner Petrillo:** There is merit for concern. I just am not sure that 771 can hold any more water without it being confusing. The concern should be addressed and it has merit and I think it should be addressed but addressed separately. Just as I believe the steep slope issue probably is the straw that breaks the camels back.

**Chair San Soucie:** I basically concur with Commissioner Petrillo. I think this is an interesting and potentially important question. I think though that the question that is being discussed with the Board subsequent to our process here about where that Natural Features Buffer actually is has to get resolved once again prior to talking about any further regulation. Commissioner Manseau.

**Commissioner Manseau:** So a previous motion failed to put off addressing the steep slope issue until 2014. Is there a possibility of getting support for putting off the steep slope issue as well as the protection of the Natural Features Buffer in 2014 and take the two hand in hand?

**Chair San Soucie:** You can make a motion if you'd like.

**Commissioner Manseau:** So moved.

**Commissioner Petrillo:** Second it.

**Chair San Soucie:** Can you make that very clear?

**Commissioner Manseau:** I move that we recommend to the Board that the steep slope issue be addressed in 2014 and in conjunction with the steep slope issue, address vegetation protection within the Natural Features Buffer.

**Commissioner Petrillo:** I'll second.

**Chair San Soucie:** Alright, motion and second. Discussion on that?

**Commissioner Garcia:** Is this part of 771 or is this an extra motion that we're making this evening.

**Commissioner Manseau:** This would be to remove this issue from 771 to bring it to the point to highlight that these are important issues. We don't want to mess with 771 because we've got enough of a mess. Let's separate it out and deal with it next year.

**Chair San Soucie:** So it's basically taking some of what's been proposed by staff, which is the language relating to the 25 percent slopes and saying push this all out to next year. Further discussion?

**Commissioner Petrillo:** I was just going to comment that I believe the benefit of postponing, weighs rushing to a decision today on it. Developers indicated their time frame is quite long. Why not have more background before we make a land use decision like this.

**Chair San Soucie:** Okay. Other comments?

**Commissioner Bartholemy:** I could support revisiting it next year.

**Chair San Soucie:** We have a motion to recommend to the Board to defer all consideration of the 25 percent slopes inside and outside the natural features area and the possibility of protection.

**Commissioner Manseau:** I need to amend that motion because my intent was the 25 percent slopes within the Natural Features Buffer.

**Commissioner Petrillo:** That's how I understood it. That's what I had seconded, I believe.

**Chair San Soucie:** Well we had a motion with respect to the Natural Features Buffer earlier which failed 3-3.

**Commissioner Manseau:** But the difference is the protection of the vegetation within the Natural Features Buffer was the addition.

**Chair San Soucie:** So it's a slightly fatter motion. The motion is to make a recommendation to the Board that consideration of 25 percent slope development within the Natural Features area and consideration of vegetation protection within the Natural Features area be deferred until 2014. Is that correct? Is that the motion you seconded?

**Commissioner Petrillo:** That is the motion I seconded.

**Chair San Soucie:** Okay, further discussion?

**Commissioner Garcia:** Is this motion going to modify our position on 771 this evening? The way I'm hearing everything, I don't think it will.

**Chair San Soucie:** No. None of what is being discussed in this motion is in language that's in 771 or in staff's proposed amendments.

**Commissioner Garcia:** Okay, thank you.

**Commissioner Rickard:** Call for the question.

**Chair San Soucie:** Okay, those in favor of that motion, please say aye. I'm going to say nay because I'm fine with the Board having their discussion if they choose. The motion does however pass and so our recommendation will be by a four-to-two vote that the Board defer discussion of the Natural Features Buffer and development within and look at vegetation protection.

**VOTE: 4-2** (*Recording unintelligible – individual votes not discernable.*)

**Chair San Soucie:** What we have is a potential recommendation to the Board to engross Ordinance No. 771 with the changes recommended by staff on the August 14, 2014 staff report

and the September 4, 2013 staff response to the ASC5 accessway issues. With an additional request they take a look at the question of the long runs of fencing and an additional amendment to remove the requirement that THPRD do a half street improvement along the P2 linear park corridor. That the Board and staff at least explore the question of sidewalk development in the vicinity where gaps can emerge in the vicinity of single residence development and that the definition of top of slope be added to the 2014 work program.

**Commissioner Garcia:** Mr. Chairman, I'd like to put that in the form of a motion.

**Chair San Soucie:** Alright then that would be the motion. Do I have a second for that?

**Commissioner Manseau:** Actually I've got a question before it gets seconded. The request for Shelly Oylear to look at the wording for the pedestrian/bike accessways – is that something we want to formalize?

**Chair San Soucie:** Staff has already said that they would do that.

**Commissioner Manseau:** Okay, great. I'll second.

**Chair San Soucie:** Motion and second to do all those things that we've been talking about and that I stated at least reasonably accurately I think. Further discussion? All those in favor, please say aye. Is there anyone opposed? Is there anyone abstaining?

**VOTE: 6-0,** San Soucie, Bartholemy, Garcia, Manseau, Petrillo, and Rickard - **Aye**

**Chair San Soucie:** We have 6-0 vote on the recommendation which included some amendments and we also had a 4-2 vote on a recommendation to defer the Natural Features Buffer discussions. Okay, are we there? That concludes our work on Ordinance No. 771.

**PROPOSED ORDINANCE NO. 772 - An Ordinance Amending the Rural/Natural Resource Plan Element of the Comprehensive Plan and the Community Development Code to Develop a Residential Airpark Overlay District**

**Chair San Soucie:** We are going to move on to proposed Ordinance No. 772. We will begin with a report from staff.

**Paul Schaefer, Senior Planner:** Thank you Chair San Soucie. Ordinance No. 772 proposes the development of a residential airpark overlay district. The proposed district would apply to certain rural residential lands located on either side of Sunset airstrip, which is a private airstrip. The airstrip is located south of North Plains, across from Highway 26 and west of Glencoe Road.

There have been previous Sunset airstrip planning efforts. The County adopted Ordinance No. 609 in 2003, which established land use and safety overlays for public and private use airports in Washington County, and included Sunset airstrip. The private use airport overlay district was applied to Area Acres 1 and 2, which were rural subdivisions, and one other tax lot. Thus, Sunset airstrip is a private use airport. It's not a public airport or a personal use airport. Furthermore, as noted in Policy 28 of the Rural Natural Resource Plan, private use airports that are privately owned are those private use airports recognized by Oregon Department of Aviation as having three or more based aircraft in 1994, and Sunset airstrip qualifies for that.

In 2009 Bob Jossy requested that the Board expand the private use airport overlay to include his property. This is shown in the gray area on either side of the airstrip and is about 100 acres. However, the Department of Land Conservation and Development (DLCD) objected to the proposed expansion. They were concerned with allowing additional airport-related uses that would be allowed in the private use airport in all the areas shown in gray as requested. The Board held the same concerns and they rejected the proposed expansion and denied Ordinance No. 721. Now the proposed amendments in 772 are requested by the property owners and also supported by an additional property owner, as well as the Air Acres HOA (Home Owners Association) and they're the ones that maintain Sunset airstrip.

There are two exhibits to the ordinance, Exhibit 1 and 2. Exhibit 1 contains the proposed residential airpark overlay district language in the development code, a new section 389. Exhibit 2 would amend Policy 28 of the Rural Natural Resource Plan. We'll talk about these in a few moments. The purpose of this map is to provide the context of the existing land use districts as well as the proposed overlay district to show the context of the two. Currently, airports may be allowed in the R-5 and the AF-5 districts through Type III procedure, subject to the special use standards of 430-7 of the code. Personal use only airports may be allowed in the EFU and the AF20 district also through a Type III procedure, and also subject to the special use standards of 430-7. It's important to know that in the resource districts EFU and AF20, the airports that are allowed are personal use only. They are not intended to be airports where you would have multiple properties or multiple aircraft from different owners accessing it. It's truly a personal use airport. Key provisions in Exhibit 1, again it would add a new section 389 to the code titled residential airpark overlay district, and this would allow limited airport-related accessory uses, such as hangars, tie down areas, aviation fuel storage, and aircraft taxiways. This would apply to lots within the district itself and nowhere else. Some other unique features are that it requires an existing dwelling as an accessory use like a hangar you couldn't build that first and then build your dwelling. It is truly an accessory use.

To address some of DLCD's concerns, this does not authorize any dwelling units. Whatever the underlying land use district would allow or not allow or the procedures, would dictate if you had a dwelling unit. Moving on to the key Rural Natural Resource Plan Policy 28 revisions, again, it would allow the overlay district. The policies would be put in place through this ordinance to enable or to authorize the new district. It will also update the Sunset airstrip map to show the new boundary. Currently the boundary is just for the private use airport only, which is its own district, and this would be a second one. A comparison of land uses – Section 385, which is the existing private use airport overlay, which again is applied to Air Acres 1 and 2 plus an additional tax lot. It allows hangars and tie down areas similar to what 389 would allow, but also it allows flight instruction facilities, pilot lounges, and other broader array or airport-related uses.

This is why back in 2009 the LCD had concerns with expanding the district to include roughly 100 acres. Again, whereas in proposed Section 389, the proposed changes are very strictly limited accessory uses to the hangars and tie downs and only when construction on a lot with an existing dwelling. It is an important fact to really show the distinction between the two – what's accessory and the limitations in place. I think it's important to note that this district is not an expansion of the private use overlay district. It is its own distinct district, so there may be some confusion of testimony or questions of whether we are expanding the private use district. We are not, it is its own district. Written testimony – the DLCD had provided comments, I believe was in your packet. They requested the district be limited to the R5 and the AF5 districts, which are exception lands, and not include the resource lands which are three parcels to the north and one AF20 parcel to the south.

We have letters from Larry Derr, who is representing Bob and April Jossy, who asked that the recommendation be to retain the boundary as filed. In that light, note that the first sentence in Section 389-2 requests that the word "residential" be deleted. The reason is that AF20 and EFU lands are not considered rural residential districts. So if we include those in the boundary, then it would be good to make that change. Then Bob Jossy had a letter, which I believe you received at work session, supporting their request of 772 as filed. Staff recommends that Ordinance No. 772 be engrossed to remove the three EFU parcels, the one AF20 parcel as they're rural resource lands, not rural residential districts.

Initially staff felt it was appropriate to include these as was noted on page 5 of the staff report and page 6. Upon further review and further discussion with County Counsel, and the legal ramifications, staff no longer feels it's appropriate to include the resource districts. Again in further review of DLCD's concerns, the airport related nature would extend these into resource districts, whereas the whole nature of the residential airpark overlay district is for residential uses of that focus. Also staff indicated that additional language may be developed to address this issue, if there is a way to retain the resource districts as originally filed then upon further consult with county counsel, staff determined that there are some barriers that would exist to this, the key one being ownership interest in the airstrip. ORS 250-213 2h requires ownership interest by Bob Jossy or an applicant in Sunset airstrip, where Sunset airstrip is owned by Roth Development. So for those reasons barriers exist to not propose that they be retained at this time. So as the proposed engrossment would look, the top three EFU parcels would be removed, the AF-20 parcel would be removed as recommended. That includes the presentation.

**Chair San Soucie:** Thank you, questions for Mr. Schaefer? Commissioner Manseau.

**Commissioner Manseau:** Rather than creating a new code section, why isn't this handled through 430-1, Accessory Use and Structures, because is a taxiway really any different from a private road? Is a hangar really any different from a garage or a barn? And are tie downs really any different than a paved parking lot? They aren't really specific to an airport.

**Mr. Schaefer:** I think the main reason is that coming up with a residential park district was the best way to address their request to allow hangars in Sunset Orchard Estates, which is the subdivision that Jossy has approved for. It's a clear distinction and defining the parameters on how these uses can be, so I think it's a cleaner approach to have this district, as opposed to amending different code sections or different special use standards. This is very similar to what we did, or proposed, in 2009 with Ordinance No. 721, albeit that was an expansion of an existing district, whereas this is its own unique district. And the way it's written Section 389 is really tailored to Sunset airstrip but that doesn't mean it could not be applied to other proposed or requested airpark areas.

**Commissioner Manseau:** But anything that you're doing within this ordinance doesn't – I mean, what makes a hangar a hangar and not a garage, just because you have an airplane in it?

**Mr. Schaefer:** And I think the other part of it, is by coming up with the standards in Section 389, we're better able to tailor or limit the type of uses and have the parameters such as you have the hangars accessory, you limit other types of airport related uses through this district as opposed to likely having to make other code section changes to Section 430-7 and maybe other changes to AF5. You might have other districts or other code sections that you need to change as opposed to one wholesale new district where you encapsulate, Section 389 identifies the permitted uses in the district and the limitations so it's a much cleaner approach to say here's

our district and here's our accessory uses. It is easier to tailor the limitation to accessory and uses like that.

**Commissioner Manseau:** Okay. Questions about written testimony – current County policy is not to accept e-mail testimony, or is e-mail testimony accepted when it's an email attachment? Because the letter from DLCDC was an e-mail attachment.

**Jacquilyn Saito-Moore:** I wasn't aware of any distinction. My understanding was that an e-mail is testimony.

**Mr. Schaefer:** The letter from DLCDC came by e-mail, but it was a PDF of that letter.

**Commissioner Manseau:** So at this point the County does accept PDF as testimony?

**Mr. Schaefer:** I believe if that's your testimony attached to which is different from sending an e-mail paragraph that says here's my comments. The comments were attached to that e-mail and so they used the email to distribute the letter. It's a separate letter of comment.

**Commissioner Manseau:** Because I believe the way the notices go out, it is that e-mails are not acceptable forms of testimony.

**Mr. Schaefer:** But again, the letter from DLCDC was a separate letter attached to that e-mail. So instead of putting it in an envelope to mail, they attached the PDF copy of their letter in that regard.

**Commissioner Manseau:** Can I read you from your notice? "Submit oral or written testimony to the PC and/or the Board at one of the public hearings. Written testimony may be mailed or faxed to the PC or the Board in advance of the public hearing. We are unable to accept e-mail as public testimony".

**Mr. Schaefer:** Right, I think another fine distinction between that is if you put a letter in the mail, it's easily distinguished as a signed letter. And also in some e-mails if it's just a generic e-mail that you send and get in your inbox, there's no signature, there's no nothing whereas the letter that was sent as an attachment, there is a signed copy of that letter.

**Commissioner Manseau:** Okay. Just want to be clear about what the County policy is at this point. Then within the staff report, there were comments from both Port of Portland and Oregon Department of Aviation. Were those oral comments, because I saw no written communication?

**Mr. Schaefer:** It was a combination of oral comments and e-mail exchanges back and forth. It was both. There's no formal letter.

**Commissioner Manseau:** So when does that become hearsay?

**Ms. Saito-Moore:** I would just technically add that hearsay is a rule of the trial courts and not necessarily of administrative hearings.

**Commissioner Manseau:** But is that something that we as Planning Commissioners accept as proof? Where are we as Planning Commissioners when we see this information? As long as it comes from staff it's gold?

**Ms. Saito-Moore:** I think that's where you have to rely on your staff. I'd hope that you'd rely on staff not to send you anything that's perhaps disreputable.

**Commissioner Manseau:** Thank you.

**Chair San Soucie:** Other questions for staff? We will open a public hearing. We have four names on the list to speak to us today. I'm going to recite all of them in order, and if anybody else wants to speak to us, please address our clerk and get on the list. We'll have Ellen Saunders, Bill McCandless, Bob Jossy, and Miki Barnes in that order. Ms. Saunders, you're first. We'd like to get your name and address first please.

**Ellen Louise Saunders, 47950 NW Dingheiser Road, Manning, OR, 97125:** (Ms. Saunders provided written testimony, labeled **Exhibit 5** in the meeting file.) I have been involved in aviation issues for some time, due to the expansion of the Apple Valley Airport. This concerns me because we have discovered "creep" happens with aviation facilities. I'm going to read to you the testimony and have copies for you. My biggest concern here is not just what will happen with this now, but what will happen in the future. Hillsboro has embraced an urban plan in which the layout, infrastructure, and economy is in part centered on its airports and airport city exists for the benefit of large corporations an extensive flight training. This urban planning does not take into consideration the need to protect nearby high quality farmlands.

Many of the rural residents of western Washington County do not want this very productive and economically important farmland to be included in this airport city planning vision. If the proposed Ordinance No. 772 is adopted, the relentless procession of low flying, loud, lead-polluting private aviation flight activities will increase over agricultural lands being used for organic farms, equine facilities, dairies, and orchards. Hillsboro's air traffic model would be extended over food production land, making it very difficult for rural communities to provide a sustainable agricultural environment. Since the permits on this Sunset Orchards Estate's air acres two lots for development be a Type I with no notification to surrounding land owners, what protection will be put in place to keep these lots from being used for commercial aviation activities such as fuel storage and visitor fly-ins? How many planes, tie downs and/or hangars will be allowed on each lot?

It has been the unfortunate experience of those living in western Washington County area near rural airports that when permits have been granted for aviation privileges for those airports, the privileges become substantially expanded. Either the owner engages in activities beyond the permitted use, or the property changes hands and the new owner pays no attention to the existing permitted uses. Any future conflict over permitted aviation uses versus actual occurring aviation activities at rural airports can be avoided by having clear published regulations that the County is willing to enforce. Since the County is now only addressing violations when complaints are filed, it is difficult to see how any action will be taken to enforce the regulations on this proposed expansion, given the limited funds for enforcement.

The CPO meetings are sparse in the summer months. It seems that this hearing has been purposely planned at a time to avoid public comment. It would be wise to have a second hearing held later this fall. If a complete discussion of this expanded use is to be available for public comment. If public comment is largely avoided by the timing of this meeting, there may be contentious and possible legal actions regarding this proposed increase in aviation activity. At the very least, Ordinance No. 772 should state clearly that no commercial activities would be allowed on airpark two properties, now or at any time in the future. At best, Ordinance No. 772 should be denied. The CPO responsible regarding this issue would be the North Plains CPO,



and their meeting is coming up soon. I would like to see this put aside until such time as people in the area can actually be represented and have a chance to talk.

In coming here today I did look at the documentation that was put out and to be quite honest, this is fairly new information that most people haven't had a chance to fully comprehend, nor do we really know what the impact of this will be. I think it would be wise to take more time evaluating exactly what is going to happen. If this is just a private airstrip in which a few private planes are being added that's one thing, but I'm very concerned that we're going to end up with a lot of damaging commercial activities down the road.

**Chair San Soucie:** Are there questions for Ms. Saunders? No, but thank you for coming.

**Commissioner Manseau:** Unfortunately, in Washington County we have an ordinance season that runs from March 1 through October 31, and it is within the County Charter. There's nothing we can do about it unless you come to your County Commissioners and request that County Charter be opened and that we throw out this ludicrous ordinance season that forces us to be dealing with ordinances during a time when people are away from the home.

**Ms. Saunders:** Even a slight delay would help, so that the CPO that is going to meet in North Plains later on in the next couple of weeks can have a chance to review this.

**Chair San Soucie:** I suspect that the CPO will have an opportunity to meet before the Board takes up any consideration of this ordinance.

**Ms. Saunders:** We hope there will be considerable conversation about the impacts of this in our community. Thank you for your time.

**Chair San Soucie:** Thank you also. Mr. McCandless.

**Bill McCandless, 32905 NW Beach Road, Hillsboro, 97124.** I'm the President of Roth Development, the corporation that owns the runway out at Sunset. I understand the worry about commercial activity. The Apple Valley predated my moving here two years ago, but I have heard about it. The current properties; Air Acres and Air Acres Two are governed by CC&R's which state there is no commercial activity allowed and the prohibition extends to flight instruction, so commercial activity is not allowed either.

When Roth Development was purchased by ten of the residents this last April, we revised the CC&R's to run in perpetuity instead of being renewed every ten years, which was the previous condition. When easements to access our runway are granted to the new Jossy properties, we are going to extend at least that CC&R provision against commercial activity. Currently, CC&R's have one hangar per lot and a maximum of one external airplane storage, so we don't anticipate a great number of aircraft. With regards to disturbing adjacent agricultural properties, there are two parts to the airport overlay. One is the residence that can access the runway and the other is the airport safety overlay that says what can be within the approaches to the runway environment. There's a figure in here that I don't have handy, but it's a twenty-to-one slope so at three-and-a-half degrees we are at an increasing altitude further and further from the airport and none of us want to disturb or land on the adjacent agricultural properties. It would take something like an engine out emergency to put us in a field, so we respect our neighbors and try to stay out of the way. Roth Development does support the extension of the Jossy properties. I can not legally or competently address the question of EFU and AF20 properties, I simply don't know the regs (regulations) in that regard. Thank you.

**Chair San Soucie:** Thank you, questions? I do have one, you mentioned that you – I'm not sure what the property ownerships are but that you would be inclined to apply the restrictive CC&R's to the expanded area covered by this district. Would you have any objection to having the land use regulations specify those restrictions as a more secure back up?

**Mr. McCandless:** No objection.

**Chair San Soucie:** Okay. Thank you. Other questions?

**Commissioner Garcia:** When you mentioned an external airplane storage under the HOA regulations, can you have one airplane in a hangar and one airplane outside the hangar with two airplanes?

**Mr. McCandless:** I believe that is correct. I'd have to go look at the CC&R to be certain.

**Commissioner Garcia:** Okay. Thank you.

**Chair San Soucie:** Any others? Thank you very much. Mr. Jossy.

**Bob Jossy, 31965 NW Beach Road.** I'm Bob Jossy. My wife and I own the land that is adjacent to Sunset airstrip. We are asking you to forward Ordinance No. 772 to the Board with the recommendation for adoption, but we are also asking you to include the EFU and AF20 in that recommendation. There are already 18 homes associated with the airstrip. We would bring in another 16 and then if we don't bring in the EFU's, you've got some neighbors that are regulated by this airport overlay and some neighbors that aren't and part of the airport overlay is they will not remonstrate against normal airstrip procedures. So you have some neighbors that can't complain, can't file lawsuits and you have some that can. We talked about CC&R's and if you can't use the airstrip, there's certainly no reason for them to want to be controlled by CC&R's that are associated with airstrips. So then you're going to have neighbors – some of them might have some CC&R's and others different CC&R's. Staff recommended that they not be included but in their comments, I can't find where they say that's against current land use rules. Larry Derr has sent you a letter that says that it would comply with current land use rules. I think their comments about that it would have to meet certain criteria on EFU lands and will they meet certain criteria with the airplanes such as crop dusting and things like that. I don't think we're going to crop dust the two-and-a-half acre EFU parcel next to North Plains. But the only time you would have to do that I believe is if you were going to put a private use airstrip on your EFU land. We're not asking to expand airstrip, we're not asking to put a private airstrip use on those EFU lands. We're asking if a home is built, can they then be part of this residential airpark overlay and be part of the community. That has been our goal all along, to be the same as everybody that's already there, and I hope that you will consider that. Thank you.

**Chair San Soucie:** Thank you. Questions for Mr. Jossy?

**Commissioner Rickard:** Looks to me like the EFU parcels are completely surrounded by airport uses and the freeway?

**Mr. Jossy:** And adjacent essentially to North Plains. We've talked to planners before about the EFU land and that is was probably a mistake when it was zoned. They've said yes there probably is a mistake, but you're bound by all the regulations like anybody else and you'd have to apply like anybody else and there really isn't any remedy to change that EFU to anything other than EFU. I see those EFU parcels being there forever. I don't think that North Plains will ever annex this land now that it's been created at four acre parcels, so the best we can do is to

have those EFU parcels at least conform with their neighbors. I don't see how anything could ever happen to them. They are stuck in EFU forever because Oregon land use law doesn't seem to have any remedy for mistakes. And the AF-20, that's caused us too much trouble. Right now our garage is illegal because it's too close to the property line, but we can't move the property line because of the different zoning. This was their recommendation for us: I own the house, my wife owns the land next to it, we wait seven years, I file for adverse possession and if the court declares that yes you can have that my adverse possession, then we can move the property line and so the garage isn't illegal and we didn't cut the septic tank in half. These parcels are a problem. The least we could do is make them conform with their neighbors.

**Chair San Soucie:** Interesting problem. Thank you. Question for staff: Just one idea that pops in mind, are those parcels potentially eligible to be filed for an exception to change to AF5 or to RF5 or something like that?

**Mr. Schaefer:** I haven't looked into that specifically, but I would have to imagine those parcels are very close to a reserve and so any plan amendment in reserves basically are not existent so I don't think there would be much chance that that would be a plan amendment through the County. Obviously, if that area were annexed into North Plains, there would be a different planning process to address that issue.

**Chair San Soucie:** Okay, interesting. Thank you. Any other questions for Mr. Jossy? Thank you. Ms. Barnes.?

**Miki Barnes, PO Box 838, Banks, OR, 97106.** (Ms. Barnes provided written testimony, labeled **Exhibit 6** in the meeting file.) I'm here to oppose this sort of expansion, non-expansion approach to this airport. I don't see how adding 16 new owners to an airport can be considered anything but expansion. We can quibble, we can change the language but the underlying meaning remains the same. I want to talk about my reasons for opposing the expansion. The letter from Washington County manager Andy Back dated August 1, 2013 stated that the impact of the passage of this ordinance would just be on the property owners on either side of the airstrip. I don't know how people understand airports, but they have a wide spread impact by any stretch of the imagination. I'll use my own home as an example. I live 12 miles from the Hillsboro airport, but I am pummeled endlessly with air traffic noise. This is largely because much of western Washington County and a large swath of Yamhill County was designated without any public input as an intensive flight training area. I had no voice in this; I didn't buy my property to turn it over to the flight training industry, to the Port of Portland, to Apple Valley and to Sunset residential airpark. That's not why I live there, that's not why I moved there.

But there is this seizure that goes on in the airspace over people's homes in Washington County that is quite extreme. To me adding to that is a real problem and the noise. There is a lot of literature on the negative health impacts of noise. I have included a statement from the World Health Organization on this so I think that needs to be taken into consideration. Also, I'm concerned about that Ordinance No. 772 contains no provisions for limiting aircraft noise. In fact, if I understand 609 correctly, they can have as many aircraft operations as they want, as they can possibly fit on that property without any consideration to the community. Washington County does nothing to protect us from this. The State of Oregon offers no protection, nor does the Port of Portland. The Port of Portland just says there's nothing we can do. Where do we turn if you continue to approve these kinds of airport expansions when the real problems are not being addressed?

Another serious concern is greenhouse gases. The State of Oregon, Metro, government agencies, encourage residents to carpool, use public transportation, bicycle, walk, whatever we

can do to reduce carbon emissions. There is a serious disconnect in applying these same standards to the aviation sector. Here we have the County, we have the State pushing airport expansion at a time when we know that the consequences of global warming are quite severe to the entire planet. We're seeing massive storms, we've hit the tipping point with global emissions. So why are we talking about expanding one of the most polluting forms of transportation known on the planet. Now in 2007 the legislature passed ORS 468A.205 which established legislative goals for addressing global warming by arresting emissions by 2010, reducing Oregon emissions by ten percent below 1990 levels by 2020 and at least 75 percent below 1990 levels by 2050. Now according to the expanded transportation sector inventory of the July 18, 2013 Oregon's greenhouse gas emissions through 2010 report – this was a joint effort by the Oregon Department of Transportation, DEQ, and energy and what they found and this is a quote, "Ground passenger and commercial service vehicles, freight, and air passenger travel increased 30 percent from 1990 to 2010. Proportionately the biggest increase in emissions was from air passenger travel market which doubled during the period".

Unfortunately, ODOT opted not to include the substantial emissions generated by Oregon's more than 450 general aviation airports. If they had, the greenhouse gas emissions from the transportation sector would have been much higher than 30 percent increase over the past 20 years. I talked to DEQ this morning about this report, and I understand my times running short. I talked to them about this report. They explained that the reason they didn't include emissions by the flight training schools is because they don't consider flight training to be transportation. Boy we have a problem, what is it then? I'm going to submit to you that the transportation sector emissions are much higher when you include general aviation air traffic corporate jets, business jets. I don't understand what the County's going to do to drop their emissions significantly – 40 percent by 2020 if they continue to push Intel expansions, if they continue to push airport expansions. We've got to start somewhere.

**Chair San Soucie:** Thank you Ms. Barnes. I appreciate it.

**Ms. Barnes:** Lead is also an issue, I'm willing to answer any questions and I'll give you written copies of this.

**Chair San Soucie:** Great, thank you. Questions for Ms. Barnes? No questions now, but we appreciate your comments today. Those are the four names I had on the list. Are there others who wanted to address the PC on this? Okay, please step forward and be sure to visit our clerk afterwards so we can get your name on the record.

**Linda Peters:** Linda Peters again, hello again. I have two big concerns about this and one has two parts. The biggest one is public notice and opportunity to have some input as to whether this ordinance goes forward, and if it does go forward, then the second part is that it lets all of this stuff go in as a Type I. At the time that somebody decides to put for instance a big fuel storage tank on their property, there won't be any notice to anybody and yet general aviation fuel is leaded. The question of whether that drips out on the ground and gets into the watershed is a concern to the people who live in the area. I do. I am uphill a ways, I'm in Mountindale, but that's part of my CPO, that's part of my home territory and I care about whether there's more pollution going on there. We have enough problems with the garbage composting nonsense that we've had to deal with across the road. So I'm concerned about these accessory uses only being given such a pass as to be Type I over the counter permits. That's ridiculous when you're talking about things that are polluting.

The other part of course is I echo all of Ellen's and Miki's concerns about the air pollution affects of more air traffic and if there weren't going to be more flights, why do they want this addition to

the area. Why do they want this change? I hope that as it goes forward, those concerns can be addressed. I have one last thing to give you a piece of history on: Why we have the ordinance season we have, and you can partly blame me. In the 80's when I was fighting a quarry that applied to be reopened by the County piggybacked on an application for a renewal of a permit that the State had on its side of the quarry that the County didn't have one to be renewed, they were just piggybacking. We stopped that but following that, they redid a quarry ordinance okay. There was that and there were a number of other ordinances that I got involved in as I revived CPO8 and we realized how much was going to be going on in our area over the years ahead. A lot of this was done over the Christmas season. Ordinances would be filed in October or sometime and all the hearing would be during the Thanksgiving holidays. They'd happen during the Christmas holidays, they'd happen at times when the weather was very bad and it was very hard for people to get down out of the hills to come in and testify and be sure you could get back home safely again.

I was one of the people that led the effort to get an ordinance season that was confined, so that people didn't have to give up their safety or their holidays in order to take part. It was a citizen-initiated change, and I felt as though we achieved some kind of a triumph in getting it. I know it makes your work harder now, it makes my summer's worse than they used to be but there's some trade-offs to be had, and I just want you to know that wasn't some Machiavellian scheme that was imposed from on high or afar. It was our own citizen action that brought it about to protect us. Thank you.

**Chair San Soucie:** Thank you very much. Questions for Ms. Peters?

**Commissioner Garcia:** When you mentioned storing aviation fuel or gasoline or whatever, how is that different from farm property storing fuel for their implements?

**Ms. Peters:** I can't give you a technical answer to that but I'm not entirely sure that farm equipment uses leaded gas. I know aviation fuel is leaded and I think the lead content makes a difference. I'm not sure what kinds of conditions are put on fuel storage in ag (agricultural) areas but I suspect that more rather than fewer protections are a good idea.

**Commissioner Garcia:** Okay, thank you.

**Chair San Soucie:** Others?

**Commissioner Manseau:** Actually a question for staff. Why is storage of fuel important for these home sites? Essentially, you've got an airport right there or I would think that the airport would have gas available for sale.

**Mr. Schaefer:** I mean to address the safety aspect of it which is obviously a big concern. Staff looked at that issue very seriously when we drafted the language and put language in there specifically addressing personal aircraft fuel that you would have for storage. Section 389-3 B2 specifically addresses this issue to make sure safety is addressed. Applicants must address all the current building code requirements, fire code requirements and any and all federal, state requirements to make sure that fuel storage for their personal aircraft is safe. The language in there is not intended to result in a 1,000 gallon tank commercial fuel. And if I could address another question that was raised about commercial traffic and flight training and those kind of things, as was shown in the slide if you look at Section 385 which is the private use airport overlay district, that's a district that allows a lot of airport related uses such as flight training and those commercial type of activities. That was one of those things DLCD said they had concerns

with this. And that's why if you look at Section 389-3, the proposed language that it addresses those uses that are permitted, it really puts a very small box of what uses are allowed.

You know residential airpark development may be authorized to allow for the addition of an additional aircraft hangar and a paved tie-down area on the same lot or parcel as an existing detached dwelling unit as a primary use. If you look at sub B, accessory uses and structures on a lot or parcel with an existing dwelling unit, you may have an aircraft hangar, you may have a taxiway, you may have whatever size fuel storage is necessary for your personal aircraft. The language specifically precludes commercial activities and flight training. All the things that are a big concern and those were concerns addressed back in 2009 with the previous attempt and that's why I wanted to make sure there's a careful distinction between existing Section 385. If you look at the map there, the existing private use airport overlay which again is Air Acres 1&2 and then the strip which is the airstrip, those uses that are in Section 385 could allow these uses.

That's why I think it's important when you heard from the representative from Roth Development that you know they have CC&R's that say you don't do commercial flight training, you don't do this, you don't do that. Whereas in 2009 the expansion if that were approved, if Ordinance 721 was approved and all that grey area was white with a private use airport overlay you could do all these uses. That's why staff carefully looked at what other ordinances are around there, what other examples of a residential airpark overlay. Because that's how DLCD said they opposed, however it's worth looking at a residential airpark type district or somehow that you could allow very limited hangar use so you can have a home with a hangar not a home with a hangar for 10 aircraft. Although we didn't purposely limit the number of aircraft but we did say you could have an individual hangar and a tie down. That is why when you look at the new ordinance we didn't say you can't do commercial flight training, you can't do this. We specifically said what you can do. We said you can do a hangar, you can do a tie down, you can do a taxiway, you can do these very limited airport related accessory uses again if you have a house. If you don't have a house, you're not going to put a hangar on there, you're not going to do those types of uses. I think that addresses a lot of the concern that we're expanding. We're not expanding. Section 385 is its own nature, its own animal; whereas Ordinance 772 it's a very small box of a hangar like Olinger. I think Olinger is one lot with a hangar. Some hangars are different sizes and maybe someone has aircraft they fly and maybe there's one that their working on or what have you. So it's really a limited nature of scope here.

**Andy Back:** Commissioner Manseau, related to your fuel storage question, I would recommend that you specifically ask Mr. Jossy or the other representatives how they envision that working at the airport. That's an area they probably have a lot more expertise than staff on how that would work.

**Commissioner Manseau:** Thank you. I've got another question. Home occupation because we're just thinking about that one, we'll be thinking about that as well. Will home occupations be prohibited in this overlay zone?

**Mr. Schaefer:** I don't have the AF-5 and RR-5 districts memorized as far as permitted uses but if a home occupation is allowed in the underlying land use district, it would be allowed in the proposed district.

**Commissioner Manseau:** So you could have a home occupation that serves the aircraft industry?

**Mr. Schaefer:** I think the question is does that become a commercial venture.

**Commissioner Manseau:** Are commercial ventures prohibited by this and where do I read that in the ordinance?

**Mr. Schaefer:** By conversely saying what is allowed. Again if you look at Section 389-3, uses permitted through a Type I procedure, you're not doing commercial flight training, you're not doing commercial things like that.

**Commissioner Manseau:** But you have a residence in rural residential which allows you to have a home occupation.

**Mr. Back:** I think the basic answer is there's no distinction between home occupation regulations here versus other similarly designated land use districts.

**Commissioner Manseau:** So the overlay zone isn't going to cancel out the ability to have a home occupation and it could be a home occupation that serves the aircraft industry.

**Mr. Schaefer:** If it complies with the home occupation standards.

**Commissioner Manseau:** Okay great, thank you.

**Chair San Soucie:** Okay we have one more name, Mr. Jim Lubischer.

**Jim Lubischer, 22720 NW Quatama, Hillsboro, OR.** I'm interested in the airport issues because I live near HIO and I get a lot of traffic there, and have educated myself a little bit on that. I did have a concern, so was there a request made to have this hearing extended or continued and is that possible? That was one question.

**Chair San Soucie:** It is possible, but we have not had such a request.

**Mr. Lubischer:** I would so like to request that. There's a lot of information that needs to be gone over. I think that's what the previous commenter was talking about. Also on this e-mail thing, I was under the impression you could not do e-mail so I'm really confused on that. Maybe I can submit a PDF but I have to have it signed or something. This is inappropriate I would say notification to the public as far as how you can present testimony. On that basis alone I think we should extend this hearing too and that needs to be corrected. Also as you know the proponents of this have had years to craft and decide their language and everything to prepare. The community has but weeks to try to look into land use issues and it's just terrible and I've been through this a number of times for a number of issues and then try an extension I don't think or even waiting until next year is inappropriate.

Going on, this is just south of North Plains I believe to the residents and the citizens of North Plains. This is not in the city limits, that's why it's here at Washington County. Now the jurisdiction over this airport I think resides then with Washington County. Who has the regulatory authority to limit activity at that airport? The North Plains City Council is not in jurisdiction and they would have no regulatory authority when they see all the increase in traffic over their community and it looks like there's homes at the end of the runway. I think that needs to be considered and North Plains should be consulted on this, the City Council and the citizens of North Plains directly in some respects because there's two issues. I agree with the earlier comment that the staff report was incorrect, maybe technically they weren't but who is affected. All residents of Washington County are going to be affected, perhaps more so the people that are closer to the airport but the hobby of aviation does not affect the land the airplanes take off

of, the hobby of aviation influences the impacts on a lot of other people and the noise from the airplanes low down, high up, sometimes even worse can seriously affect their livability. I think Washington County Commissioners, an effort should really be made to consider all residents of the Community. I noticed in the ordinance that it talks about such changes to planning documents the Board recognizes are necessary from time to time and the changes we're talking about are this. But these changes are needed from time to time for the benefit of the residents of Washington County Oregon. To me, this ordinance is for the benefit of a few residents that have a hobby of aviation. I think we need to consider the adverse affects and noise is a big one and it affects everybody.

As a pediatric physician, I've dealt with a lot of kids with Attention Deficit Disorder (ADD) and we're finding out now that minute levels of lead in a child's blood can contribute to ADD. These piston-driven planes only run on lead, well mostly all run on lead, so putting that lead into the atmosphere over North Plains and into our County is a detriment to our County. I would say the diagrams showing the altitudes at the ends of the runways are nice, but if there's a pilot that wants to do low flights, the flight standing district office will support the pilot. The pilot has rule over everything in regards to safety so it doesn't matter what those altitudes show. I would be concerned about that in your decision. I would ask you to consider the livability of all residents in the County and especially our children where lead, we've fought the lead issue for almost a century. We know what to do, it's a matter of doing it and any source of lead should be eliminated and this is one of those, the lead in aviation fuels. By expanding this airport, you are not in concert with the CDC who recommends and really in dealing with a lot of kids with ADHD the social and the financial impact on our society is tremendous. And to these kids, if we can eliminate lead in the environment is so important. Thank you very much.

**Chair San Soucie:** Thank you. Any questions for Mr. Lubischer? Does anyone else want to address the PC today on the question of Ordinance No. 772? Okay, with that we'll close public testimony on this and go to questions for staff. Let me ask one, I actually I have two that I want to ask at first. What was the notice area for this ordinance? What were the requirements for notice?

**Mr. Schaefer:** As standard, we mail notice to the CPO's as well as interested parties, newspaper notice, the Individual Notice general notification list, (formerly LUOAC) that went out to the 250 people on that list on August 21, 2013. CPO notice was on August 1, 2013. On August 14, 2013 we sent out a public hearing notice similar to a plan amendment, a quasi-judicial notice on August 14, 2013 to all property owners within 1,000 feet radius so that included parts of North Plains. As far as comments received, like we said we sent notice to CPO, there's no comments from the CPO regarding this matter. There was a lot of notice that was done.

**Chair San Soucie:** 1,000 feet, what's the length of the runway?

**Respondent from the public said it's 3,200 feet.**

**Chair San Soucie:** 3,200 feet so 1,000 feet covers a little bit of the southern portion of North Plains, that's interesting. Second one, and I should have asked this question in advance of tonight's meeting, but how is it that this is legislative and not quasi-judicial?

**Mr. Schaefer:** The main reason is legislative is proposing a new code section. A new Section 389 is the main driver for that, as well as modifying plan policy itself.

**Chair San Soucie:** But are the properties to which it's being applied in single ownership?



**Mr. Schaefer:** There are multiple properties, but they are a single ownership.

**Chair San Soucie:** So, question for counsel. Why is this not quasi-judicial?

**Ms. Saito-Moore:** We had this comment maybe the last meeting before when I believe Commissioner Manseau brought up the issue of whether this ordinance as well as I can't remember the other one – I believe it was also 771, the North Bethany one. Then I took another look at the case law and I think there are many factors, but one that is in particular important is do we have a resolution, a concrete resolution at the end of this process here in terms of the PC. It goes forward to the Board and there is a lot more input involved than say a quasi-judicial plan amendment in terms of the broadness for the amount of people who would be affected and can comment, so that's one of the distinctions why this is not a quasi-judicial action.

**Chair San Soucie:** Okay, interesting. I'm not sure I'm convinced but we can talk about that further. Other questions for staff or on this?

**Commissioner Garcia:** If we approve this, what kind of legal grounds are we on with these AF-20 and the other one?

**Mr. Schaefer:** If it was adopted or approved as filed it would be up to the DLCD or anyone else to appeal that decision. We would make findings at the Board level in support of the ordinance as filed. Again those findings would address applicable criteria.

**Commissioner Garcia:** Okay, thank you.

**Chair San Soucie:** Other questions for staff? Okay, with that we enter into deliberations on this. Who would like to start? I'm happy to if nobody else wants to start things.

**Commissioner Bartholemy:** I'd be inclined to support this including the EFU areas because I don't think it makes sense to have some little parcels intermixed in here that don't have the restrictions on it. I think that's just asking for trouble. I think it looks like a great project. There are 500,000 people that live in the County, very, very few have access to a runway from their home. I know these projects have been very successful in other areas. In fact, I think the zoning was modeled after the Independence Airport and that's been very successful, so I would support this with the overlay extending over the EFU areas.

**Chair San Soucie:** Okay, others?

**Commissioner Manseau:** I think I have lingering concerns about the ability to run businesses out of parcels within this overlay zone because of the ability to have a home occupation.

**Chair San Soucie:** Okay. I'll offer my thoughts. I think that I will not be inclined to recommend moving forward on this ordinance for a variety of reasons. I think this ordinance at best is a quarter baked. I have severe concerns about whether this truly is quasi-judicial or whether its legislative. I think the application even if there's legislative work to create a new overlay district, the application of that district to properties in a single ownership to me sounds quasi-judicial. Obviously I could be wrong about that and I'm not an attorney, so that's something that counsel can help me feel better about later.

I have some very grave concerns about the notice. This is an airport, there are properties affected by the airplane activity which would be increasing under this proposal and given a

3,200 foot runway, a 1,000 foot notice area beyond the end of the property which is basically the end of the runway is insufficient because far more properties are going to be affected by the noise and activity of airplanes than that notice area covered. I think some people probably didn't hear about this that maybe should have. I think that the language of the ordinance needs to be reconsidered in certain respects. I think the prohibition against commercial activities has to be nailed down extremely tightly. It's not, it's very loose and Commissioner Manseau's point about just one hole in it.

I think also that the language is not explicit enough about making clear, if it is the County's intention that this is intended for hobby use of airplanes which means, one hangar, one tie down, one taxiway per lot with limitations on the number of vehicles that can be stored. It's conceivable that I could find a way to support this if some of those things got taken care of but there's too much wrong with this as it is for me right now. Others? Commissioner Garcia, Commissioner Petrillo.

**Commissioner Garcia:** I think you made some good points.

**Commissioner Petrillo:** And I concur. I think my concern always is has there been sufficient public input in review and if additional time can be provided to address some of the concerns that the Chair's raised as well as to allow additional time for review. I would support that if it's not detrimental to the process.

**Chair San Soucie:** So the question for the Commission is whether we want to make a recommendation to the Board to engross the ordinance with changes that would make it more acceptable or if we want to recommend adoption of the staff recommendation or if we want to do something different.

**Commissioner Manseau:** What if we recommended that the Board reject this ordinance for staff to do more work, because I feel very uncomfortable having it engrossed by the Board without additional input from us.

**Chair San Soucie:** You could put that in the form of a motion if that's what you prefer to do.

**Commissioner Manseau:** Before I put it in the form of a motion, I'd kind of like to get a sense of whether it's something that will fly with the rest of us.

**Commissioner Garcia:** I think I support Commissioner Manseau's idea.

**Chair San Soucie:** As would I.

**Commissioner Petrillo:** I think the Chair articulated though in more specific language the concerns. What recommendations would you have in addition to what Commissioner Manseau has mentioned?

**Chair San Soucie:** From me? My recommendation would be that the Board and staff go back to square one and take this up again next year and approach it differently.

**Commissioner Manseau:** So moved.

**Commissioner Garcia:** Second.

**Chair San Soucie:** Okay we have a motion to recommend to the Board that work on 772 be dropped and that the Board take this matter up again next year. Is that the motion?

**Commissioner Manseau:** Correct.

**Mr. Back:** Chair San Soucie, just to clarify, are you recommending rejection of the ordinance to the Board or continuation to next year of this ordinance?

**Chair San Soucie:** Motion maker?

**Commissioner Manseau:** Would continuance kick it back? At this point if we continue our hearing until a date certain in March, does that send a message to the Board that we want additional work to be done?

**Mr. Back:** You certainly could do that. They still have the discretion of making the decision so however you want to do that is your discretion. I just wanted to clarify whether you're recommending rejection of the ordinance or continuing of this ordinance and then further hearings in Spring of 2014.

**Chair San Soucie:** And my personal preference is not to continue the ordinance because I think some of my concerns include notice and whether or not we're legislative or quasi-judicial. Those would not be addressed by a continuation.

**Commissioner Bartholemy:** I think I did hear that some of the property is owned by Mr. Jossy and some of the property is owned by his wife, so there would be multiple property owners there. I also think that everybody was noticed within 1,000 feet of the edge of this so I've got to believe that most of the people out there knew about it including the existing community. To make these folks wait another year to move forward, I'd rather find an approval clarifying that no commercial activity can be done if we have a problem with the commercial part. I think we should hash that out.

**Chair San Soucie:** Commissioner Garcia, did you have additional comments?.

**Commissioner Garcia:** Nothing definite at the moment.

**Chair San Soucie:** Okay. Commissioner Petrillo.

**Commissioner Petrillo:** A question for staff is relative to-- is there a motion on the table?

**Chair San Soucie:** I don't know is it seconded? The motion was seconded and then there was a request for clarification of the motion.

**Commissioner Petrillo:** Was the City of North Plains input solicited or received?

**Mr. Schaefer:** We provided the city with a notice. We provided other notice but no direct phone call to solicit other than just the notice we provide which is typical.

**Chair San Soucie:** So do you want to clarify the motion you would like to make or what motion you intended to make?

**Commissioner Garcia:** I have a question in the meantime while Commissioner Manseau is thinking. The request was also to go with the EFU parcels and that was one of the purposes

that the group had and I don't think we're going to get to go forward with the EFU parcels. Is that correct?

**Chair San Soucie:** We can make a recommendation to include the EFU parcels if that's the will of the Commission.

**Commissioner Garcia:** Okay.

**Commissioner Manseau:** But with respect to the EFU and the AF-20, isn't it still an open question. We've gotten two different viewpoints.

**Commissioner Garcia:** I'm thinking if I'm understanding it correctly, it's the open legal question, right?

**Mr. Schaefer:** Yes.

**Commissioner Garcia:** Okay.

**Commissioner Bartholemy:** I don't think we're deciding whether or not they can put a house on EFU, we're just putting the same restriction over the EFU land that all the surrounding parcels have.

**Chair San Soucie:** Okay, further comments?

**Commissioner Manseau:** If the ordinance were written differently, that clarification could be made that the overlay applies to both the EFU and the AF20 as well as the rural residential. To clarify that, just because the overlay is there doesn't authorize that event to happen. Am I correct?

**Mr. Back:** I believe that's correct. The end of the staff report talks about the two concerns that we have and a lot of it whether you have enough information right now to make the findings as part of an ordinance as opposed to a specific land development action that would require meeting the information in both 1 and 2 on page 6 of 6. There's sort of a level of information that you need to do certain things in EFU and AF-20 that at this point in time we don't know if we have that level of information to make a legislative as opposed to a case by case decision on it.

**Commissioner Manseau:** So you want a clarification to my motion.

**Chair San Soucie:** A motion would be wonderful.

**Commissioner Manseau:** So at this point my motion would be to recommend to the Board that they reject 772 for staff to address the questions that we have, the unanswered questions. Can we list the ones Marc pointed out?

**Commissioner Garcia:** I would support that.

**Chair San Soucie:** Was that a motion?

**Commissioner Manseau:** That's my motion.

**Commissioner Garcia:** I'll second.

**Chair San Soucie:** Okay, so we have a motion and a second to recommend rejection of Ordinance No. 772 on the basis of the issues that were brought up earlier. I guess the ones that I mentioned and I'll be happy to repeat them if it would be helpful for staff discussion. Seeing no further discussion, all those in favor of the motion to recommend rejection of the ordinance, please say aye. All those opposed. Alright we have 4 votes to recommend rejection and 1 vote against recommending rejection. With that, any further business on Ordinance No. 772?

**VOTE: 4-1,** San Soucie, Garcia, Manseau, and Petrillo – **Aye.** Bartholemy – **Nay.**

**Mr. Back:** Chair San Soucie, I just want to make sure that the folks in the audience are clear that despite your action, Ordinance No. 772 still goes to the Board on September 24, 2013.

**Chair San Soucie:** Absolutely. The Board is the fort of last redress on land use ordinances in Washington County. I am totally aware of that.

**Mr. Schaefer:** Can you quickly clarify the bullets of your questions, to make sure we have those for the record?

**Chair San Soucie:** Yes.

- There was the concern about the notice area – whether it was sufficient for the population affected by the landings and take offs of the aircraft near an airport.
- Question about whether this should have in fact been a quasi-judicial proceeding or perhaps a legislative proceeding and a quasi-judicial proceeding.
- That the language of the ordinance needs to be much more tightly and specifically restrict commercial activities and that it needs to be very clear what the County's intention is with respect to how many hangars, how many tie downs, and how many taxiways are allowed per lot.

**Commissioner Manseau:** Chair San Soucie, one thing that we did talk about that wasn't included in your list and I don't know if we need a separate motion for it, is the clarification on the AF-20 and the EFU as being part of the overlay.

**Chair San Soucie:** Correct. I'd assume that would come forward because that was part of staff's recommended engrossment, but yes I would agree that's something for the Board to consider as well. Okay, I'm very sorry for the proponents, the PC has not decided in your favor and we will now move to Ordinance No. 773.

#### **IX. IX. PROPOSED ORDINANCE NO. 773 – An Ordinance Amending the Community Development Code Relating to Home Occupation Standards**

**Chair San Soucie:** This is proposed land use Ordinance No. 773 - An Ordinance Amending the Community Development Code (CDC) relating to Home Occupation Standards. Thank you to all of you who have been patient enough to wait for this one. We will begin with a report from our staff – welcome.

**Anne Kelly:** Thank you Chair San Soucie, PC. I'm Anne Kelly of Current Planning and I am here to present the staff report for Ordinance No. 773, which proposes to amend Type I, II, and III occupation standards of the CDC. The primary goals are to reduce impediments to small and start up businesses throughout the County, to advance economic goals of the Aloha-Reedville

livable community plan by helping to incubate small business and to address a home occupation proprietor's program request. Specifically, she requested that we revisit current restrictions against sale of goods that are not made or reconditioned onsite because they prevented sale of goods that were to her home medical practice. Provisions within the filed ordinance propose to eliminate restrictions against retail sale, warehousing, and distribution of products not made or reconditioned onsite. They retain existing protections against impacts to surrounding residential uses providing for no amendments to existing limits on space, employee numbers, customer visits, vehicles, parking, or signage. They further add protection by creating a cap on business related deliveries and pick ups, excluding regular residential deliveries by the post office. This is aimed at maintaining and limiting traffic and ensuring the scale of a home occupation is commensurate with the residential neighborhood. Lastly, the filed ordinance proposes to prohibit onsite consumption of intoxicants in connection with marketing, sale, or purchase of goods.

This particular amendment, however, is no longer recommended because it could interfere with ongoing operation of certain home occupations that we've already approved which currently can serve alcohol. Those do include a cidery and Bed and Breakfast accommodations. Those would have to renew on a regular basis and then would be subject to these proposed standards. Another reason we've decided it's not advisable to include this restriction is because it may be incompatible with provisions of Senate Bill 841 which addresses Bed and Breakfast facilities on winery tracts as home occupations. That was effective last June or this past June and we're expected to deal with those issues in 2014. Further, there is no evidence of related restrictions within standards of neighboring jurisdictions that we looked into and that includes eight jurisdictions. Lastly, prohibition isn't necessary because regulation of controlled substances is already covered by federal and state authorities. So based on these factors, staff is recommending engrossment of Ordinance No. 773 to remove language prohibiting onsite consumption of intoxicants and we are recommending recommendation to the Board that all other changes within Ordinance No. 773 be adopted. Thank you, that concludes the staff report.

**Chair San Soucie:** Thank you, questions for Ms. Kelly.

**Commissioner Manseau:** The impact of a home occupation on the number of vehicle trips per day and TDT, is that something that is going to be captured or is that one of those you just won't worry about it? With up to nine additional customers a day in a Type II, you're essentially doubling the traffic that you would be seeing in a single family home.

**Ms. Kelly:** Yes, you could have up to nine with either a Type II or a Type III. That is something that we already have in the code and it's not necessarily that we don't count the added trips, it's that the added trips combined with other factors that would kick in. For example, public facility improvements don't necessarily come together like an addition of a certain number of plumbing fixtures and so forth. So I'm not quite sure where your question is going but there's no proposed change to that part of the code.

**Commissioner Manseau:** So Andy, can you do a better job of explaining to me why it doesn't trigger a TDT fee?

**Mr. Back:** It may be a different one. Better is a subjective term. The TDT ordinance is separate from what we're doing today and involves the rules of the TDT ordinance. Actually Anne knows the TDT ordinance as well or better than I do, because she's the person who, when things come through the actual counter, is the lucky person to tell people how much they have to pay. TDT applies at the building permit stage and at the change of use. While somebody

can get a home occupation, their primary use is still as a residence. So we would never go so far to say that if you are selling some wine out of your house every now and then and suddenly you're primarily a commercial rather than a house. That's the reason why, when you get a home occupation, we don't charge you an additional TDT. Now Anne can correct me if I was wrong.

**Ms. Kelly:** No, that's correct. I think I was more referring to public improvements along the frontage. I didn't realize your question was specific to TDT.

**Commissioner Manseau:** And I guess my question is why don't we capture that? You are creating a whole lot more traffic than a single family home and are we missing an opportunity. Not part of the ordinance but it was a question I had as I read the ordinance.

**Mr. Back:** This is going to get a little transportation nerdy, but sometimes I like to wear that hat. But the IT trip rates, they capture all single family activity which includes some of those existing single family activities, such as home occupations. So the average trip rate for all single families includes a certain percentage of homes that do currently have home occupations.

**Commissioner Manseau:** But the TDT or the trips generated by single family homes tend to be, what nine trips per day? And if you have nine customers per day you're probably creating not just nine trips, your nine trips plus nine back and forth trips so at that point its 18 plus nine and you're up to 27 trips a day so you've tripled. Okay. And then I have a concern about the average of only one delivery or pick up per day. With UPS and FedEx and On Track, with as many different delivery services there are and DHL, you could very easily have four trucks show up in a day.

**Ms. Kelly:** And that's why it's written the way it is, as a weekly average of one per day. So if you did have seven trips in a day you'd still be okay because it's a weekly average.

**Commissioner Manseau:** Well it's a weekly average but you know if it's Monday, Wednesday, Friday that all seven show up, you get over that number pretty quickly. So I have concerns about that limitation.

**Ms. Kelly:** At that point, I guess it would become a code enforcement issue because it does affect the scale of the business. This is just an extra parameter that's attempting to control the scale.

**Commissioner Manseau:** And I think it may be, in my mind, a little tight.

**Chair San Soucie:** Other questions for staff. I have a couple that I want to bring up. First of all I concur with it may be too tight at the Type II and Type III level, not the Type I level. But when you do have clients visiting there's an implication, an implied additional activity perhaps more material coming and going. And these days for instance if you go into an online retailer and you order some things, it's very possible that they're going to come from different sellers. One seller will use UPS and the other uses On Track or whichever but it's very possible through a harmless effort to acquire two items to get two trucks. That's the way the world is sort of shaking out. I also noticed as I combed through my home development code that in the more active case in Beaverton that they do allow for an average of two trucks per day deliveries. That's just Beaverton and it's up to the County to make its own decision.

But I would be inclined, as I suspect Commissioner Manseau would be, to recommend that for Type II and Type III cases that an average of two deliveries per day beyond the post office

might be acceptable. The other thing is that I know it's not the initial subject of the ordinance to try to address this, but as I was reading through this I was seeing that there's some really complicated language in all three types, I, II, and III that tries to get at the use of garages or areas and distinguishes between one car garages, two car garages, and three car garages. This is tortuously complicated and I was thinking it's got to be possible to make it simpler. Once again I chose to look at my home code in Beaverton and as I read it, they just have a floor area limitation. They say 700 square feet of floor area and they don't care whether it's garage, home, basement, accessory building, whatever it may be it's actually not specified but it just says 700 square feet. So I was going to suggest perhaps rather than try and get into arguments whether it's okay to use a two car garage or a three car garage, why not just simplify it all and pick the number that seems most reasonable for the intended activity and say that's 600 square feet or 25 percent of the living area of the home, whichever is larger. Some language like that and then we could simplify a lot of this language here. That issue and the delivery counts are the only two things that I had any questions about.

Other questions for staff at this time? Okay we will take public testimony. Nobody signed up to speak to us. Would anybody like to address the PC on the subject of Ordinance No. 773? Seeing none, we'll close public testimony and further thoughts from staff or from PC.

**Ms. Kelly:** I like your ideas. I got into this ordinance preparation after the language had been largely adjusted. But I very much like the idea of simplifying the square footage as somebody who is on the implementing end of code standards. Are you recommending that we go ahead and come up with suggested language at this point?

**Chair San Soucie:** My suggestion would be that we recommend engrossment of the ordinance with the changes that you've already proposed, which is the removal of the language regarding intoxicants, and that we further recommend amendment of the delivery restriction for Type II and III to permit an average of two deliveries other than the US post office per day for Type II and III home occupations. And that the language in sections 430-63.1, 430-63.2, and 430-63.3 relating to the area allowed for a home occupation be simplified down to a floor area number and 600 square feet or 25 percent of the home area whichever is greater seems to be to be a reasonable standard. Thoughts from other commissioners on those?

**Commissioner Manseau:** I like your ideas.

**Chair San Soucie:** Any others?

**Mr. Back:** Chair San Soucie, if I could offer some thoughts on your last suggestion, the spirit of what you're asking is something that makes a lot of sense. One option is to do the focused changes now, and recommend that we take this up as more of a holistic way and say we really need to simplify home occupations. We can go ahead and take your advice and draft language and take it to the Board and we may get it right and we'll do our best but that's another option if you want to be more focused now and recommend as part 2014 that we come back with sort of a simplification. That's just another option I'll throw out there.

**Chair San Soucie:** My personal opinion is that the kind of change that I'm suggesting is very clear and straightforward and I would be very comfortable leaving that in your hands to take to the Board but that's my opinion. Commissioner Garcia?

**Commissioner Garcia:** I would like to recommend that we put Mr. Back's comments into the form of a motion. I think that's a good way to do it. Do the focused items now and next year do the recommendations that Chair San Soucie has. To clear that up, I move that we recommend



that the Board approve Ordinance No. 773 with staff's engrossments and recommend that they do further work on it in the next ordinance season.

**Chair San Soucie:** Do we have a second for that motion? I think that's not the motion that's not going to get the second. Do we have an alternative motion?

**Commissioner Manseau:** I have a comment. I think it's painful to drag this out to another year. I think we need to get in and make changes and move forward. I'd like to see the changes to the delivery vehicle. I think Chair San Soucie's recommendations regarding the square footage rather than the convoluted language that's currently there make a lot of sense. But if it's going to be too difficult for staff to implement, and I think we've heard from Andy and he's expressed concern about whether that can actually be implemented. And if staff can't make the changes, I think we can go with existing code and just not deal with it any further.

**Chair San Soucie:** Well we're still in search of a motion that will get a second. One, just to be repetitive, the motion that I was suggesting is a motion to recommend engrossment of 773 with staff's recommended amendment with an amendment to the Type II and Type III delivery restrictions to change to an average of two a day as opposed to an average of one a day and to simplify the language in those three sections to a square footage requirement rather than the language currently there.

*Commissioner Rickard left the meeting at this point.*

**Commissioner Manseau:** So moved.

**Chair San Soucie:** So with that motion on the table, does anyone want to second that.

**Commissioner Garcia:** I'll second.

**Chair San Soucie:** Okay, very kind of you. Any discussion? Commissioner Petrillo?

**Commissioner Petrillo:** I'll support the motion. I agree with Commissioner Manseau about carrying it over. There's a threshold to carrying something over in my mind. For instance removing a UGB approval to me is a threshold. This is not so I can support it.

**Chair San Soucie:** Okay, other discussion. Hearing none, those in favor of the motion, please say aye. Do we have any opposition? Any opposed? Do we have any abstentions? We have a 5-0 vote in favor of the motion to recommend engrossment of 773 with modifications. And we leave it in your hands Ms. Kelly to craft pearls of language wisdom on that one issue. Thank you.

**Ms. Kelly:** Thank you very much.

**VOTE: 5-0:** San Soucie, Bartholemy, Garcia, Manseau, and Petrillo - **Aye**

**X. ADJOURN: 5:59 P.M.**

**Chair San Soucie:** Any further business for the Commission? Do we have a motion to adjourn?

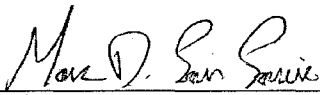
**Commissioner Manseau:** So moved.

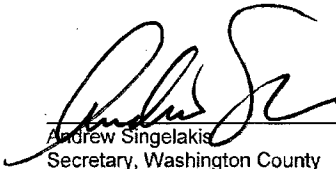
**Commissioner Garcia:** I'll second.

**Chair San Soucie:** All those in favor say aye.

**VOTE: 5-0**

There being no further business to come before the PC, the meeting was adjourned.

  
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Marc San Soucie  
Chairman, Washington County  
Planning Commission

  
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Andrew Singelakis  
Secretary, Washington County  
Planning Commission

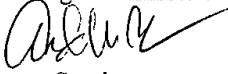
Minutes approved this 20 day of NOVEMBER, 2013

Submitted by Long Range Planning Staff



# WASHINGTON COUNTY OREGON

August 28, 2013

To: Washington County Planning Commission  
From: Andy Back, Manager   
Planning and Development Services  
Subject: **PROPOSED LAND USE ORDINANCE NO. 772 - An Ordinance amending the Rural/Natural Resource Plan and the Community Development Code to develop a Residential Airpark Overlay District.**

## STAFF REPORT

**For the September 4, 2013 Planning Commission Hearing**  
*(The public hearing will begin no sooner than 2:00 pm)*

### I. STAFF RECOMMENDATION

Conduct the public hearing. Recommend engrossment of Ordinance No. 772 to remove the three EFU parcels and one AF-20 parcel from the proposed Residential Airpark Overlay District, as shown in Attachment A.

### II. OVERVIEW

Ordinance No. 772 proposes to add a new section (Section 389) to the Washington County Community Development Code (CDC) to create a new Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling.

Ordinance No. 772 also proposes to amend Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan to add text relating to the Residential Airpark Overlay District and to replace the existing Sunset Airstrip map with a new map that shows the Residential Airpark Overlay District boundaries.

**Department of Land Use & Transportation · Planning and Development Services**  
**Long Range Planning**  
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### III. BACKGROUND

In 2003, the Private Use Airport Overlay District (CDC Section 385) was applied to Air Acres No. 1 & 2, including the airstrip, and tax lot 1N311AA01200 via Ordinance No. 609.

In 2009, Bob and April Jossy were granted preliminary land use approval through Casefile 09-050-S/PLA (*Sunset Orchards Estates*<sup>1</sup>) for a 15-lot subdivision and property line adjustment. *Sunset Orchards Estates* also included tax lots 1N3110001200 and 1N3110001300. Thus, *Sunset Orchards Estates* included a total of 18 lots/parcels. Casefile 09-050-S/PLA involved lands designated Agriculture and Forest District (AF-5) and Rural Residential Five Acre Minimum District (RR-5). *Sunset Orchards Estates* was approved to be platted in three phases: Phase I, Lots 1-5; Phase II, Lots 6-10, plus tax lots 1N3110001200 and 1N3110001300; and Phase III, Lots 11-16. Phase I has been recorded.

In 2009, Bob and April Jossy requested that the Board expand the existing Private Use Airport Overlay district to include *Sunset Orchards Estates*, as well as four contiguous parcels under their ownership; three of these parcels are designated as Exclusive Farm Use District (EFU) and one parcel is designated as Agriculture and Forest District (AF-20). The Board authorized the filing of Ordinance No. 721 to expand the existing Private Use Airport Overlay district as requested. The existing Private Use Airport Overlay District authorizes a greater number of uses commonly associated with airports. These include air passenger and air freight services, flight training, aircraft sales and rentals.

In 2009, the Department of Land Conservation and Development (DLCD) did not support expanding the existing overlay. DLCD submitted a letter objecting to expanding the number and types of airport uses to an area primarily intended for rural residential or residential airpark development. Although DLCD's letter expressed support for limited residential airpark development, the letter objected to the county "... *authorizing the full range of airport uses or treating this area as part of the [Sunset Airstrip] airport boundary.*"

The Board and staff did not support the request to expand the private airport land use overlay to include *Sunset Orchards Estates* and the contiguous EFU and AF-20 parcels. Staff recommended denial of the ordinance based on DLCD's comments and Board concerns. The Board rejected Ordinance No. 721 and the existing district was not expanded.

On January 25, 2013 Bob and April Jossy submitted a request to the 2013 Work Program to allow the development of a residential airpark overlay and apply it to *Sunset Orchards Estates* and the three contiguous EFU parcels and one contiguous AF-20 parcel under their ownership. There were two additional requests for the same ordinance. Air Acres HOA (dated February 19, 2013) and Cliff Gerber (dated January 14, 2013) both requested that the Board allow the development of a residential airpark overlay and apply it to *Sunset Orchards Estates*. As is the

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<sup>1</sup> Subdivision plat shows 16 lots. However, 'proposed' Lot 7 is an existing lot of record; and therefore, does not constitute a 'new' lot. Subsequently, the County approved time extension for Casefile 09-050-S/PLA and Casefile 09-308-MR. Approved phases shall be recorded by June 8, 2018. Phase I has been recorded.

practice concerning a property owner requested legislative ordinance, Bob Jossy remitted an ordinance processing deposit and fee contract on July 10, 2013.

The lands proposed to be designated with the Residential Airpark Overlay District are owned by Bob and April Jossy, and consist of approximately 79 acres that are designated AF-5 and RR-5, and approximately 20 acres that are designated EFU (three parcels) and AF-20 (one parcel). The lands are located on the south side of Highway 26 (south of the City of North Plains), west of Glencoe Road and on either side of Sunset Airstrip.

The three EFU parcels and one AF-20 parcel referenced previously are not in *Sunset Orchards Estates*. Consequently, when Phases II and III of *Sunset Orchards Estates* are platted and if the proposed Residential Airpark Overlay District is adopted to include the EFU and AF-20 parcels, a total of 22 lots/parcels would be designated with the new overlay district.

After coordination with the Port of Portland, Oregon Department of Aviation, and DLCD as well as Bob Jossy and Air Acres representatives, county staff filed Ordinance No. 772 on July 18, 2013.

#### **Ordinance Notification**

Ordinance No. 772 and an accompanying summary were mailed to citizen participation organizations (CPOs) and interested parties on August 1, 2013. A display advertisement regarding the proposed ordinance was published in *The Oregonian* and in the *Hillsboro Argus* on August 16, 2013. Individual Notice 2013-17 describing proposed Ordinance No. 772 was mailed to 254 people on the General Notification List on August 21, 2013. A copy of this notice was also mailed to the Planning Commission at that time. In addition, a public hearing notice was mailed to owners of property within 1000 feet of the proposed Residential Airpark Overlay District on August 14, 2013.

#### **IV. ANALYSIS**

##### ***Description of Proposed Changes in Filed Ordinance***

###### ***Exhibit 1 - CDC Changes new Section 389***

The proposed regulations would apply to rural lands adjacent to Sunset Airstrip (see proposed new map in Exhibit 2). The proposed Residential Airpark Overlay District (RAOD) would allow limited accessory uses commonly associated with the adjacent airstrip. Uses identified in proposed CDC Section 389-3 include limited accessory uses and structures, such as aircraft hangars, aviation fuel storage, and aircraft taxi-ways. These uses would only be allowed when constructed on a lot or parcel with an existing dwelling.

By way of contrast, the existing private airport land use overlay in CDC Section 385, which applies to Sunset Airstrip and Air Acres No. 1 & 2 and tax lot 1N311AA01200, authorizes a greater number of uses commonly associated with airports. These include air passenger and air

freight services, flight training, aircraft sales and rentals. As stated previously, DLCD objected to expanding this district to include *Sunset Orchards Estates*.

The proposed RAOD in new CDC Section 389 does not authorize the same broad list of airport uses allowed under existing CDC Section 385. The RAOD only permits limited accessory uses, such as an aircraft hangar, when constructed on a lot or parcel that has an existing dwelling unit. The RAOD does not authorize new residential uses on vacant parcels; rather, the allowance of a new residential use on any parcel within the RAOD is subject to the requirements of that parcel's underlying land use district.

When a dwelling unit is allowed on a property in accordance with the requirements of the underlying land use district, proposed CDC Section 389-4 will require the property owner to submit a copy of a signed and recorded waiver of the right to remonstrate against customarily accepted airstrip and airpark uses to the Department of Land Use and Transportation prior to issuance of a building permit for the dwelling. The purpose of this requirement is to ensure that current and future residents are aware of the adjacent airstrip activities and allowed airpark uses.

Lastly, the RAOD does not automatically allow lots and parcels to access the existing airstrip. If Ordinance No. 772 is adopted, owners of property with the airpark overlay district designation must obtain permission to access the airstrip from Air Acres HOA.

*Exhibit 2 - Rural/Natural Resource Plan Changes amended Policy 28*

Proposed amendments to Policy 28 are needed to allow the designation of properties with the Residential Airpark Overlay District. New implementing strategies g. and h. (shown below) constitute enabling provisions that may be utilized to authorize the Residential Airpark Overlay District.

*g. Allow Residential Airpark Development in a Residential Airpark Overlay District*

*h. Ensure that future Residential Airpark Development is compatible with the continued operation of adjacent private airstrips*

The existing Sunset Airstrip map would also be replaced with a new map showing the Residential Airpark Overlay District boundaries if Ordinance No. 772 is approved.

***Agency Responses to the Filed Ordinance***

*Port of Portland* Jason Gately, Planning and Development, commented that the Port of Portland does not have any concerns with the proposed Residential Airpark Overlay District regulations or boundaries.

*Oregon Department of Aviation (ODA)*: Jeff Caines, Aviation Planner/SCIP Coordinator, reviewed the filed ordinance, and commented that ODA does not have any concerns with either the proposed Residential Airpark Overlay District regulations or boundaries.

DLCD: In a letter dated August 20, 2013, Anne Debbaut, DLCD's Metro Regional Representative, expressed concerns with the proposed RAOD's inclusion of four parcels having exclusive farm use designations (EFU and AF-20). Ms. Debbaut stated that non-farm uses (e.g., aircraft hangars) are not permissible accessory uses on land with an exclusive farm use designation, and requested that the ordinance be revised as necessary to make it clear that exclusive farm use lands were not included in the proposed overlay district. Ms. Debbaut concluded that the overlay district may not allow uses that are not allowed in the base zone, and that the overlay district map should be amended to include only those areas having a rural residential land use designation.

### ***Staff Response to DLCD Comments***

As noted previously, the proposed RAOD in the filed ordinance includes three EFU parcels and one AF-20 parcel. Their inclusion was requested by Bob Jossy, who owns the properties and who requested the filing of this ordinance. When Ordinance No. 772 was filed, staff believed that inclusion of these exclusive farm use properties within the RAOD was appropriate for the following reasons:

- In 2009, DLCD submitted a comment letter in response to Ordinance No. 721, which was a proposal to expand the existing Private Use Airport Overlay District to the same group of properties that are currently proposed to be located in the RAOD – including the same exclusive farm use properties. DLCD's letter expressed opposition to the idea of authorizing the full range of airport uses or treating this area as part of the Sunset Airstrip airport boundary. However, DLCD's letter expressed support for limited residential airpark development in the area, which is consistent with the limited allowances reflected in the RAOD as described in Ordinance No. 772.
- ORS 215.213(2)(h) allows establishment of personal use airports on lands with an exclusive farm use designation, if provisions including ORS 215.296 (the "impact test") are met. Personal use airports consist of a broader and more intensive array of airport uses than what is proposed to be allowed by the RAOD in Ordinance No. 772. A personal use airport use allows an airstrip for the owner's use, as well as hangar(s), maintenance and service facilities. In contrast, the proposed Residential Airpark Overlay District allows only a hangar, paved tie-downs and taxiways.
- RAOD uses are only allowed on parcels with existing residential uses. The exclusive farm use parcels within the proposed RAOD would not be eligible for RAOD uses unless dwellings are approved on these parcels pursuant to statutory and county requirements for approval of dwellings on exclusive farm use lands, including the "income test" requirements. (Currently, the AF-20 parcel on the south side of the proposed overlay district has a dwelling, but the three EFU parcels on the north side of the proposed overlay district do not have dwellings).

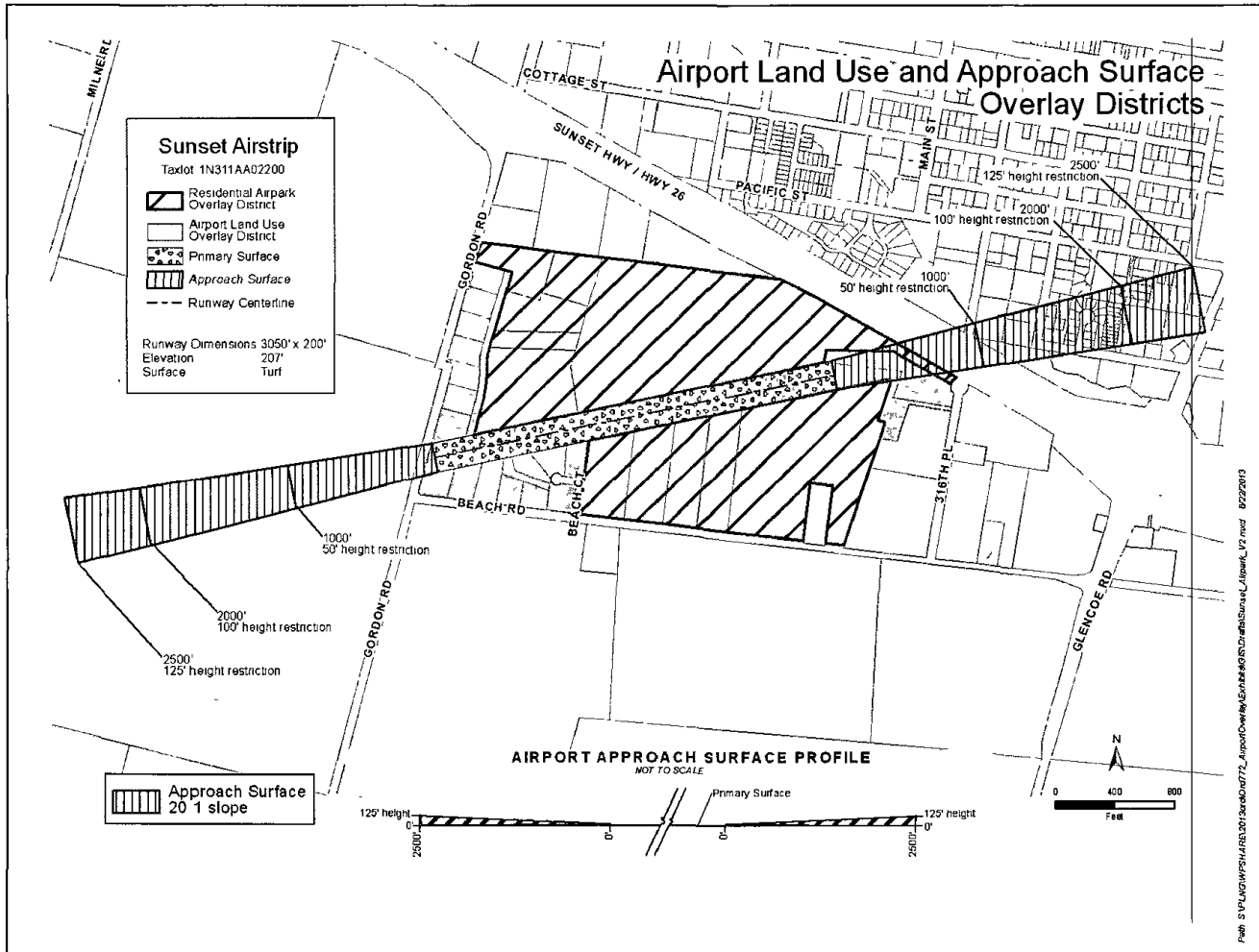
However, in response to DLCD's August 20<sup>th</sup> letter, staff has examined the above rationale more closely and now believes that it may be problematic in at least two respects:

1. The inclusion of the exclusive farm use parcels within the RAOD appears to require findings that address ORS 215.296 (the "impact test"), and such findings have not been presented by any party as part of the development of this ordinance.
2. The proposed RAOD authorizes the limited uses of hangars, paved tie-downs and taxiways as uses accessory to residential uses. However, for exclusive farm use parcels, allowed accessory uses are limited to accessory uses in conjunction with farm use. Therefore, allowance of RAOD uses on exclusive farm use parcels would require demonstration that the RAOD uses are in conjunction with farm use (e.g., the hangar is required for a crop-dusting plane and may not be used for sheltering recreational aircraft). This demonstration has not been made at this time.

Therefore, staff's current recommendation is for engrossment of Ordinance No. 772 to remove the four exclusive farm use parcels from the RAOD map, as shown in Attachment A.

Staff notes that prior to the Planning Commission's September 4 hearing, staff may develop optional language that would address the above deficiencies and may allow the exclusive farm use parcels to remain within the RAOD, subject to additional requirements. Unfortunately, staff was not able to fully develop this language and related analysis at this time.







**Ordinance No. 772**  
**Residential Airpark Overlay District**



September 4, 2013 Planning Commission Hearing

# Sunset Airstrip Vicinity Map



## Previous Sunset Airstrip Planning

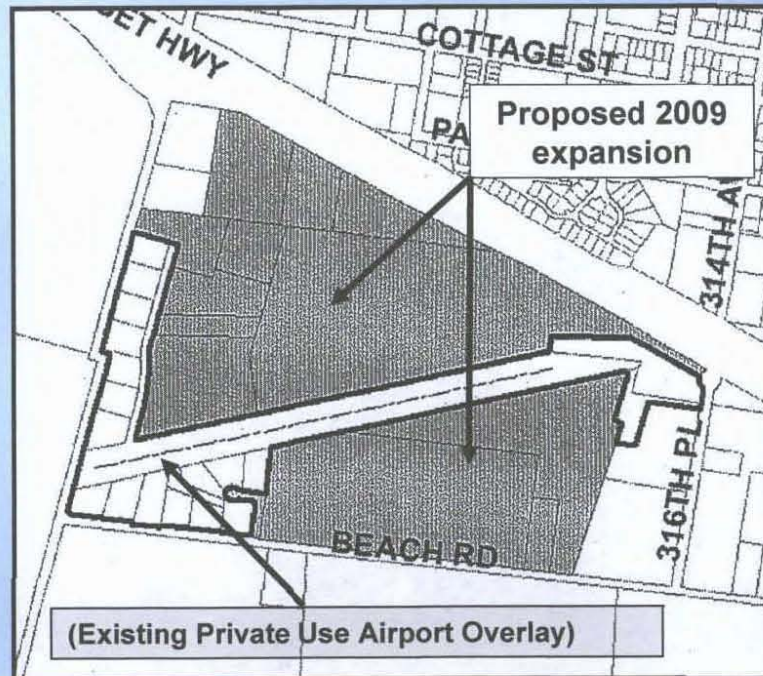
Private Use Airport Overlay (CDC Section 385) was applied to Air Acres 1 & 2 and 1N311AA01200 in 2003 via Ord. No. 609

- 16 existing homes



## 2009 Property Owner Request

- Expand Sunset Airstrip Private Use Airport Overlay
- DLCD objected due to number of allowed airport-related uses
- Board rejected Ordinance No. 721

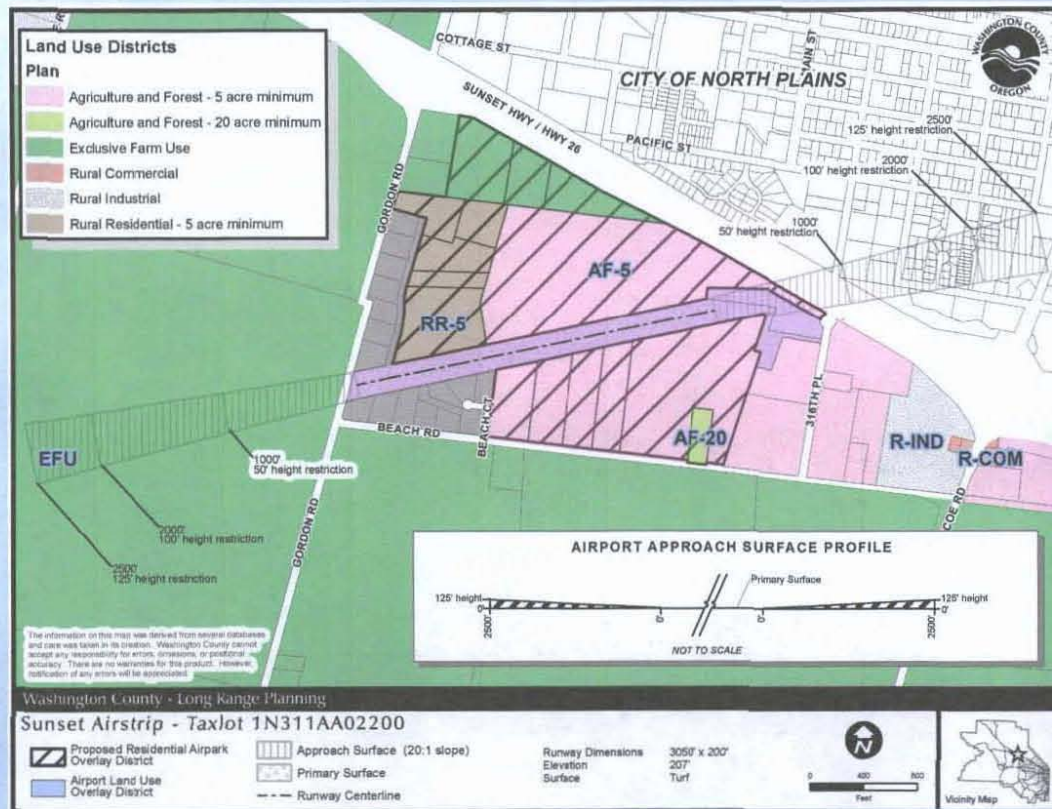


## Proposed Amendments

- Requested by property owners & Air Acres HOA
- **Adds** CDC Section 389, Residential Airpark Overlay District
- **Amends** Policy 28 of the Rural/Natural Resource Plan



# Land Use & Proposed Residential Airpark Overlay District



## Key CDC Provisions

Adds Section 389 (Residential Airpark Overlay District):

- Allows limited airport-related accessory uses
  - Hangars and tie-down areas
  - Aviation fuel storage
  - Aircraft taxi ways
- Applies to lots within the overlay district
- Requires an existing dwelling
- Does not authorize new dwelling units





## Key Rural/Natural Resource Plan Policy 28 Revisions

- Allows a Residential Airpark Overlay District
- Allows Residential Airpark Development
- Updates Sunset Airstrip map



## Comparison of Allowed Uses

<b>CDC Section 385: Existing Private Use Airport Overlay</b>	<b>CDC Section 389: Proposed Residential Airpark Overlay</b>
<ul style="list-style-type: none"><li>• Hangars and tie-down areas</li><li>• Aviation fuel storage</li><li>• Aircraft taxi ways</li><li>• Flight instruction facilities</li><li>• Pilots lounges</li></ul>	<ul style="list-style-type: none"><li>• Hangars and tie-down areas</li><li>• Aviation fuel storage</li><li>• Aircraft taxi ways</li></ul> <p><i>(only when constructed on a lot/parcel with an existing dwelling)</i></p>



# Written Testimony

## Department of Land Conservation & Development

- Limit Residential Airpark Overlay District to *rural residential* lands (AF-5 and RR-5)

## Larry Derr, representing Bob and April Jossy

- Retain Residential Airpark Overlay District boundary as filed
- Delete 'residential' from CDC Section 389-2 (first sentence)



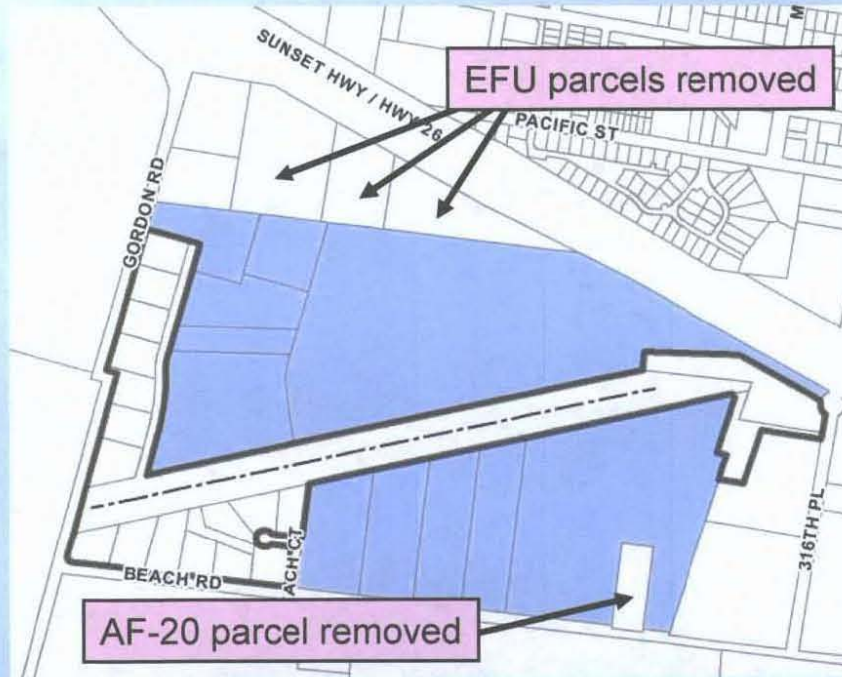
## Staff Recommendation

Recommend engrossment of Ordinance No. 772 to:

- Remove the three EFU parcels and one AF-20 parcel



# Proposed Engrossment



# Questions ?

For more information, please contact:

Paul Schaefer, Senior Planner

[Paul\\_Schaefer@co.washington.or.us](mailto:Paul_Schaefer@co.washington.or.us)

503-846-8817



The End





# Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

Community Services Division

Portland Metro Regional Solutions Center

1600 SW Fourth Ave., Suite 109

Portland, Oregon 97201

503.725.2182

[anne.debbaut@state.or.us](mailto:anne.debbaut@state.or.us)

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



August 20, 2013

Paul Schaefer, Senior Planner  
Washington County Planning & Development Services  
155 N 151 Ave, Suite 350 MS 14  
Hillsboro, OR 97124

SENT VIA E-MAIL

Re: Notice of Proposed Amendment; Addition of Section 389 to the Community Development Code relating to the Residential Airpark Overlay District (RAD) and Amending Policy 28 (Airports) of the Rural/Natural Resource Plan; DLCD File No. PAPA 012-13; Washington County Ordinance No. 772

Dear Paul,

Thank you for the opportunity to comment on the proposed Comprehensive Plan and Community Development Code amendments relating to the Residential Airpark Overlay District, Policy 28 (Airports) and including a new map showing the Residential Airpark Overlay District Boundaries. Thank you also for soliciting comments from our agency while this amendment was being drafted. While the originally proposed authorizations for new dwellings and streets in the overlay district have been removed, a few issues still remain where it appears this overlay district may be applied to EFU and AF-20 zoned lands. Please enter these comments into the record for this plan amendment and the proceedings of the September 4, 2013 Planning Commission hearing.

While the Overlay District is stated to apply to the "rural residential areas", the proposal does not clearly indicate that it will not be applied to other zones such as EFU and AF-20 zoned lands. The department recommends that the overlay district specifically state it applies "only to the areas zoned residential". More specifically, our concern is that accessory uses are proposed to include aircraft hangars and aircraft taxi-ways, however, these uses are considered accessory to airports and not to dwellings. Hangars and taxiways are not permissible accessory uses on EFU and AF-20 zoned lands because airports are not permissible in these zones, unless an exception is taken. These accessory uses may be considered in exception areas, hence the recommendation above to clearly indicate that this overlay zone applies only to those areas zoned rural residential.

As proposed in comprehensive plan policy #28, and as implied as allowable in the proposed overly district (Section 389-4), it states that access to airstrips must be obtained from the airstrip owner. Such a statement is not a substitute for an exception.

Although there are no maps attached to the proposal that indicate the base zones within the Residential Airpark Overlay District, prior maps provided to our department indicated several properties zoned EFU



in the northwest corner of the proposed overlay district and a single property zoned AF-20 on Beach Rd. The overlay district may not allow uses that are not allowed in the base zone and therefore the overlay district map should be amended to include only those areas with a rural residential base zone.

I hope these comments are helpful and provide clarity to our concerns. Please let me know if I can provide any further information or assistance.

Best Regards,



**Anne Debbaut** | Metro Regional Representative  
Department of Land Conservation and Development  
[anne.debbaut@state.or.us](mailto:anne.debbaut@state.or.us)  
503.725.2182

cc: Andy Back, Washington County, Planning and Development Services Manager (email)  
Katherine Daniels, Gary Fish, Rob Hallyburton, DLCD (email)  
DLCD Staff Files (email)

Sep. 4. 2013 9:54AM

No. 0939 P. 1

LAW OFFICES OF  
**IOSSELSO & POTTER**  
9400 SW Beaverton-Hillsdale Highway  
Suite 131-A  
Beaverton, OR 97005



Telephone: (503) 228-1455  
Facsimile: (503) 228-0171

**FAX COVER SHEET**

DATE: September 4, 2013

TO: Washington County, Department of Land Use & Transportation  
Planning and Development Services, Long Range Planning

FAX No.: (503) 846-4412

PAGES: 5, including this page

FROM: Lawrence R. Derr

\*\*\*\*\*

**MESSAGE**

The information contained in this fax is confidential and is intended only for the use of the individual or entity to whom it is addressed. It may contain information protected by the attorney-client privilege. If you do not receive all pages, please call (503) 228-1455 and ask for Terri or Kathie.

Law Offices of  
**JOSSelson & POTTER**  
9400 SW BEAVERTON-HILLSDALE Highway, Suite 131-A  
BEAVERTON, OREGON 97005  
Telephone: (503) 228-1455  
Facsimile: (503) 228-0171

September 4, 2013

**By Fax: 503-846-4412**

Washington County, Department of Land Use & Transportation  
Planning and Development Services, Long Range Planning  
155 N. First Ave., Suite 350-14  
Hillsboro, OR 97124-3072

Re: Proposed Ordinance No. 772

Ladies and Gentlemen:

Please submit this letter to the Planning Commission for its hearing on September 4, 2013.

I represent Bob and April Jossy. The Jossys own the land adjacent to the Sunset Airstrip that is proposed for application of the new Residential Airpark Overlay District. Mr. Jossy will testify at your hearing to explain the reasons why the Overlay is necessary and appropriate. The purpose of this letter is to respond to an objection raised in an August 20, 2013 letter from Anne Debbaut of DLCD.

The Residential Airpark Overlay would be applied to AF-5 and RR-5 land in the Sunset Orchard Estates Subdivision, to three EFU parcels between the Subdivision and Highway 26, and the Jossys' home on a 1.4 acre AF-20 parcel surrounded by the Subdivision on three sides and Beach Road on the fourth side.

Ms. Debbaut asserts that the aircraft hangars and tie-downs conditionally permitted in the Overlay zone are accessory to airports and not to dwellings. She says that airports are not permitted in the AF-20 and EFU zones without an exception so those accessory uses would also require an exception. The latter statement is overly broad and I believe the staff may have a response to it.

However, there is another reason why the proposed Ordinance is consistent with applicable state land use law. The Ordinance does not extend the boundaries of the airport. It allows a new use of a residential airpark in conjunction with the existing airport. That is precisely the course recommended by Dale Blanton of DLCD four years ago when the County considered expanding the Airport Overlay District to this property. In that context, as Mr. Blanton observed, the proposed uses are residential and not airport uses subject to the Airport Planning statutes and rules. A copy of Mr. Blanton's email is attached and attention is directed to the last two paragraphs.

LAWRENCE R. DERR  
OF COUNSEL

LOSSELSON & POTTER

Washington County, Department of Land Use & Transportation  
Planning and Development Services, Long Range Planning  
Page 2 of 2 – September 4, 2013

The proposed Ordinance carefully limits the availability of hangars and tie-downs to the same lot or parcel as an existing detached single family dwelling unit as the primary use. It does not authorize new dwellings. So, it is irrelevant what the underlying zone is. If a dwelling lawfully exists on the lot or parcel, then it may have a hangar and tie-down area as an accessory use.

One small change to the proposed Ordinance is advisable. Section 389-2 says the Overlay District applies to the rural residential areas adjacent to the Sunset Airstrip identified in Policy 28. Policy 28 correctly refers to "rural lands" not "rural residential lands." The word "residential" should be deleted from Section 389-2.

We request that you forward the ordinance to the Board of Commissioners with a recommendation for adoption with this change and any others proposed by your staff.

Very truly yours,

  
Lawrence R. Derr

Enclosure

cc by email to:

Anne Debbaut  
Paul Schaefer  
Suzanne Savin  
Bob and April Jossy

**Kathie Garcia**

---

**From:** Larry Derr  
**Sent:** Tuesday, September 03, 2013 7:23 PM  
**To:** Kathie Garcia  
**Subject:** FW: Airport Issue

----- Forwarded Message  
**From:** "Fish, Gary" <gary.fish@state.or.us>  
**Date:** Wed, 9 Sep 2009 12:05:58 -0700  
**To:** Larry Derr <larry@jprlaw.com>  
**Conversation:** Airport Issue  
**Subject:** FW: Airport Issue

Here is Dale's message. Please call me with any questions.

Gary

**Gary Fish** | Willamette Valley Regional Representative  
Community Services Division  
Oregon Dept. of Land Conservation and Development  
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540  
Office: (503) 373-0050 ext. 254 | Cell: (971) 239-9454 | Fax: (503) 378-5518  
gary.fish@state.or.us <mailto:your.name@state.or.us> | [www.oregon.gov/LCD](http://www.oregon.gov/LCD) <<http://www.oregon.gov/LCD>>

---

**From:** Blanton, Dale  
**Sent:** Tuesday, September 01, 2009 2:53 PM  
**To:** Fish, Gary  
**Cc:** Hallyburton, Rob; Rindy, Bob; Holmstrom, Bill  
**Subject:** Airport Issue

Hi Gary,

I have looked at the provisions of ORS Chapter 836 to get a better idea of how the airport in Washington County should be dealt with.

Based on information in the PAPA, I can not say which category of airport we are dealing with. To advise the county, we need to clarify the status of the airport based on Department of Aviation lists.

Our Airport Planning Rules (OAR 660-Division 13) primarily deal with planning for publicly owned airports licensed, or otherwise recognized by the Department of Transportation on or before December 31, 1994, that in 1994 were the base for three or more aircraft and privately owned public use airports specifically recognized in the administrative rules of the Oregon Department of Aviation as meeting certain statutory criteria (See ORS 836.610).

A second category of airports is subject to the provision of ORS 836.608. These are private use airports and privately owned public use airports that were the base for three or more aircraft as shown on the records of the Department of Aviation on December 31, 1994. The requirements for these airports are generally governed by the provisions of ORS 836.608 and were effective on passage of the legislation, rather than being subject to our rules. Our rules specify safety requirements for these airports as required by ORS 836.608(8) (See OAR 660-013-0155 and OAR 660-013-0070(1)(b) referencing Exhibit 2). Airport boundaries for these airports are subject to the requirements of ORS 836.608(2). This statute requires: "Local planning documents shall establish a boundary showing areas in airport ownership, or subject to long-term lease, that are developed or committed to airport uses described in ORS 836.616(2). Areas committed to airport uses shall include those areas identified by the airport owner that the local government determines can be reasonably expected to be devoted to airport uses allowed under ORS 836.616(2)." I note that ORS 836.608 contains a variety of requirements related to local regulation of airport uses for this category of airports.

A third category for airports is outlined in ORS 836.608(7). This section of the statute indicates: "A local government may adopt standards and requirements for the establishment of new airports, the expansion of existing airports and the regulation of uses and activities at airports serving as the base for two or fewer aircraft on December 31, 1994, as shown in the records of the Department of Transportation. The standards and requirements shall comply with applicable land use planning laws.

Sep. 4. 2013 9:54AM

No. 0939 P. 5

A "Personal use Airport," as described in ORS Chapter 215, is totally within the local government's planning authority as outlined more fully in ORS Chapter 215.

Issue Discussion:

As I understand it, the question in this circumstance is primarily related to residential access to the airport for an airpark type development, rather than airport planning...

The county is apparently considering expansion of its airport overlay zone to cover a residential area in order to foster access to the existing airport and to allow the construction of hangers, taxiways etc. Based on your description of the overlay zone, the result of extension of the overlay zone is the authorization of the full array of airport uses to an area that is primarily intended for residential airpark development. Our rules do not contain any specific authorization for residential airpark development. Our rules and the statute are intended to treat airpark development as a residential use based on other applicable goal requirements rather than recognize this unique type of development as an airport use authorized within an airport boundary. Approval of residential airpark development is a local option as long as the proposed residential use is permitted in the area and consistent with applicable planning requirements (e.g. inside an urban growth boundary, within a rural community or within an exception area).

If I understand the situation correctly, we should suggest that the county find a way to authorize the residential area to connect to the airport taxiway system and to authorize airplane hangars, without authorizing the full range of airport uses or treating this area as part of the airport boundary. If this is an airport described in ORS 836.608(2), the county is also subject to the requirements of ORS 836.608(3)-(6). (In the event the county has not implemented these provisions of ORS 836.608, they are probably directly applicable because they were effective on passage of the legislation (See also ORS 197.646).

I know this is a complicated issue, and the regulatory framework is confusing, but I hope this helps. Let me know if you want to discuss this further.

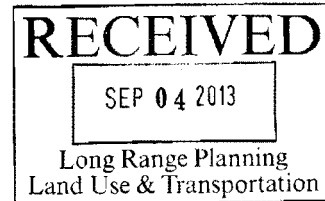
Dale

**Dale Blanton, AICP** | Senior Coastal Policy Analyst  
Oregon Coastal Management Program  
Oregon Dept. of Land Conservation and Development  
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540  
Office: (503) 373-0050 ext. 260 | Fax: 378-6033  
[dale.blanton@state.or.us](mailto:dale.blanton@state.or.us) <<mailto:dale.blanton@state.or.us>> | [www.oregon.gov/LCD](http://www.oregon.gov/LCD) <<http://www.oregon.gov/LCD>>

----- End of Forwarded Message

By Fax: 503-846-4412

Washington County, Department of Land Use & Transportation  
Planning and Development Services, Long Range Planning  
155 N. First Ave., Suite 350-14  
Hillsboro, OR 97124-3072



Re: Proposed Ordinance No. 772

Ladies and Gentlemen:

Please submit this letter to the Planning Commission for its hearing on September 4, 2013.

I am Bob Jossy; my wife and I own the land adjacent to the Sunset Airstrip. Thru Ordinance No. 772 our land is proposed for application of the new Residential Airpark Overlay District.

We are asking the Planning Commission to forward Ordinance No. 722, and include all of the Rural Residential, EFU and AF-20 property adjacent to Sunset Airstrip that is under my wife and my ownership, to the Board of Commissioners with a recommendation for adoption.

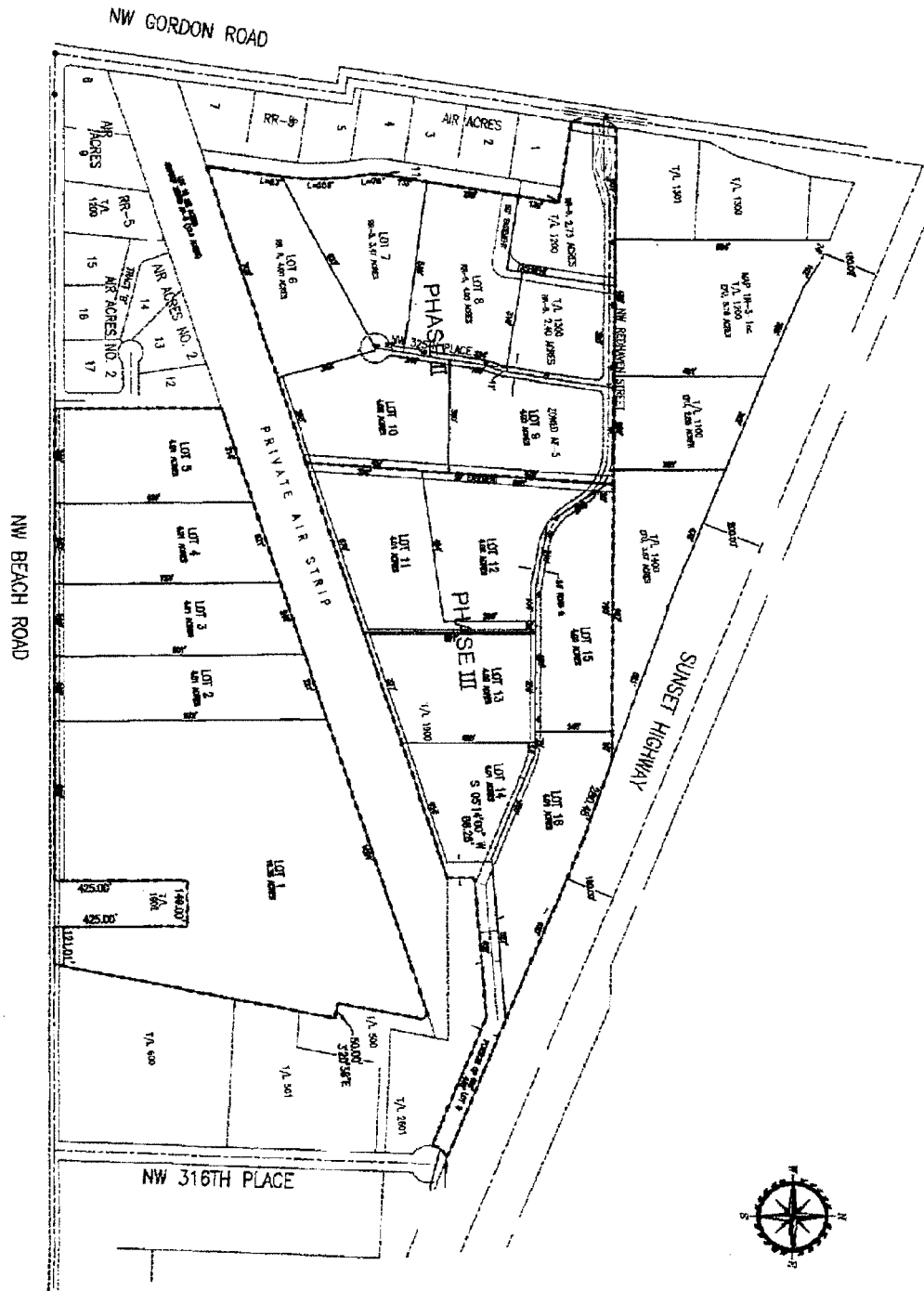
We are creating a subdivision around the Sunset Airstrip (see included plot map). Our goal is to create a subdivision that is cohesive and united in conjunction with the airstrip. We want all the owners of homes in the subdivision to be part of the airstrip community. In Ordinance No. 772 there is language that states prior to issuance of a building permit for a single family dwelling, the owner must sign and record a waiver not to remonstrate against customarily accepted airstrip and airpark uses. That is a powerful tool for the present and future homeowners that will be associated with the airstrip. If we do not include the 3 EFU parcels and the AF-20 parcel we create a subdivision that is not cohesive and united with the airstrip community. Without all land included, some neighbors would be bound by the regulations of the Airpark overlay and some would not, creating the possibility of future conflicts.

We are not asking to circumvent current land use laws and allow homes to be built where the law does not already permit a home, the underlying zoning regulates that. We are asking that if a home is built the owner will be under the regulation of the Residential Airpark Overlay District.

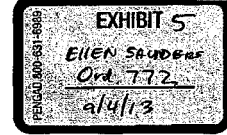
Larry Derr has stated in a letter submitted to the Planning commission that the proposed ordinance is consistent with applicable state law when applied to rural lands including rural residential, EFU and AF-20.

Thank you for your consideration

Bob Jossy







Sept 4, 2013

To: Washington County Planning Commission  
155 North First Avenue  
Hillsboro OR 97124  
Testimony on Proposed Ordinance #772 Hearing Sept 4, 2013  
To create a new "Residential Air Park Overlay District"

Hillsboro has embraced an urban plan in which the layout, infrastructure, and economy is, in part, centered on its airport, an airport city existing for the benefit of large corporations and extensive flight training. This urban planning does not take into consideration the need to protect nearby high quality farmlands. Many of the rural residents of Western Washington County do not want this very productive and economically important farmland to be included in this airport city planning vision. If the proposed Ordinance #772 is adopted, the relentless procession of low flying, loud, lead polluting, private, aviation flight activities will increase over agriculture land being used for organic farms, equine facilities, dairies, and orchards. Hillsboro's aerotropolis model would be extended over food production land, making it very difficult for our rural community to provide a sustainable agriculture environment.

Since the permits on Sunset Orchard Estates Air Acres 2 lots for development will be Type 1, with no notification to surrounding landowners, what protections will be put in place to keep these lots from being used for commercially aviation activities such as fuel storage and visitor fly-ins? How many planes, tie downs, and/or hangers will be allowed on each lot?

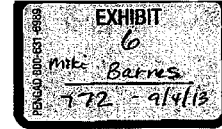
It has been the unfortunate experience of those living in the Western Washington County area near rural airports, that when permit have been granted for aviation privileges for these airports, the privileges become substantially expanded; either when the owner engages in activities beyond the permitted uses or the property changes hands and the new owner pays no attention to the existing permitted uses. Any future conflict over permitted aviation uses vs. actually occurring aviation activities at rural airports can be avoided by having clear, published regulations that the county is willing to enforce. Since the county is now only addressing violations when complaints are filed, it becomes difficult to see how any action will be taken to enforce the regulations on this proposed expansion given the limited funds for enforcement.

The CPO meetings are sparse during summer months. It seems that this hearing has been purposely planned at a time to avoid public comment. It would be wise to have a second hearing held later this fall if a complete discussion of this expanded use is to be available for public comment. If public comment is largely avoided by the timing of this meeting, there may be contention and possible legal action regarding this proposed increase in aviation activity.

At the very least, Ordinance #772 of the CDC Section 385 should state clearly that no commercial activity would be allowed on the Airpark #2 properties now, or any time in the future. At best Ordinance #772 should be denied.

Respectfully submitted,

Ellen L. Saunders  
47950 NW Dingheiser Rd  
Manning OR 97125  
Ellen\_L\_Saunders@me.com



Date: September 4, 2013

To: Washington County Planning Commission

From: Miki and David Barnes

Re: Ordinance No. 772

We are submitting this testimony in opposition to the expansion of the Sunset Residential Airpark. Our reasons for taking this position include, but are not limited to, the following concerns.

Noise

According to the 8/1/13 letter from Washington County Manager, Andy Back, to Citizen Participation Organizations and Interested Parties, those affected by the passage of this ordinance would be limited to property owners on either side of the airstrip. This is an erroneous statement as air traffic has a widespread impact well beyond airport boundaries. For example, our residence is located 12 miles from the Hillsboro Airport but nonetheless is impacted routinely by air traffic from Hillsboro Airport and other airports in the region. In fact, some days the relentless drone of aviation noise is audible almost constantly. Repeated complaints about these unwelcome noise intrusions to the Port of Portland are met with lame excuses and claims that nothing can be done to remedy the problem. Noise office staff has also indicated that some of the flights are originating from Stark's Twin Oaks, Scappoose, and other airports around the region. Noise from Apple Valley airstrip, located two miles from our home, also adds to the cacophony.

As it is, much of western Washington County and a large swathe of Yamhill County have already been designated a high intensity flight training area largely on behalf of companies that profit by recruiting student pilots from all over the world then giving them free rein to train over the homes and neighborhoods of established communities. (See attached) The public was given no voice in the process whatsoever. Nor was their right to the enjoyment of their property considered. Instead, the decision was made by business and government interests in league with the FAA and the Port of Portland.

Ordinance No. 772 contains no provisions for limiting aircraft noise or for addressing noise issues.

Greenhouse Gas Emissions

Greenhouse gas emissions are also a serious concern. The State of Oregon, Metro and other government agencies encourage area residents to carpool, use public transportation, bicycle, and walk to reduce their carbon footprint but sadly there seems to be a serious disconnect in applying these same standards to the aviation sector.

In 2007 with the passage of ORS 468A.205, the state established legislative goals for addressing global warming by arresting emissions by 2010, reducing Oregon's emission growth to 10 percent below 1990 levels by 2020 and at least 75 percent below 1990 levels by 2050.

According to the expanded transportation sector inventory of the 7/18/13 Oregon's Greenhouse Gas Emissions Through 2010 report, a joint effort by Oregon's departments of Energy, Environmental Quality, and Transportation, emissions from "ground passenger and commercial

service vehicles, freight, and air passenger travel...increased 30 percent from 1990 to 2010. Proportionately, the biggest increase in emissions was from the air passenger travel market, which doubled during the period." (pg. 3). Unfortunately ODOT opted not to include the substantial emissions generated by Oregon's more than 450 general aviation airports. If they had the greenhouse gas emissions from the transportation sector would have been much higher. To meet state goals the transportation sector will need to factor in the significant impact of business, recreational, and instructional aviation activity on global warming then determine how to reduce these emissions by 40 percent within the next six a half years. A good place to begin is by placing a moratorium on all unnecessary airport growth. It is hypocritical for a government entity to promote noisy, polluting high end airparks for the affluent while exhorting the rest of us to reduce our emissions.

Far from doing anything to reduce or limit them, Ordinance No. 772 opens the door for increased greenhouse gas emissions.

We urge this planning commission to protect the global community from the well documented impacts of CO2 emissions by discouraging gratuitous recreational flying and airpark activity.

#### Lead

Lead from piston engine aircraft is also an ongoing problem. Washington County residents are routinely exposed to well over a ton of highly toxic lead emissions annually, due in large part to relentless aviation activity. Among the biggest offenders are flight training and recreational flyers. Hillsboro Airport alone is responsible for emitting 0.7 tons of lead per year during the landing and take-off (LTO) phases of flight. EPA documentation ranks HIO in the top one percent, 21st in the nation, out of almost 20,000 airports in lead emissions during LTO. Additional lead is released during the cruise phase.

Stark's Twin Oaks and other Washington County airports also release this extremely poisonous substance on a near daily basis, as do overflights and training activity from airports located in nearby jurisdictions including Columbia, Yamhill, Multnomah, and Marion counties. Other offending airports include, but are by no means limited to, Scappoose, McMinnville, Aurora, PDX, and Troutdale.

An extensive body of literature attesting to the negative health effects of lead resulted in the discontinuation of lead as a paint additive in 1978 and its removal from automotive fuel between 1973 and 1996. Yet despite this knowledge, the aviation industry continues to manufacture piston engine aircraft that utilize leaded fuel.

A growing body of scientific research correlates repeated and chronic exposure to lead, even at levels previously considered to be safe, with the following conditions:

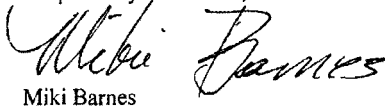
- impaired cognition
- attention deficit disorder
- lower academic test scores for children
- diminished IQ's
- psychiatric disorders
- hypertension
- arrhythmia
- dementia

- increase in violent crime rates
- kidney damage
- damage to central nervous system
- red blood cell damage
- decreased immune system functioning
- likely carcinogen


Once again, Ordinance No. 772 would only add to this serious health threat.

Due to the complete failure of Washington County, the State of Oregon, and the federal government to establish safeguards to protect the community from the negative health and environmental impacts of aviation noise (see *attached*), pollution, and CO2 emissions, we strongly urge the planning commission to oppose all further expansion at the Sunset Residential Airpark.

Respectfully Submitted,



Miki Barnes



David Barnes

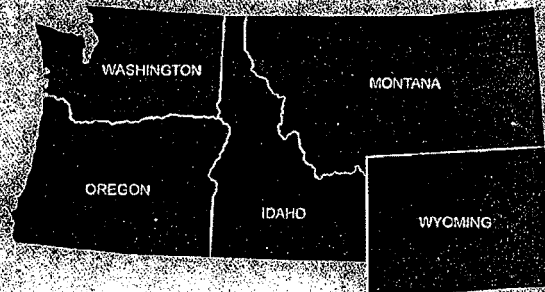
Attachments



Federal Aviation  
Administration

## AIRPORT/FACILITY DIRECTORY NORTHWEST U.S.

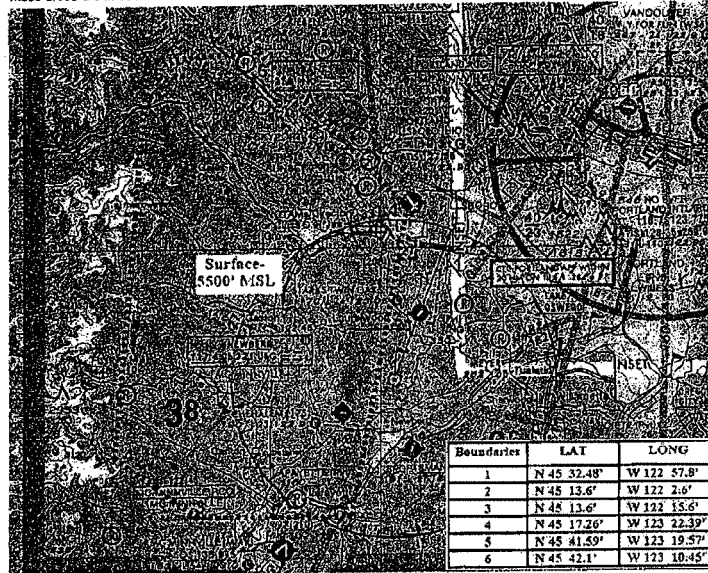
Effective 0901Z 5 MAY 2011  
to 0901Z 30 JUN 2011



Consult NOTAMS for latest information.  
Warning: Refer to current foreign charts and flight information publications for  
information within foreign airspace.  
Published in accordance with specifications and agreements approved by the  
Federal Aviation Administration.

**INTENSIVE FLIGHT TRAINING IN VICINITY OF  
PORTLAND-HILLSBORO AIRPORT,  
HILLSBORO, OR**

Intensive flight training activity in areas S to NW of the Portland-Hillsboro Airport within 25 NM or below 5500 MSL. These areas are in use from sunrise to sunset daily. Participating aircraft reports on 122.75.



**Fort I**

Controlled firing occurs in the vicinity of the area defined by the following radial/DME co

**Limes**

Controlled firing occurs in the vicinity of the defined by the following radial/DME coordin

**SPECIAL I  
PAC**

VHF air-to-air frequencies enable aircraft stations to exchange necessary operational frequencies have been designated as follows:  
North Atlantic  
Caribbean  
Pacific area

**MOUNT ST. HELENS N**

The U.S. Geological Survey (USGS) and station within the monument and within the of sightseeing flights in the area, the following:  
1. VFR aircraft are encouraged to transmit less than 10,000 feet MSL within 10 nautical miles.  
2. VFR flight below 3000 feet AGL - strongly discouraged.  
3. VFR flight above 3000 feet AGL - fly a conventional VFR rules of "see and be seen" and good judgment.  
Appropriate Federal or State authority. Any coverage limits Seattle Center's ability to provide

**DEVILS TOWER**

For reasons of national welfare, pilots are advised to avoid the monument.

**BIRD HAZARD**

Heavy concentration of migratory and wintering birds in the area from November to May. Caution advised at all times.

**SIF**

**Boeing Field**

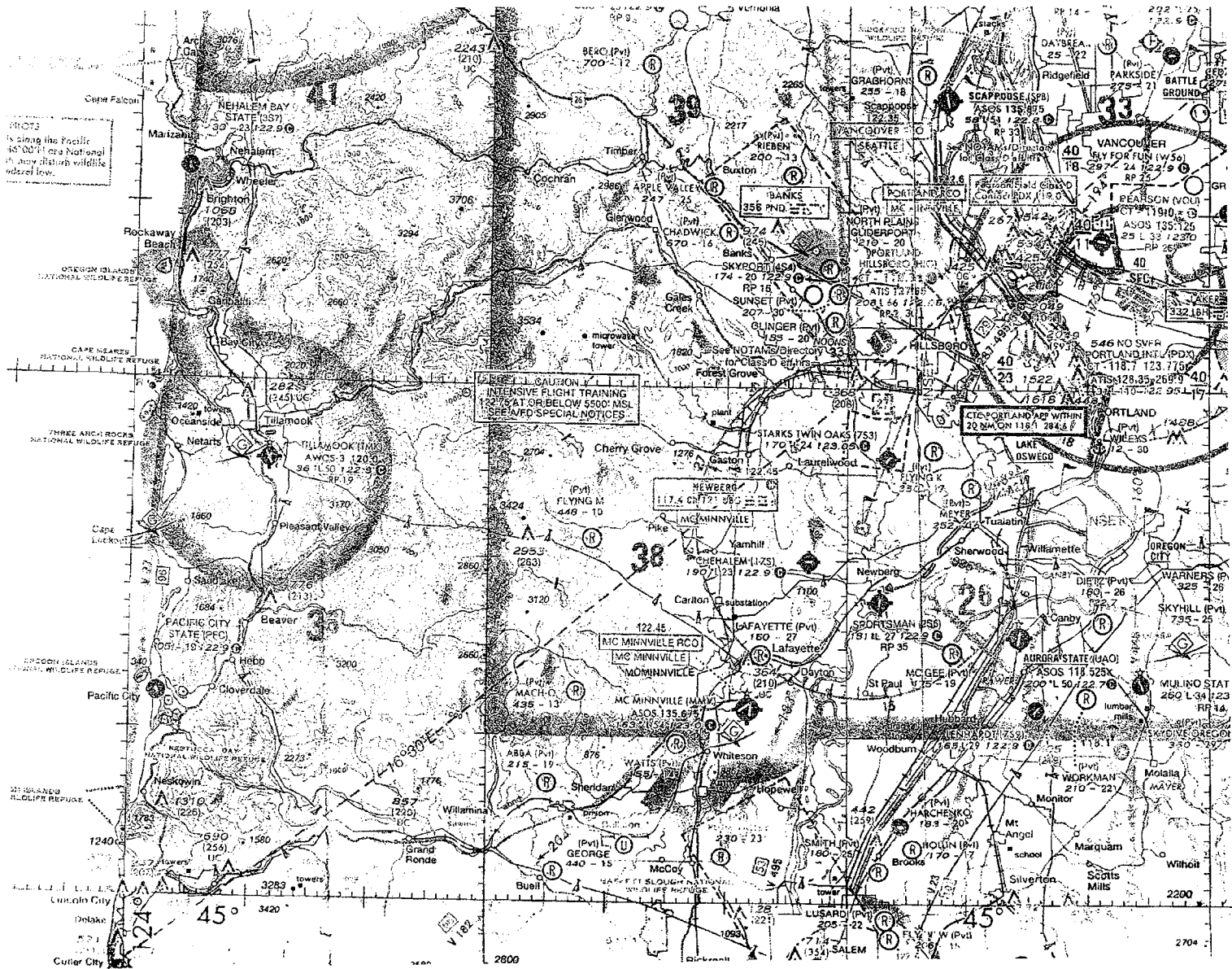
All users: Boeing Field Airport Traffic Control parallel runways, between sunrise and sunset.

**Sp**

Application of visual separation for simultaneous arrivals and departures: 1500' ceiling and 5 miles visibility or greater for aircraft landing and departing simultaneously.

**LASER**

A laser light demonstration will be conducted at the University of Oregon VORTAC 129 radial at 8 miles, maximum of 090 and a minimum of 089. The laser will be used laterally of the light source. Coverage limits Seattle Center's ability to provide



## Summary of Adverse Health Effects of Noise Pollution

Prepared by Louis Hagler, MD

Based on the World Health Organization Guideline for Community Noise

(See: <http://www.who.int/docstore/peh/noise/guidelines2.html> for complete report)

As the population grows, there is increasing exposure to noise pollution, which has profound public health implications. Noise pollution creates a need for action at the local level, as well as for improved legislation and management. Urban noise pollution produces direct and cumulative adverse health effects by degrading residential, social, working, and learning environments with corresponding real (economic) and intangible (well-being) losses. The World Health Organization has documented seven categories of adverse health effects of noise pollution on humans.

**1. Hearing Impairment:** Hearing damage is related to duration and intensity of noise exposure and occurs at levels of 80 dB or greater, which is equivalent to the noise of heavy truck traffic. Children seem to be more vulnerable than adults.

**2. Interference with Spoken Communication:** Noise pollution interferes with the ability to comprehend normal speech and may lead to a number of personal disabilities, handicaps, and behavioral changes. These include problems with concentration, fatigue, uncertainty, lack of self confidence, irritation, misunderstandings, decreased working capacity, disturbed interpersonal relationships, and stress reactions.

**3. Sleep Disturbances:** Uninterrupted sleep is known to be a prerequisite for good physiological and mental functioning in healthy persons. Noise pollution is a major cause of sleep disturbances. Apart from various effects on sleep itself, noise pollution during sleep causes increased blood pressure, increased heart rate, increased pulse amplitude, vasoconstriction, cardiac arrhythmias, and increased body movement. These effects do not decrease over time. Secondary effects include fatigue, depressed mood and well-being, and decreased performance. Combinations of noise and vibration have a significant detrimental effect on health, even at low sound pressure levels.

**4. Cardiovascular Disturbances:** A growing body of evidence suggests that noise pollution may be a risk factor for cardiovascular disease. Acute exposure to noise activates nervous and hormonal responses, leading to increased blood pressure and heart rate and to vasoconstriction. If the exposure is of sufficient intensity, there is an increase in heart rate and peripheral resistance; an increase in blood pressure, and increased levels of stress hormones (epinephrine, norepinephrine, and cortisol).

**5. Disturbances in Mental Health:** Noise pollution is not believed to be a cause of mental illness, but it is assumed to accelerate and intensify the development of latent mental disorders. Noise pollution may cause or contribute to the following adverse effects: anxiety, stress, nervousness, nausea, headache, emotional instability, argumentativeness, sexual impotence, changes in mood, increase in social conflicts, neurosis, hysteria, and



psychosis. Children, the elderly, and those with underlying depression are particularly susceptible to these effects.

**6. Impaired Task Performance:** The effects of noise pollution on task performance have been well-studied. Noise pollution impairs task performance, increases errors, and decreases motivation. Reading attention, problem solving, and memory are most strongly affected by noise. Noise produces negative after-effects on performance, particularly in children; it appears that the longer the exposure, the greater the damage.

**7. Negative Social Behavior and Annoyance Reactions:** Annoyance is defined as a feeling of displeasure associated with any agent or condition believed by an individual to adversely affect him or her. Annoyance increases significantly when noise is accompanied by vibration or by low frequency components. The term annoyance does not begin to cover the wide range of negative reactions associated with noise pollution; these include anger, disappointment, dissatisfaction, withdrawal, helplessness, depression, anxiety, distraction, agitation, or exhaustion. Social and behavioral effects are complex, subtle, and indirect. These effects include changes in everyday behavior (closing windows and doors to eliminate outside noises), changes in social behavior (aggressiveness or disengagement), and changes in social indicators (residential mobility, hospital admissions, drug consumption, and accident rates), and changes in mood (increased reports of depression). Noise above 50 dB is consistently associated with decreased helping behavior and increased aggressiveness.

**Effects of Multiple Sources of Noise Pollution:** Most environments contain a combination of sounds from more than one source (e.g., trains, boom-box cars, car horns and alarms, and heavy trucks). Adverse health effects are related to total noise exposure from all sources. In residential populations, combined sources of noise pollution will lead to a combination of adverse effects, such as sleep disturbances; cardiovascular disturbances; interference at work, school, and home; and annoyance; among others.

**Groups Vulnerable to the Effects of Noise Pollution:** Although everyone may be adversely affected by noise pollution, groups that are particularly vulnerable include infants, children, those with mental or physical illnesses, and the elderly. Because children are particularly vulnerable to noise induced abnormalities, they need special protection.

**Conclusions and Recommendations:** The adverse health effects of noise pollution are numerous, pervasive, persistent, and medically and socially significant. These adverse effects represent a significant public health problem that can lead to social handicaps, reduced productivity, impaired learning, absenteeism, increased drug use, and accidents. The aim of enlightened governmental controls should be to protect the population from these adverse effects of noise.



WASHINGTON COUNTY  
 DEPARTMENT OF LAND USE  
 & TRANSPORTATION,  
 PLANNING AND DEVELOPMENT SERVICES  
 LONG RANGE PLANNING  
 155 NORTH FIRST AVENUE  
 HILLSBORO, OREGON 97124  
 (503) 846-3519

**SUBJECT: INDIVIDUAL NOTICE  
 MAILING  
 2013-17 (Ord 772)  
 2013-18 (Ord 773)**

**AFFIDAVIT OF MAILING**

STATE OF OREGON  
 COUNTY OF WASHINGTON } SS

**Linda Schroeder**, declares as follows

That at all times herein mentioned, she was an employee of the County of Washington, that acting for the County on the **21st** day of **August, 2013**, she did on that date, mail the attached information to the parties so designated

Attached is a list of the parties to whom the information was sent

I, **Linda Schroeder**, being first duly sworn depose and say that I am the party in the foregoing statement and that the same is true

*Linda Schroeder*

Subscribed and sworn to before me this 26 day of **August, 2013**

*Dinorah F. Metzger*  
 Notary Public for Oregon



APPROVED AS TO FORM

*Alan G. Ruppberg*  
 County Counsel  
 For Washington County, Oregon



August 21, 2013

**Individual Notice No. 2013-17**

**At your request, Long Range Planning is providing you with Individual Notice No. 2013-17 which describes proposed Land Use Ordinance No. 772.**

**Ordinance Purpose and Summary**

Ordinance No. 772 proposes to add a new section (Section 389) to the Washington County Community Development Code (CDC) to create a Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling.

Ordinance No. 772 also proposes to amend Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan to add text relating to the Residential Airpark Overlay District and to replace the existing Sunset Airstrip map with a new map that shows the Residential Airpark Overlay District boundaries.

**Who Is Affected**

Owners of property on either side of Sunset Airstrip, which is located south of North Plains (south side of Highway 26) and west of Glencoe Road.

**What Land Is Affected**

Certain properties located on either side of Sunset Airstrip proposed for designation as Residential Airpark Overlay District lands.

**Key Provisions**

- Adds new CDC Section 389 (Residential Airpark Overlay District) which contains regulations governing Residential Airpark Development and authorizes limited accessory uses commonly associated with airstrips when constructed on property with an existing dwelling.
- Allows the designation of certain properties located on either side of Sunset Airstrip as Residential Airpark Overlay District lands.

**Initial Public Hearings Time and Place**

**Planning Commission**  
**2:00 pm**  
**September 4, 2013**

**Board of Commissioners**  
**6:30 pm**  
**September 24, 2013**

Hearings will be held in the Shirley Huffman Auditorium in the Charles D. Cameron Public Services Building, 155 North First Avenue, Hillsboro, Oregon.

On September 24, 2013, the Board of County Commissioners (Board) may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If it is adopted on September 24, the ordinance would become effective on November 21, 2013.

**Department of Land Use & Transportation · Planning and Development Services**  
**Long Range Planning**

155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072  
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · www.co.washington.or.us

**Community Development Code Section Added**

- Section 389, Residential Airpark Overlay District

**Rural/Natural Resource Plan Policy Amended**

- Policy 28, Airports

**How to Submit Comments**

Submit oral or written testimony to the Planning Commission and/or the Board at one of the public hearings. Written testimony may be mailed or faxed to the Planning Commission or Board in advance of the public hearings in care of Long Range Planning. **We are unable to accept e-mail as public testimony.**

Washington County, Department of Land Use & Transportation  
 Planning and Development Services, Long Range Planning  
 155 N. First Ave., Suite 350-14, Hillsboro, OR 97124-3072  
 Fax: 503-846-4412

**Staff Contact**

Paul Schaefer, Senior Planner  
 155 N. First Ave., Suite 350-14, Hillsboro, OR 97124-3072  
 Telephone: 503-846-8817 Fax: 503-846-4412  
 e-mail: paul\_schaefer@@co.washington.or.us

**Proposed Ordinance is available at the following locations**

- Washington County, Department of Land Use & Transportation Planning and Development Services, Long Range Planning  
 155 N. First Ave., Suite 350, Hillsboro, OR 97124-3072  
 Telephone: 503-846-3519
- [www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm](http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm)
- Cedar Mill Community Library and Tigard Public Library
- Citizen Participation Organizations (CPOs); Call 503-821-1128 for a directory of CPOs.

<b>Plan Documents Affected by Ordinance No. 772</b>  <i>For more information about these plan documents, please call Long Range Planning at (503) 846-3519.</i>	<b>WASHINGTON COUNTY COMPREHENSIVE PLAN DOCUMENTS</b>			
	Comprehensive Framework Plan for the Urban Area <input type="checkbox"/>	Rural/Natural Resource Plan <input checked="" type="checkbox"/>	Exceptions Statement Document <input type="checkbox"/>	
Urban Community Plans: <input type="checkbox"/>				
Community Development Code <input checked="" type="checkbox"/>	Transportation Plan <input type="checkbox"/>	Public Facility Plan <input type="checkbox"/>	Urban Planning Area Agreements <input type="checkbox"/>	

Z:\PLNG\WPSHARE\2013ord\Ord772\_AirportOverlay\Notices\_Affidavits\ORD772\_IndividualNotice doc



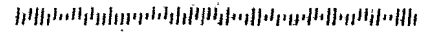
**WASHINGTON COUNTY, OREGON**  
Department of Land Use & Transportation  
Planning and Development Services Division  
Long Range Planning  
155 N First Avenue, Suite 350, MS 14  
Hillsboro, OR 97124-3072



**RECEIVED**  
AUG 22 2013  
Long Range Planning  
Land Use & Transportation

LINDA SCHROEDER  
WASHINGTON COUNTY LRP  
155 N FIRST AVE, MS 14  
HILLSBORO OR 97124

9712433072 C003



Individual Notice Mailing List  
 No 2013-17 (Ord 772)  
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First Name	Last Name	Company	Address	City	State	Zip
		CPO 10	9775 SW Clark Hill Rd	Beaverton	OR	97007
		CPO 15	PO Box 330	Cornelius	OR	97113
		CPO 4B	16200 SW Pacific Hwy #H-242	Tigard	OR	97224
		CPO 6	PO Box 5607	Aloha	OR	97006
		CPO 7	Box 173	Portland	OR	97229
		CPO 8	PO Box 890	North Plains	OR	97133
		CPO 9	870 NW Garibaldi St	Hillsboro	OR	97124
		KGRS LLC	12705 SW Beaverdam Rd Ste C	Beaverton	OR	97005
		LMP LLC	163 SW Freeman Ave	Hillsboro	OR	97123
		RLK Smith Orchards, LLC	47500 NW Strohmayer Rd	Forest Grove	OR	97116
Recreation Ctr		CPO 3	7475 SW Oleson Rd	Portland	OR	97223
Clayton	Abel		8610 SW Miller Hill Rd	Beaverton	OR	97007
Brian	Addington		14302 Stonewater Ct	Centreville	VA	20121
Veronica	Aguilar-Guerrero		6518 NW 164th Ave	Portland	OR	97229
Donald L	Alderton		14025 SW 150th Ave	Tigard	OR	97224
Candace	Allison		16395 SW 319th Pl	Hillsboro	OR	97123
Bruce	Anderson		11205 SW Gaarde St	Tigard	OR	97224
A Yvonne	Arnoldi		47155 NW Strohmayer Rd	Forest Grove	OR	97116
Don	Bahnsen		25950 NW Dixie Mtn Rd	Scappoose	OR	97056
Steve R	Bahnsen		24220 SW Tile Flat Rd	Hillsboro	OR	97123
Gertrude	Barnard		14260 SW Tonquin Rd	Sherwood	OR	97140
Margot	Barnett	CPO Coordinator	155 N First Ave, MS 48	Hillsboro	OR	97124
Ed	Bartholemy	Planning Commissioner	18485 SW Scholls Fy Rd	Beaverton	OR	97007
Bruce	Bartlett	CPO 1	PO Box 91582	Portland	OR	97291
Michael	Basile		PO Box 394	North Plains	OR	97133
Tony & Barbara	Benjamin		6150 SW 170th Ave	Beaverton	OR	97007
Bonnie L	Berneck		6655 SW 90th Ave	Portland	OR	97223
Larry R & Christine M	Bird		4630 NW Sewell Rd	Hillsboro	OR	97124
Brian	Birmingham		31174 NW Pumpkin Ridge Dr	North Plains	OR	97133
Michael	Blackmon		6625 SW Robbins Rd	Tualatin	OR	97062
Julie	Bradley		15892 White Oaks Dr	Lake Oswego	OR	97035
Jim & Jane	Brown		3410 Grant St	Eugene	OR	97405
William J	Brown		7060 SW Palmer Wy	Beaverton	OR	97007
Lyle & Dianne	Brune		47980 SW Fluke Dr	Gaston	OR	97119

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First Name	Last Name	Company	Address	City	State	Zip
Gerald & Bonney	Bryan		10583 S 3200 W	South Jordan	UT	84095
James	Burns		5840 NW Sewell Rd	Hillsboro	OR	97124
Mike & Kate	Byrnes		5430 SW Ames Wy	Portland	OR	97225
James	Cannon		5410 NW 196th Pl	Portland	OR	97229
Debra	Carlson		33640 SW Firdale Rd	Cornelius	OR	97113
Steve	Carpenter		2660 SW 121st Pl	Beaverton	OR	97005
Robert	Chambers - Farm		55205 NW Strassel Rd	Forest Grove	OR	97116
Ken & Susan	Chuck		14989 SW Hillsboro Hwy	Hillsboro	OR	97123
Richard	Chuinard		40991 SW Dixon Mill Rd	Gaston	OR	97119
Donald L	Clarys		19813 NW Metolius Dr	Portland	OR	97229
Jeff & Pat	Close		250 NW Cornelius Pass Rd	Hillsboro	OR	97124
Jared	Clough		3839 Pacific Ave, #202	Forest Grove	OR	97116
Lyle &Carolynn	Cohrs		PO Box 394	Gaston	OR	97119
Connie	Coleman		7170 SW Lola Ln	Tigard	OR	97223
Kathy	Corbett		20665 SW Johnson St	Aloha	OR	97006
Helen A	Cowan		7803 SE 27th St, #D 501	Mercer Island	WA	98040
Mary E	Cox		222 Via Los Altos	Redondo Beach	CA	90277
Norman	Creitz		8799 SW Becker Dr	Portland	OR	97223
Harry G	Cretin		121 SE 54th Ave	Hillsboro	OR	97123
Agnes D	Crocker		4306 SW Spratt Wy #217	Beaverton	OR	97007
David	Crowell		35590 Ladd Hill Rd	Sherwood	OR	97140
Robert M	Cule		8863 SW Becker Dr	Portland	OR	97223
Bennie	Daly		15596 SW Midway Rd	Hillsboro	OR	97123
Richard	Debelkes		PO Box 3385	Yountville	CA	94599
Margaret	Doud		15260 SW 141st Ave	Tigard	OR	97224
Carole	Douglass		27745 NW Truitt Rd	North Plains	OR	97133
Timothy J	Dressel		6706 234th Pl SW	Terrace	WA	98043
William	Drevescraft		PO Box 790	Hillsboro	OR	97123
Minh	Duong		4660 SW 170th Ave	Aloha	OR	97007
Raymond	Eck		19641 SW Boulder Ln	Beaverton	OR	97007
Atsushi	Endo		2010 SE Morgan Rd	Hillsboro	OR	97123
Lois B	Enstrom		1779 SE 73rd Ave	Hillsboro	OR	97123
Kathryn S	Evers		13587 NW Logie Rd	Hillsboro	OR	97214
Jan T	Fancher		PO Box 66028	Vancouver	WA	98666

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First Name	Last Name	Company	Address	City	State	Zip
Elaine Kay	Feather		18365 SW 65th Ave	Lake Oswego	OR	97035
Ken & Dolores	Findley		13520 NW Lakeview Dr	Portland	OR	97229
Myrna	Finley		160 Acacia Dr	Crecent City	CA	95531
Elizabeth	Fischer		15500 SW Farmington Rd	Beaverton	OR	97007
Bruce E	Fitzwater Trust		PO Box 23623	Portland	OR	97281
Susan	Flahler		19550 SW Kruger Rd	Sherwood	OR	97140
Bradford H	Fletcher		01537 SW Comus St	Portland	OR	97219
Les	Fullerton		3145 SW Westwood Dr	Portland	OR	97225
James D	Fulwiler		PO Box 69508	Portland	OR	97239
Bill	Funk		19850 SW Gassner Rd	Beaverton	OR	97007
Carolyn K	Ganger		1640 SW 325th Ave	Hillsboro	OR	97123
Liles	Garcia	Planning Commissioner	20215 SW Carlin Blvd	Aloha	OR	97007
Audrey B	Garmire		10677 Franks Rd	Huntington	PA	16652
Howard L	Gentzkow		PO Box 26	Banks	OR	97106
Martha	Gernty		8620 SW 80th Ave	Portland	OR	97223
Bob	Goodrich		22033 NW Sellers Rd	Banks	OR	97106
Marvin	Goulet		7285 SW Northvale Wy	Portland	OR	97225
Monique	Goulet		20440 SW Rosa Dr	Aloha	OR	97007
Terry	Graham		235	Beaverton	OR	97007
Gordon	Gredvig		20282 SW Inglis Dr	Beaverton	OR	97007
Michael D	Grote		443 SW Bailey Ave	Hillsboro	OR	97123
Hardy	Gruen		24925 SW Ladd Hill Rd	Sherwood	OR	97140
Donald R	Harvey		PO Box 1072	Beaverton	OR	97075
Gary	Hellwege		11285 SW 92nd Ave	Tigard	OR	97223
Donna	Heppell		13700 SW 114 Ave	Tigard	OR	97223
Jane	Herring		7195 SW Alden	Portland	OR	97223
H Wesley	Herwick		12670 NW Filbert St	Portland	OR	97229
Dave	Hill		825 NW Torrey View Ln	Portland	OR	97229
Herb	Hirst	Planning Commissioner	PO Box 220	North Plains	OR	97133
Dong	Hoang		7223 SE Lindsay Ln	Hillsboro	OR	97123
Ron	Hochstein		38100 SW Gnos Rd	Cornelius	OR	97113
Robert M	Hofer		PO Box 1774	Post Falls	ID	83877
Janet	Hogue		16600 NW Joscelyn St	Beaverton	OR	97006
Michael	Hohnbaum		14160 SW Fern St	Tigard	OR	97223



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 No 2013-17 (Ord 772)  
 No 2013-18 (Ord 773)

First Name	Last Name	Company	Address	City	State	Zip
Jeff	Holmes		PO Box 295	Banks	OR	97106
Bob	Horning		21215 NW Brunswick Canyon Rd	North Plains	OR	97133
Sue	Horstmann		2805 SW Maple Ln	Portland	OR	97225
Mr & Mrs E R	Hunziker		14822 NW Logie Tr Rd	Hillsboro	OR	97124
Joyce	Janicke		18345 SW Neugebauer	Hillsboro	OR	97123
Darwin	Jansen		PO Box 151	Banks	OR	97106
David	Jay		16215 SW 319th Pl	Hillsboro	OR	97123
David E	Jeans		17616 SW 192nd Ave	Sherwood	OR	97140
Mr & Mrs Donald Louis	Jenkins		14225 NW Pioneer Rd	Beaverton	OR	97006
Dave	Jepsen		22846 SW Lodgepole Ave	Tualatin	OR	97062
Shelley S	Johansen		57705 NW Johansen Ln	Gales Creek	OR	97117
Carl H	Johnson		16030 SW Queen Victoria Pl	King City	OR	97224
Lawrence	Johnson		PO Box 331	Forest Grove	OR	97116
Debbie	Judy		1995 SW Chapman Rd	Sherwood	OR	97140
Nancy	Keenan		9454 SW Washington St	Portland	OR	97225
Richard	Kell		PO Box 798	Seaside	OR	97138
Ila V	Kendler		19733 Volare Ln	Bend	OR	97702
Don & Hannelore	Kenner		24040 SW Durdel Dr	Sherwood	OR	97140
Joy	Kind		24925 NW Sky Ranch Rd	North Plains	OR	97133
Mike	Klackle		10910 SW Gram St	Tualatin	OR	97062
John & Nina	Knight		48285 SW Morel Ln	Forest Grove	OR	97116
Lou Ella	Knight		5719 NW 205th Ter	Portland	OR	97229
Richard & Adela	Knight		15218 SW Pleasant Valley Rd	Beaverton	OR	97007
Robert	Koller		4874 NW Rainier Ter	Portland	OR	97229
Lloyd H	Krause		2130 SW Briggs Ct	Beaverton	OR	97005
Mark & Patti	Lackner		4221 NW Silverleaf Dr	Portland	OR	97229
Kathleen C	LaFlamme		1701 SE Oak St	Hillsboro	OR	97123
Richard	Laws		761 NE Sunrise Ln	Hillsboro	OR	97124
Sarah	Lawton		1985 NW 156th Ave	Beaverton	OR	97006
L	Leake		11655 SW 11th St	Beaverton	OR	97005
Paul	Lee		10683 NW Valley Vista Rd	Hillsboro	OR	97124
Jan	Lehmann		PO Box 1602	Beaverton	OR	97075
Robert H	Lidfors		PO Box 1129	Beaverton	OR	97075
Frank	Little		20770 SW Scholls-Sherwood Rd	Sherwood	OR	97140

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First Name	Last Name	Company	Address	City	State	Zip
Carina	Liu		12948 NW Tigon Ln	Portland	OR	97229
Deborah	Loers		192 Augusta Cir	Waverly	OR	50677
Jim	Long	CPO 4M	10730 SW 72nd Ave	Portland	OR	97223
Sharlene	Ludwig		6475 SW 90th Ave	Portland	OR	97223
Pamela	MacLellan		30850 SW Laurelview Rd	Hillsboro	OR	97123
Mary	Manseau	Planning Commissioner	5230 NW 137th Ave	Portland	OR	97229
Rex	Markley		12215 SW 158th Ave	Beaverton	OR	97007
Glenn	Marques		16532 SW Holly Hill Rd	Hillsboro	OR	97123
Francis A	Marta		9779 SW Day St	Sherwood	OR	97140
Kathleen	Mattern		10500 NW Greenview Ln	Portland	OR	97229
Thomas H	McCready		23711 SW 195th Pl	Sherwood	OR	97140
Nancy	McGillivray		363 Turnberry Ave	Woodburn	OR	97071
J A	McKie		PO Box 91023	Portland	OR	97291
Joy	McNeal		3265 NE Glencoe Oaks Pl	Hillsboro	OR	97124
Tom	Merrels		PO Box 1499	Lake Oswego	OR	97035
Patrick	Merritt		10475 SW Mockingbird Wy	Beaverton	OR	97007
John A	Michel Jr		21272 NW Minam Wy	Hillsboro	OR	97124
Franklin	Middleton		13790 SW Far Vista St	Beaverton	OR	97005
Donald Wm	Miner		PO Box 129	Sherwood	OR	97140
Jake	Mintz		9849 SW Spring Crest Dr	Portland	OR	97225
Virginia G	Mitchell		706 SW Miller Hill Rd	Beaverton	OR	97007
Samir	Mokashi		12613 NW Ally Elizabeth Ct	Portland	OR	97229
Joseph C	Molinar		9777 SE 36th Ave	Milwaukie	OR	97222
Malcolm	Moreno		12405 SW Poppy Dr	Gaston	OR	97119
Claire & Allen	Morgan		16564 NW Vetter Dr	Portland	OR	97229
Phillip S	Morgan		8639 SW Hamlet Ct	Tigard	OR	97224
Laurence A	Morin		8760 SW Jamieson Rd	Portland	OR	97225
Michael	Moscarelli		1130 NW 91st Ave	Portland	OR	97229
Matha H	Moyer		16638 NW Graf St	Portland	OR	97229
Regine	Neiders		14517 SE 178th Pl	Renton	OR	98058
David	Nemarnik		22075 SW LeBeau Rd	Sherwood	OR	97140
Verne W	Newcomb		11500 SW Lynnr ridge Ave	Portland	OR	97225
Lillian	Nofziger		16290 NW Bronson Rd	Beaverton	OR	97006
Harry Brown &	Noreen Metzger		18511 Forest Park Rd	Hillsboro	OR	97123

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First Name	Last Name	Company	Address	City	State	Zip
John	O'Connor		10370 SW Century Oak Dr	Tigard	OR	97224
Michelle	Oleson		PO Box 203	Gleneden Beach	OR	97388
Billie D	Olson		209 NW 117th Lp	Portland	OR	97229
Lloyd	Olson		13141 SW Teufel Hill	Beaverton	OR	97007
Ralph	Olson	AIA LLC	7150 SW Upper Boones Fy Rd	Durham	OR	97224
Lillian M	Ooley		3027 Raymond St	Forest Grove	OR	97116
Jack	Orchard		15126 SW Trenton Ct	Beaverton	OR	97006
Verlena	Orr		1907 NW Hoyt St	Portland	OR	97209
Thomas & Ingrid	Palm		18700 SW Hart Rd	Beaverton	OR	97007
John M	Pangborn		23805 NW Dierdorff Rd	Hillsboro	OR	97124
Andreas	Pavlatos		3300 NW 185th #135	Portland	OR	97229
Tim & Anne	Perrri		4975 SW 65th Ave	Portland	OR	97221
Jeff	Petrillo	Planning Commissioner	16965 NW Bernietta Ct	Portland	OR	97229
Cody	Philpot		3484 NW 313th Ave	Hillsboro	OR	97124
Lauritz P	Pillers		10285 SW 77th Ave	Portland	OR	97223
Ted	Pinkert		PO Box 310	Hillsboro	Or	97123
Jim	Pointer		8755 NW Irving St	Portland	OR	97229
Julia	Pomeroy		1711 NW Hoyt	Portland	OR	97209
George E & Donna Lee	Poole		3960 SW Ridgewood Ave	Portland	OR	97225
William	Powell		18240 SW Horse Tale Dr	Beaverton	OR	97007
Norman	Preston		12 W Main St / Box 20	Brookside	NJ	07926-0020
Owen	Redabaugh		16500 SW Myrtle Ave	Tigard	OR	97224
Traci & Julia	Reisinger		5946 NW 181st Ave	Portland	OR	97229
John	Resko		1787 SW Brookwood Ave	Hillsboro	OR	97123
Frank D	Richardson		15055 Waseca Ln	Apple Valley	CA	92307
Scott	Rickard	Planning Commissioner	13890 SW Bull Mtn	Tigard	OR	97224
Wayne E	Roberts		19828 SW Tile Flat Rd	Beaverton	OR	97007
Joe	Rodriguez		13200 SW Whitmore Rd	Hillsboro	OR	97123
Clarence D	Rose		30101 SW Grabel Rd	Hillsboro	OR	97123
Gary	Ross		11455 NW McDaniel Rd	Portland	OR	97229
Marc & Susan	Rothe		16664 SW Jordan Wy	Tigard	OR	97224
Elizabeth	Rudy		15175 NW West Union Rd	Portland	OR	97229
Cindy & Virgil	Ruiz		PO Box 1013	Forest Grove	OR	97116
Deanna M	Salisbury		44232 NW Breezy Ln	Forest Grove	OR	97116

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First Name	Last Name	Company	Address	City	State	Zip
Joseph E	Salta Jr		21180 SW Johnson St	Aloha	OR	97006
Marc	San Soucie	Planning Commissioner	17970 NW Rapid St	Beaverton	OR	97006
Patricia	Sawyer		2804 NE 40th Ave	Portland	OR	97212
Dan	Schaur	CPO Coordinator	155 N First Ave, MS 48	Hillsboro	OR	97124
Darmalee & Richard	Schmidt		11860 SW Walker Rd	Beaverton	OR	97005
Steve & Jo Ann	Schmitz		12261 NW Welsh Dr	Portland	OR	97229
Linda	Schroeder	Washington County LRP	155 N First Ave, MS 14	Hillsboro	OR	97124
Douglas & Beverly	Seet		18333 SW Pheasant Ln	Beaverton	OR	97006
Betty L	Shannon		5932 NE Harvest St	Hillsboro	OR	97124
Norma	Shaw		18125 NW Dixie Mtn Rd	North Plains	OR	97133
Tom	Sheridan		17780 SW 111th Ave	Tualatin	OR	97062
Anne	Siebel		12745 SW Scout Dr	Beaverton	OR	97008
Erick	Siffert		12808 NW Diamond Dr	Portland	OR	97229
Steve	Skaggs		3221 NW 123rd Pl	Portland	OR	97229
Michael C	Slack		1380 SE Oak St	Hillsboro	OR	97123
Vincent	Slyngstad		18205 SW Rigert Rd	Beaverton	OR	97007
Lei A	Smith		2980 SW 120th Ave	Beaverton	OR	97005
Susan Y	Smith		2760 SW 119th Ave	Beaverton	OR	97005
W Boyce F	Smith		9851 SW Stonecreek Dr	Beaverton	OR	97007
Linda L	Springer		2944 NW Norwalk Pl	Beaverton	OR	97006
Kathy	Stalkamp	CPO 4K	17635 131st Ave	Tigard	OR	97224
Steven & Nancy	Starkel		10825 SW Grabhorn Rd	Beaverton	OR	97007
Dale Otto	Stollsteimer		2448 Turner	West Bloomfield	MI	48323
Eleanora	Strassel Chambers		2901 South Bayshore Dr	Coconut Grove	FL	33133
Jon	Tang		4720 NW Malhuer Ave	Portland	OR	97229
Cindy	Thomas		16811 NW Avondale Dr	Beaverton	OR	97006
Elizabeth June	Thompson		2888 NW Beuhla Vista Ter	Portland	OR	97210
Lily	Todd		902 SE Handel Pl	Hillsboro	OR	97123
Mike & Sharon	Totman		1724 18th Ave	Forest Grove	OR	97116
Alison M	Utzinger		20330 SW Avon Ct	Aloha	OR	97007
Patricia A	Van Dyke		11370 SW Berkshire St	Portland	OR	97225
Paul	Vargo		125 NW 139th Ave	Portland	OR	97229
Richard	Vial	Planning Commissioner	7000 SW Varns St	Portland	OR	97223
Marilyn	Wagoner		17765 SW Cooper Mtn Ln	Beaverton	OR	97007

Individual Notice Mailing List  
 No 2013-17 (Ord 772)  
 No 2013-18 (Ord 773)

First Name	Last Name	Company	Address	City	State	Zip
Lewis O	Walker		24100 SW Rosa Rd	Hillsboro	OR	97123
Darla	Wall		7310 SW Florence Ln	Portland	OR	97223
J Douglas	Watson		18081 SW Pacific Hwy	Tualatin	OR	97062
Richard & Mary	Watson		17165 NE Countyridge Dr	Portland	OR	97229
Matt	Wellner	Planning Commissioner	2758 NE Charlois Dr	Hillsboro	OR	97124
Robert	Wellton		40250 NW Bledsoe Creek Ln	Banks	OR	97103
Stan	Williams		14 Cuvier St	San Francisco	CA	94112
Lonnie Rae	Winter		1350 SW Woodward Wy	Portland	OR	97225
Marvin	Winters		18265 SW McCormick Hill	Hillsboro	OR	97123
Harnet	Wiser		7740 SW West Slope Dr	Portland	OR	97225
Walt & Maryn	Wittke		19820 SW Gassner Rd	Beaverton	OR	97007
Susan	Yamanaka		8350 Joy Haven	Salem	OR	97317
Liz S	Young		13380 SW Butner Rd	Beaverton	OR	97005
Robert	Young		856 SE 62nd Ave	Hillsboro	OR	97123
Mrs R A	Zandonatti		9360 Reiser Ln SE	Stayton	OR	97383
Barbara	Zelner		21340 SW Green Slope Rd	Beaverton	OR	97007

## BUSINESS NEWS

### LaCie moves 150 employees from Hillsboro to Tigard

LaCie, an international company that sells storage devices from USB keys to hard drives, is moving U.S. operations with about 150 employees from Hillsboro to Tigard.

The new building in the Tigard Triangle, on Tech things - conditioning, proper technique - that could use some fine tuning.

"But we are just getting into camp - every guy goes through that," Osborne said. "We're not happy with anybody. I mean, if we were satisfied with someone after seven days..."

On a scale of 1-10, with 10 being game shape, Lyerla said he is a seven today. He said his conditioning won't be a problem when the Aug. 31 season opener arrives against Nicholls State University.

"I'm working to prove to the coaches every day in practice that they can trust and depend on me," Lyerla said.

He said his biggest struggle is being more consistent. In the past, coaches have said Lyerla can make an All-American block one play, then botch an assignment on the next play.

"That's something I'm trying to figure out," Lyerla said of being more consistent. "When you go from high school to college, everything changes. It goes from being just a regular football game to being pretty much a business. The problem I had was adjusting to the business side of things (meetings, film study). But as I have gotten

Osborne said Brown (foot-6, 241 pounds) had "night and day" improvement from last year, his freshman season. He called Ka'ai - a ne

**WANT  
In West  
Cash Lease in a**

- 15 -100+ acre
- 4-10 year lease
- References available

cus on fewer, more profitable markets instead of trying to grow overall revenue.

The company outlined three strategic priorities:

- Doubling revenue from its "multimedia resource function" (MRF) components

tal signs and touch-screens, Planar's current focus.

Third-quarter revenues totaled \$37.5 million, down 16 percent from the same quarter a year ago. Planar has sold most of its electroluminescent product line since

hardware, software and infrastructure; and

- pay bond issuance costs.

Bonds would mature in five (5) years or less from issuance date and may be issued in one or more series.

August 16, 2013

3507150V01



#### Important Notice To All Persons Who Own Or Have An Interest In Land In Washington County

The Washington County Planning Commission and Board of Commissioners will soon consider Ordinance Nos. 772 and 773

**Ordinance No. 772** proposes to add a new section (Section 389) to the Washington County Community Development Code relating to a Residential Airport Overlay District. The ordinance also proposes to amend Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan to add text relating to the Residential Airport Overlay District and to replace the existing Sunset Airstrip map with a new map that shows the Residential Airport Overlay District boundaries.

**Ordinance No. 773** proposes to amend Section 430-63 of the Washington County Community Development Code relating to home occupations in unincorporated areas of Washington County.

**Initial Planning Commission Public Hearing:**  
2:00 pm, Wednesday, September 4, 2013

**Initial Board of Commissioners Public Hearing:**  
6:30 pm, Tuesday, September 24, 2013

The hearings will be held in the Shirley Huffman Auditorium of the Charles D. Cameron Public Services Building, 155 North First Avenue, Hillsboro, Oregon. The Planning Commission and/or Board may continue hearings on these ordinances if necessary.

For more information about these ordinances, contact Long Range Planning at (503) 846-3519, or by writing

Washington County, Dept. of Land Use & Transportation  
Planning and Development Services - Long Range Planning  
155 North First Avenue, Room 350-14  
Hillsboro, OR 97124-3072

350614V02

# The Oregonian

HILLSBORO  
ARGUS



OregonLive.com

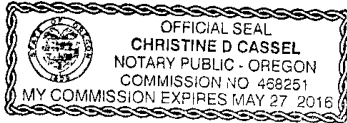
FOREST GROVE  
LEADER

1320 S.W. Broadway, Portland, OR 97201-3499

## Affidavit of Publication

I, K PLEDGER, duly sworn depose and say that I am the Principal Clerk Of The Publisher of The Hillsboro Argus, a newspaper of general circulation, as defined by ORS 193 010 and 193 020, published in the city of Hillsboro, in Washington County, Oregon, that the advertisement was published without interruption in the entire and regular issue of The Hillsboro Argus or the issue on the following date(s)

8/16/2013



K Pledger

Principal Clerk of the Publisher

8/19/13

Subscribed and sworn to before me this date

Christine D. Casse

Notary

Ad Order Number 0003506142



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The Washington County Planning Commission and Board of Commissioners will soon consider Ordinance Nos. 772 and 773.

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Washington County, Dept. of Land Use & Transportation  
Planning and Development Services – Long Range Planning  
155 North First Avenue, Room 350-14  
Hillsboro, OR 97124-3072





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Washington County, Dept. of Land Use & Transportation  
Planning and Development Services - Long Range Planning  
155 North First Avenue, Room 350-14  
Hillsboro, OR 97124-3072

503/846-3519

# Need a change of scenery?

BY THE LINE

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Acknowledging its inevitability can help us "make the most of our lives," say the site's creators — whether or not that involves seeing our parents more often. "The right kind of reminders can help us to focus on what matters, and perhaps make us better people."



SARA DAHLQUIST

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Betty Dahlquist, 96, says, "The day just hasn't started until I'm fully put together and dressed."

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showing off  
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your eyes.

I've ever known.  
My own sense of style and passion for personal style had to have been inherited from this wonderful woman, my Gram, Betty Dahlquist. At 96, she still wakes up every day and makes sure that she has an outfit on that is coordinated and pretty.

I can count on one hand the days I've seen her without some kind of accessory on. She ALWAYS has a pair of earrings on, or a headband.

# The Oregonian

HILLSBORO  
**ARGUS**



OregonLive.com

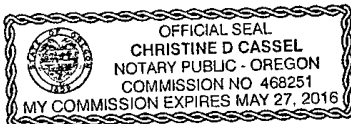
FOREST GROVE  
**LEADER**

1320 S.W. Broadway, Portland, OR 97201-3499

Affidavit of Publication

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8/16/2013



K Pledger

Principal Clerk of the Publisher

8/19/13

Subscribed and sworn to before me this date:

Christine D. Casel

Notary:

Ad Order Number: 0003506142



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For more information about these ordinances, contact Long Range Planning at (503) 846-3519, or by writing:

Washington County, Dept. of Land Use & Transportation  
Planning and Development Services – Long Range Planning  
155 North First Avenue, Room 350-14  
Hillsboro, OR 97124-3072



# WASHINGTON COUNTY OREGON

August 1, 2013

To: Citizen Participation Organizations and Interested Parties

From: Andy Back, Manager *SS for AB*  
Planning and Development Services

Subject: **PROPOSED ORDINANCE NO. 772**

Enclosed for your information is a copy of proposed Ordinance No. 772. Listed below is a description of the ordinance, hearing dates, and other relevant information. If you have any questions about the ordinance, or if you would like additional information, please contact Long Range Planning.

### **Ordinance Purpose and Summary**

Ordinance No. 772 proposes to add a new section (Section 389) to the Washington County Community Development Code (CDC) to create a new Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling.

Ordinance No. 772 also proposes to amend Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan to add text relating to the Residential Airpark Overlay District and to replace the existing Sunset Airstrip map with a new map that shows the Residential Airpark Overlay District boundaries.

### **Who Is Affected**

Owners of property on either side of Sunset Airstrip, which is located south of North Plains (south side of Highway 26) and west of Glencoe Road.

### **What Land is Affected**

Certain properties located on either side of Sunset Airstrip proposed for designation as Residential Airpark Overlay District land.

### **Key Provisions**

- Adds new CDC Section 389 (Residential Airpark Overlay District) which contains regulations governing Residential Airpark Development and authorizes limited accessory uses commonly associated with airstrips when constructed on property with an existing dwelling.
- Allows the designation of certain properties located on either side of Sunset Airstrip as Residential Airpark Overlay District lands.

### **Initial Public Hearings**

#### **Time and Place**

**Planning Commission**  
**2:00 pm**  
**September 4, 2013**

**Board of County Commissioners**  
**6:30 pm**  
**September 24, 2013**

**Department of Land Use & Transportation · Planning and Development Services**  
**Long Range Planning**  
155 N First Avenue, Ste. 350 MS 14 · Hillsboro, OR 97124-3072  
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · www.co.washington.or.us

Hearings will be held in the Shirley Huffman Auditorium in the Charles D. Cameron Public Services Building, 155 North First Avenue, Hillsboro, Oregon.

On September 24, 2013, the Board of County Commissioners (Board) may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If it is adopted on September 24, the ordinance would become effective on November 21, 2013.

**Community Development  
Code Section Added**

- Section 389, Residential Airpark Overlay District

**Rural/Natural Resource Plan  
Policy Amended**

- Policy 28, Airports

**How to Submit Comments**

Submit oral or written testimony to the Planning Commission and/or the Board at one of the public hearings. Written testimony may be mailed or faxed to the Planning Commission or Board in advance of the public hearings in care of Long Range Planning. **We are unable to accept e-mail as public testimony.**

Washington County, Department of Land Use & Transportation  
Planning and Development Services, Long Range Planning  
155 N. First Ave., Suite 350-14, Hillsboro, OR 97124-3072  
Fax: 503-846-4412

**Staff Contact**

Paul Schaefer, Senior Planner  
155 North First Ave., Suite 350-14, Hillsboro, OR 97124-3072  
Telephone: 503-846-8817 Fax: 503-846-4412  
e-mail: paul\_schaefer@co.washington.or.us

**Proposed Ordinance is  
available at the following  
locations:**

- Washington County, Department of Land Use & Transportation Planning and Development Services, Long Range Planning  
155 North First Ave., Suite 350  
Hillsboro, OR 97124-3072 Telephone: 503-846-3519
- [www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm](http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm)
- Cedar Mill Community Library and Tigard Public Library
- Citizen Participation Organizations (CPOs); Call 503-821-1128 for a directory of CPOs.

S:\PLNG\WPSHARE\2013ord\Ord772\_AirportOverlay\notices\_Affidavts\Ord772\_CPO\_InterestedParties.doc

**PROPOSED LAND USE ORDINANCE Ordinance No. 772  
DISTRIBUTION AFFIDAVIT**

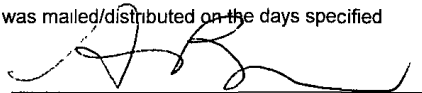
**I = Immediately after filing**

**\* P = After completion of CPO Notice & printing**

WHEN	WHO	DATE
I	Metro – Chief Operating Officer [include copy of DLCD Form 1 Notice]	N/A
I	DLCD – (1) [include Form 1 Notice of Proposed Amendment]	07/19/13
I	Long Range Planning Section – Aisha Willits (1)	07/19/13
I	Long Range Planning Section – Ordinance Planner (1)	07/19/13
P	Post on Land Use Ordinance web page [Broadcast email will be sent to e-subscribers, which include Board of Commissioners & Planning Commission]	08/01/13
P	CPOs (11)	08/01/13
P	CCI Steering Committee (1)	08/01/13
P	OSU Extension Service – Dan Schaur / Margot Barnett (will share 1 copy)	08/01/13
P	Cedar Mill Community Library (1) and Tigard Public Library (1)	08/01/13
P	Metro – Ray Valone (1)	08/01/13
P	ODOT – Planning and Development Manager, Region 2 Headquarters – prefers notice via email to <a href="mailto:ODOTR2PLANMGR@ODOT.STATE.OR.US">ODOTR2PLANMGR@ODOT.STATE OR US</a>	08/01/13
P	DLCD, Metro Regional Representative – Anne Debbaut (1)	08/01/13
P	City Planning Directors (14) [send memo only that describes ordinances and that they are available upon request]	08/01/13
P	Special Service Districts (14) [send memo only that describes ordinances and that they are available upon request]	08/01/13
P	Homebuilders Association – Justin Wood [city/service district memo only]	08/01/13
P	Beaverton School District – Richard Steinbrugge & Jennifer Garland [city/service district memos only]	08/01/13
P	Hillsboro School District – Mike Scott [city/service district memo only]	08/01/13
P	DLUT Director - Andrew Singelakis (1)	08/01/13
P	DLUT Planning and Development Services Manager – Andy Back (1)	08/01/13
P	DLUT Current Planning Section – Nadine Cook & Sr. Current Plng Staff (5)	08/01/13
P	DLUT Engineering & Construction Services – Gary Stockhoff (1)	08/01/13
P	DLUT Operations - Dave Schamp (1)	08/01/13
P	Long Range Planning Staff [Dona, Angela, Linda + others if applicable]	08/01/13
P	Extra copies for hearings [check with ordinance planner to determine if needed]	08/01/13

*\* Except for immediate copies, all ordinances should include CPO Notice when printed.  
Total ordinance copies needed = 60 + extras.*

I, Angela Brown, certify the above information was mailed/distributed on the days specified



Subscribed and sworn to before me on this 15<sup>th</sup> day of August, 2013



Linda H. Duffy  
Notary Public for Oregon

My Commission expires December 9, 2014

**PROPOSED ORDINANCE  
DISTRIBUTION LABELS**

Updated 4/12/13 (LCS)

[CPOs updated as of 10/24/12]

CPO 4B  
Suite H, Box 242  
16200 SW Pacific Hwy  
Tigard, OR 97224-3494

CPO 6  
P. O. Box 5607  
Aloha, OR 97006

Tom Black, CPO 9  
870 NW Garibaldi Street  
Hillsboro, OR 97124

**Inactive CPOs:**

CPO 5: Sherwood Tualatin  
CPO 11: Gaston, Cherry Grove  
CPO 12C: Cornelius

**Inactive CPOs, contd.:**

CPO 12F: Forest Grove  
CPO 13: Roy, Verboort, Gales Creek  
CPO 14: Banks, Buxton, Manning, Timber

Ray Valone (1)  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

Community Dev./Planning Director  
City of Banks  
P. O. Box 428  
Banks, OR 97106-0428

Ben Altman (Cornelius)  
RKA  
29515 SW Serenity Way, Apt. D  
Wilsonville, OR 97070-9538

Community Dev./Planning Director  
City of Gaston  
P.O. Box 129  
Gaston, OR 97119-0129

Bruce Bartlett, CPO 1  
P.O. Box 91582  
Portland, OR 97291-0582

Kathy Stallkamp, CPO 4K  
17635 131st Ave  
Tigard, OR 97224

Kevin O'Donnell, CPO 7  
Suite I-2, Box 173  
4804 NW Bethany Blvd.  
Portland, OR 97229

Lars Wahlstrom, CPO 10  
9775 SW Clark Hill Road  
Beaverton, OR 97007

CCI Steering Committee (1)  
c/o OSU Extension Service  
MS 48

Cedar Mill Community Library (1)  
12505 NW Cornell Road  
Portland, OR 97229-5688

Anne Debbaut (1)  
Metro Regional Representative  
DLCD  
1600 SW Fourth Ave., Suite 109  
Portland, OR 97201

Community Dev./Planning Director  
City of Cornelius  
1355 N Barlow Street  
Cornelius, OR 97113-8912

Community Development Director  
City of Forest Grove  
P.O. Box 326  
Forest Grove, OR 97116

Community Dev./Planning Director  
City of King City  
15300 SW 116th  
King City, OR 97224-2693

CPO 3  
Garden Home Recreation Center  
7475 SW Oleson Road  
Portland, OR 97223

Jim Long, CPO 4M  
10730 SW 72nd Avenue  
Portland, OR 97223

CPO 8  
P.O. Box 890  
North Plains, OR 97133

CPO 15  
P. O. Box 330  
Cornelius, OR 97113

Margot Barnett/Dan Schauer (1)  
CPO Coordinators  
OSU Extension Service  
MS 48

Tigard Public Library (1)  
Attn: Technical Services  
13125 SW Hall Blvd.  
Tigard, OR 97223

Planning and Development Mgr  
ODOT Region 2 Headquarters  
Prefer notice sent via email to:  
[ODOTR2PLANMGR@ODOT.STATE  
OR US](mailto:ODOTR2PLANMGR@ODOT.STATE.OR.US)

Community Dev./Planning Director  
City of Beaverton  
PO Box 4755  
Beaverton, OR 97076-4755

Community Dev./Planning Director  
City of Durham  
17160 SW Upper Boones Ferry Rd  
Durham, OR 97281

Community Dev./Planning Director  
City of Hillsboro  
MS 60

Community Dev./Planning Director  
City of Lake Oswego  
PO Box 369  
Lake Oswego, OR 97034

Community Dev./Planning Director  
City of North Plains  
31360 NW Commercial Street  
North Plains, OR 97133

Community Dev./Planning Director  
City of Rivergrove  
PO Box 1104  
Lake Oswego, OR 97034

Community Dev./Planning Director  
City of Portland  
1120 SW 5th, Rm. 1002  
Portland, OR 97204-1966

Community Dev./Planning Director  
City of Sherwood  
22560 SW Pine Street  
Sherwood, OR 97140

Community Dev./Planning Director  
City of Tigard  
13125 SW Hall Blvd.  
Tigard, OR 97223

Community Dev./Planning Director  
City of Tualatin  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062-7092

Community Dev./Planning Director  
City of Wilsonville  
29799 SW Town Center Loop E  
Wilsonville, OR 97070

Fire Chief  
Banks Fire Protection District  
300 Main Street  
Banks, OR 97106

Fire Chief  
Cornelius Rural Fire District  
1355 N. Barlow Street  
Cornelius, OR 97113-8912

Fire Chief  
Forest Grove Fire & Rescue  
1919 Ash Street  
P.O. Box 326  
Forest Grove, OR 97116

Fire Chief  
Gaston Rural Fire District  
102 E Main Street  
Gaston, OR 97119

Fire Chief  
Tualatin Valley Fire & Rescue  
20665 SW Blanton Avenue  
Aloha, OR 97007

Fire Chief  
Washington Co. Fire District #2  
31370 NW Commercial Street  
North Plains, OR 97133

Diane Taniguchi-Dennis  
Clean Water Services  
MS 10

General Manager  
Raleigh Hills Water District  
5010 SW Scholls Ferry Road  
Portland, OR 97225

General Manager  
Rivergrove Water District  
17661 Pilkington Road  
Lake Oswego, OR 97035

General Manager  
Tualatin Valley Water District  
1850 SW 170<sup>th</sup> Avenue  
Beaverton, OR 97006-4211

Tigard Water District/  
Tigard Water Service Area  
P.O. Box 230281  
Portland, OR 97281-0281

General Manager  
West Slope Water District  
P. O. Box 25140  
Portland, OR 97225

Jillian Detweiler  
TriMet  
710 NE Holladay  
Portland, OR 97232

General Manager  
Tualatin Hills Park & Rec. District  
15707 SW Walker Road  
Beaverton, OR 97006

Justin Wood, Govt Affairs Director  
Home Builders Association  
15555 SW Bangy Road, Suite 301  
Lake Oswego, OR 97035

Jennifer Garland  
Facilities Planning Coordinator  
Beaverton School District  
16550 SW Merlo Road  
Beaverton, OR 97006-5152

Dick Steinbrugge  
Executive Administrator/Facilities  
Beaverton School District  
16550 SW Merlo Road  
Beaverton, OR 97006-5152

Mike Scott, Superintendent  
Hillsboro School District  
3083 NE 49<sup>th</sup> Place, #200  
Hillsboro, OR 97124-6008

ANDREW SINGELAKIS (1)

ANDY BACK (1)

NADINE COOK and  
Sr. Current Planning Staff (5)



GARY STOCKHOFF (1)  
MS 18

DAVE SCHAMP (1)  
MS 51

KAREN SAVAGE (1)  
Long Range Planning

DORIA MATEJA (1)  
Long Range Planning

ANGELA BROWN (1)  
Long Range Planning

LINDA SCHROEDER (1)  
Long Range Planning

ALAN RAPPLEYEA (1)  
[distribute in BCC meeting notebook]

**PLANNING COMMISSION** (12)  
[to Connie for meeting packets]

**BOARD OF COMMISSIONERS**  
(6)  
[to Linda for meeting packets]

**Linda Schroeder**

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**From:** Linda Schroeder  
**Sent:** Thursday, August 01, 2013 4:53 PM  
**To:** 'ODOTR2PLANMGR@ODOT.STATE.OR.US'  
**Cc:** Paul Schaefer, Anne Kelly  
**Subject:** Washington County Proposed Land Use Ordinances 772 and 773  
**Attachments:** Ord772\_web.pdf, Ord773\_web.pdf

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>
	'ODOTR2PLANMGR@ODOT.STATE.OR.US'	
	Paul Schaefer	Delivered: 8/1/2013 4:53 PM
	Anne Kelly	Delivered: 8/1/2013 4:53 PM

**TO: Planning and Development Manager – ODOT, Region 2 Headquarters**


Proposed Land Use Ordinances 772 and 773 are attached for your review.

Please contact Paul Schaefer, Senior Planner, at [paul\\_schaefer@co.washington.or.us](mailto:paul_schaefer@co.washington.or.us) or 503-846-8817 if you have questions or concerns about Ordinance 772.

Contact Anne Kelly, Associate Planner, at [anne\\_kelly@co.washington.or.us](mailto:anne_kelly@co.washington.or.us) or 503-846-8131 if you have questions or concerns about Ordinance 773.

Regards,  
Linda Schroeder

Linda Schroeder, Assistant Planner  
Washington County  
Dept. of Land Use & Transportation  
Planning and Development Services  
Long Range Planning  
(503) 846-3962

 Save paper, toner, and energy. Avoid printing emails whenever possible!

10/22/2013



# WASHINGTON COUNTY OREGON

August 1, 2013

To: Washington County Cities and Special Service Districts

From: Andy Back, Manager *SS for AB*  
Planning and Development Services

**Subject: Proposed Land Use Ordinance Nos. 772 and 773**

The Washington County Planning Commission and the Board of Commissioners will soon consider proposed Land Use Ordinance Nos. 772 and 773. These ordinances are available on the Washington County web site at:

[www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm](http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2013-land-use-ordinances.cfm)

If you would like a copy of these ordinances or additional information, please contact Long Range Planning at (503) 846-3519.

The initial public hearings before the Planning Commission and the Board of Commissioners are listed below. The hearings will be held in the Shirley Huffman Auditorium in the Charles D. Cameron Public Services Building, 155 North First Avenue, Hillsboro, Oregon. The Planning Commission or Board may continue hearings on the ordinances if necessary.

**Planning Commission**  
**2:00 pm**  
**September 4, 2013**

**Board of Commissioners**  
**6:30 pm**  
**September 24, 2013**

**Ordinance No. 772**

**Ordinance No. 772** proposes to add a new section (Section 389) to the Washington County Community Development Code (CDC) to create a new Residential Airpark Overlay District. The new district would authorize hangars, tie-downs, and taxi-ways when constructed on property with an existing dwelling.

Ordinance No. 772 also proposes to amend Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan to add text relating to the Residential Airpark Overlay District and to replace the existing Sunset Airstrip map with a new map that shows the Residential Airpark Overlay District boundaries.

Ordinance No. 772 would affect certain properties located on either side of Sunset Airstrip proposed for designation as Residential Airpark Overlay District lands. Sunset Airstrip is located south of North Plains (south side of Highway 26) and west of Glencoe Road.

**Department of Land Use & Transportation · Planning and Development Services**  
**Long Range Planning**  
155 N First Avenue, Ste. 350 MS 14 Hillsboro, OR 97124-3072  
phone: (503) 846-3519 · fax: (503) 846-4412 · TTY: (503) 846-4598 · [www.co.washington.or.us](http://www.co.washington.or.us)

**Ordinance No. 773**

**Ordinance No. 773** proposes to amend Section 430-63 of the Washington County Community Development Code (CDC) regarding home occupation standards. Primary changes include removal of existing restrictions on warehousing, distribution, and retail sales of pre-manufactured products. To prevent prospective impacts to surrounding neighborhoods, additional changes are proposed to limit business-related deliveries/pick-ups, storage, and onsite consumption of intoxicants.

S:\PLNG\WPSHARE\2013ord\Ord772\_AirportOverlay\notices\_Affidavits\Ords772-773\_CitiesNotice.doc

- DLCD Notice of Proposed Amendment or**
- Periodic Review work Task Proposed Hearing or**
- Urban Growth Boundary or Urban Reserve Area**

**THIS COMPLETED FORM**, including the text of the amendment and any supplemental information, **must be submitted to DLCD's Salem office at least 35 DAYS PRIOR TO THE FIRST EVIDENTIARY HEARING** ORS 197.610, OAR 660-018-0020 and OAR 660-025-0080

Jurisdiction: **Washington County**

Date of First Evidentiary Hearing. **09/04/2013**

Local File Number **Ordinance No. 772**

Date of Final Hearing. **09/24/2013**

Is this a **REVISION** to a previously submitted proposal?  No  Yes Original submittal date:

- Comprehensive Plan Text Amendment(s)
- Land Use Regulation Amendment(s)
- Transportation System Plan Amendment(s)
- Periodic Review Work Task Number \_\_\_\_\_
- Other (please describe):
- Comprehensive Plan Map Amendment(s)
- Zoning Map Amendment(s)
- Urban Growth Boundary Amendment(s)
- Urban Reserve Area Amendment(s)

**Briefly Summarize Proposal in plain language IN THIS SPACE (maximum 500 characters):**

**Ordinance No. 772 proposes to add Section 389 to the Community Development Code relating to Residential Airpark Overlay District (RAD). The RAD authorizes hangars, tie-downs, and taxi-ways on property with an existing dwelling.**

**Policy 28 (Airports) of the Washington County Rural/Natural Resource Plan would be amended to add text relating to Residential Airpark Overlay District and to replace the existing Sunset Airstrip map with a new map showing Residential Airpark Overlay District boundaries.**

Has sufficient information been included to advise DLCD of the effect of proposal?  Yes, text is included

Are Map changes included: minimum 8 1/2"x11" color maps of Current and Proposed designations.  Yes, Maps included

Plan map change from: **N/A** To: **N/A**

Zone map change from: **N/A** To: **N/A**

Location of property (Site address **and** TRS): **N/A**

Previous density range: **N/A** New density range: **N/A** Acres involved: **N/A**

Applicable statewide planning goals:

- |                                     |                                     |                                     |                          |                          |                          |                          |                          |                                     |                                     |                          |                                     |                          |                          |                          |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                            | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                            | <b>10</b>                           | <b>11</b>                | <b>12</b>                           | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
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Is an exception to a statewide planning goal proposed?  YES  NO Goal(s).

Affected state or federal agencies, local governments or special districts (It is jurisdiction's responsibility to notify these agencies.

**Washington County, Oregon Department of Aviation, Federal Aviation Administration, Port of Portland (Hillsboro Airport), City of North Plains**

Local Contact person (name and title): **Paul Schaefer, Senior Planner**

Phone: **503-846-8817**

Extension

Address. **155 N 1<sup>st</sup> Ave, Suite 350-14**

City: **Hillsboro**

Zip. **97124-**

Fax Number **503-846-4412**

E-mail Address: **paul\_schaefer@co.washington.or.us**

**- FOR DLCD internal use only -**

DLCD File No \_\_\_\_\_

FILED

JUL 18 2013

BEFORE THE BOARD OF COUNTY COMMISSIONERS Washington County  
FOR WASHINGTON COUNTY, OREGON County Clerk

ORDINANCE 772

An Ordinance Amending the Rural/Natural Resource Plan Element of the Comprehensive Plan and the Community Development Code to Develop a Residential Airpark Overlay

The Board of County Commissioners of Washington County, Oregon ("Board")  
ordains as follows:

SECTION 1

A. The Board recognizes that the Rural/Natural Resource Plan Element of the Comprehensive Plan (Volume III) was readopted with amendments, by way of Ordinance No. 307, with portions subsequently amended by Ordinance Nos. 342, 383, 411, 412, 458, 459, 462, 480, 482, 499, 539, 547, 572, 574, 578, 588, 598, 606, 609, 615, 628, 630, 631, 637, 643, 648, 649, 653, 662, 671, 686, 733, 740, 753, and 764.

B. The Board recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, and subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674,

1 676, 677, 682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 722, 725, 730, 732,  
2 735, 739, 742-745, 754-758, 760, and 762-763.

3 C. Notwithstanding the rejection of Washington County's efforts to expand the  
4 Private Airport Use Overlay to properties adjacent to the Sunset Airstrip located south of the  
5 city of North Plains in 2009, subsequent planning efforts of the County, in part in response to  
6 a request to develop a residential airpark overlay near the Sunset Airstrip, indicate this  
7 concept of a residential airpark overlay is warranted for further review and development.  
8 Such changes to the planning documents, the Board recognizes, are necessary from time to  
9 time for the benefit of the residents of Washington County, Oregon.

10 D. Under the provisions of Washington County Charter Chapter X, the  
11 Department of Land Use and Transportation has carried out its responsibilities, including  
12 preparation of notices, and the County Planning Commission has conducted one or more  
13 public hearings on the proposed amendments and has submitted its recommendations to the  
14 Board. The Board finds that this Ordinance is based on those recommendations and any  
15 modifications made by the Board are a result of the public hearings process;

16 E. The Board finds and takes public notice that it is in receipt of all matters and  
17 information necessary to consider this Ordinance in an adequate manner, and finds that this  
18 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan  
19 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington  
20 County Charter, the Washington County Community Development Code, and the Washington  
21 County Comprehensive Plan.

22

1     SECTION 2

2             The following exhibits, attached hereto and incorporated herein by reference, are  
3     adopted as amendments to the designated documents as follows:

- 4             A.     Exhibit 1 (2 pages), amending the Community Development Code by adding  
5                     a new section (Section 389, Residential Airpark Overlay District); and  
6             B.     Exhibit 2 (6 pages), amending Policy 28, AIRPORTS, of the Rural/Natural  
7                     Resource Plan to add certain text relating to the new Residential Airpark  
8                     Overlay District.

9     SECTION 3

10            All other Comprehensive Plan provisions that have been adopted by prior ordinance,  
11     which are not expressly amended or repealed herein, shall remain in full force and effect.

12    SECTION 4

13            All applications received prior to the effective date shall be processed in accordance  
14     with ORS 215.427.

15    SECTION 5

16            If any portion of this Ordinance, including the exhibits, shall for any reason be held  
17     invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be  
18     affected thereby and shall remain in full force and effect.

19    SECTION 6

20            The Office of County Counsel and Department of Land Use and Transportation are  
21     authorized to prepare planning documents to reflect the changes adopted under Section 2 of  
22     this Ordinance, including deleting and adding textual material and maps, renumbering pages



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or sections, and making any technical changes not affecting the substance of these amendments as necessary to conform to the Washington County Comprehensive Plan format

SECTION 7

This Ordinance shall take effect on November 21, 2013.

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013, being the \_\_\_\_\_ reading and \_\_\_\_\_ public hearing before the Board of County Commissioners of Washington County, Oregon.

BOARD OF COUNTY COMMISSIONERS  
FOR WASHINGTON COUNTY, OREGON

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
RECORDING SECRETARY

READING

PUBLIC HEARING

First \_\_\_\_\_  
Second \_\_\_\_\_  
Third \_\_\_\_\_  
Fourth \_\_\_\_\_  
Fifth \_\_\_\_\_

First \_\_\_\_\_  
Second \_\_\_\_\_  
Third \_\_\_\_\_  
Fourth \_\_\_\_\_  
Fifth \_\_\_\_\_

VOTE: Aye: \_\_\_\_\_

Nay: \_\_\_\_\_

Recording Secretary: \_\_\_\_\_ Date: \_\_\_\_\_

Amend the Community Development Code to include a new section (Section 389, Residential Airpark Overlay District)

**389 RESIDENTIAL AIRPARK OVERLAY DISTRICT**

**389-1 Intent and Purpose**

The intent of the Residential Airpark Overlay District is to support the continued operation and vitality of the Sunset Airstrip and the uniqueness of residential airpark-type development. The Residential Airpark Overlay District authorizes uses commonly associated with airstrip use and accessory to residential uses and ensures compatibility with the continued operation of Sunset Airstrip.

**389-2 Applicability**

This Overlay District applies to the rural residential areas adjacent to the Sunset Airstrip identified in Policy 28 of the Rural/Natural Resource Plan. This overlay district allows limited accessory uses commonly associated with adjacent airstrip use. Residential uses are not authorized by the Residential Airpark Overlay District and are subject to the standards of the underlying land use districts.

The provisions of Section 386, Private Use Airport Safety Overlay District, continue to apply to lots and parcels within the Residential Airpark Overlay District that are also designated with the Private Use Airport Safety Overlay District.

Designation of the Residential Airpark Overlay District authorizes Residential Airpark Development (RAD) but does not allow access to the existing private airstrip. Access to the airstrip must be obtained from airstrip owner prior to accessing the airstrip from a RAD.

**389-3 Uses Permitted Through a Type I Procedure**

The use of land and buildings must be in compliance with the underlying land use district as established by the Rural/Natural Resource Plan, and is further limited to the following permitted uses on lands designated as Residential Airpark Overlay District.

A Residential Airpark Development (RAD) may be authorized to allow for the addition of an individual aircraft hangar and a paved tie-down area on the same lot or parcel as an existing detached single family dwelling unit as the primary use. Each lot or parcel may be provided with a hangar and a paved tie down area. The hangar can be attached or detached to the dwelling unit.

B Accessory uses and structures on a lot or parcel with an existing dwelling unit:

(1) Aircraft Hangar. An aircraft hangar cannot be used as a residence.

abcdef Proposed additions  
abedef Proposed deletions

(2) Aviation fuel storage consistent with all applicable federal, state and local requirements, including the 2010 or most current Oregon Structural Specialty Code and 2010 or most current Oregon Fire Code.

C. Aircraft taxi ways

**389-4 Property Owner Notification**

Prior to the issuance of a building permit for a single family dwelling unit the property owner shall submit to the Review Authority a copy of a signed and recorded waiver of the right to remonstrate against customarily accepted airstrip and airpark uses.

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- 1 Amend Policy 28, AIRPORTS, of the Rural / Natural Resource Plan to add the following text relating to the new Residential Airpark Overlay District set forth in Exhibit 1 of this ordinance

### POLICY 28, AIRPORTS:

**It is the policy of Washington County to protect the function and economic viability of existing public use airports, while ensuring public safety and compatibility between airport uses and surrounding land uses for public use airports identified by the Oregon Department of Aviation (DOA).**

#### Introduction

Changes in state law passed in 1995 and 1997 require local jurisdictions to adopt an airport planning program for certain airports described in ORS 836.600 et Seq. The Aeronautics Division of the Oregon Department of Transportation (now the Department of Aviation/DOA) and the Department of Land Conservation and Development together developed Airport Planning Rules (OAR 660-013) and identified certain public and private use airports that would be subject to these rules, based on the parameters set forth in the statute. The DOA manages the list of identified airports, which is subject to amendment through a review and decision process by the state Aviation Board, pursuant to OAR 738-090. Procedures for amendment of the state airport list include public notice procedures. As necessary, the County will initiate Comprehensive Plan amendment proceedings to remain current with DOA list of all airports.

Policy 17 of the Washington County 2020 Transportation Plan identifies and outlines transportation-related policies for the County's three public use airports. The Rural/Natural Resource Plan and the Comprehensive Framework Plan for the Urban Area each outline land use related policies that address only those airports within the Washington County jurisdiction that are identified by the DOA list, with the addition of Skyport, a small public use facility located north of Cornelius.

Policy 28 outlines implementing strategies which, in part, set forth Airport Overlay Districts to regulate safety concerns, land uses and land use compatibility issues on airport properties and within surrounding area. These are structured to address state-recognized airports in two categories, generally referred to herein as Public Use Airports and Private Use Airports. Where the Airport Overlay Districts are concerned, references to airports and airport facilities generally includes heliports as well.

Several other airport facilities exist throughout the County that are not a part of this airport planning program and thus not recognized by the established Airport Overlay Districts. In general, these include personal use airports, heliports and agriculturally related landing strips. With the exception of agriculturally related landing strips, these facilities are regulated as special uses in specified land use districts pursuant to standards outlined in the Community Development Code. Where personal use facilities are concerned, the Community Development Code make a distinction between the terms and heliport, as they are permitted equally in all land use districts.

Outside the UGB, land use districts which allow personal use airports as a special use generally include all rural districts except rural commercial (RCOM) and rural Industrial (RIND), inside the land use district which allow personal use heliports as a special use include the rural residential districts (AF-5, AF-10 and RR-5), and the special industrial overlay district (SID). Urban land use districts that permit personal use

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helports include all residential districts (R-5, R-6, R-9, R-15, R-24, and R-25+), the commercial and business districts with the exception of the neighborhood commercial district (allowed in OC, CBD, and GC districts), and the industrial district (IND)

Policy 28 allows Residential Airpark Development (RAD) within a Residential Airpark Overlay District. The Residential Airpark Overlay District authorizes aircraft hangars, paved tie down areas and taxiways as accessory uses.

#### Implementing Strategies

The County will

- a Adopt and implement Airport Overlay Districts consistent with LCDC Airport Planning Rules and ORS Chapter 836 in order to
  - 1 Protect public use airports by regulating land uses in designated areas surrounding the Portland-Hillsboro and the Stark's Twin Oaks airports based on adopted airport master plans or evidence of each airport's specific level of risk and usage. Prevent the installation of airspace obstructions, additional airport hazards, and ensure the safety of the public and guide compatible land use. Limit uses in specific noise impact and crash hazard areas that have been identified for each specific airport. To a lesser degree, protect the function and economic viability of the Skyport airport, which was not identified pursuant to ORS 836 600 but which the County recognizes as an established privately owned public use airport and thus requiring regulatory measures to promote safety.
  - 2 Protect privately owned, private use airports identified by the DOA. Each airport's specific level of risk and usage shall be used to guide the continued safe aeronautical access to and from these airports, considering the type of aircraft approved to use the field.
- b Recognize the Portland-Hillsboro airport as the major aviation facility in Washington County and an airport of regional significance. To promote its operation, the County shall coordinate with the City of Hillsboro to help ensure compatibility with surrounding land uses. The Comprehensive Plan will be updated to reflect any necessary changes resulting from this process.
- c Work with airport sponsors to coordinate with the Federal Aviation Administration (FAA) in promoting FAA-registered flight patterns and FAA flight behavior regulations in order to protect the interests of County residents living near airports.
- d Maintain geographic information system (GIS) mapping of the Airport Overlay Districts and provide timely updates.
- e Participate in and encourage the adoption of master plans for all public use airports and, at a minimum, an airport layout plan for the remaining DOA recognized airfields in Washington County.
- f Discourage future development of private landing fields when they are in proximity to one another, or where they are near other public airports and potential airspace conflicts are determined to exist by the FAA or the DOA.
- g Allow Residential Airpark Development in a Residential Airpark Overlay District

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h Ensure that future Residential Airpark Development is compatible with the continued operation of adjacent private airstrips

Summary Findings and Conclusions

In Washington County, the LCDC Airport Planning Rules apply to the following facilities, which are included in the County's airport planning program

- 1 Public Use Airports – Publicly Owned
  - a Portland-Hillsboro (KH1Q)
- 2 Public Use Airports – Privately Owned
  - a Stark's Twin Oaks Airpark (7S3)
- 3 Private Use Airports – Privately Owned (recognized by DOA as having 3 or more based aircraft in 1994)
  - a Apple Valley (1/2 mile S of Buxton) (OR61)
  - b Meyer's Riverside (2 miles SW of Tigard) (OG34)
  - c North Plains Gliderport (2 miles W of North Plains) (1OR4)
  - d Olinger Strip (3 miles NW of Hillsboro) (OR81)
  - e Providence St Vincent Medical Center Heliport (2.5 miles NE of Beaverton) (53OR)
  - f Sunset Airstrip (1/2 mile SW of North Plains) (1OR3)

In addition to the above, the Skyport Airport (4S4) (located 3 miles N of Cornelius) is a privately owned public use facility that was not identified by the DOA because of its relatively small size and low level of activity. However, this facility has been included in the County's airport planning program because of its status as a public use airport. The level of protection provided for this facility is similar to that ~~required~~ provided for the privately owned private use airports identified in List 3, above

The Portland-Hillsboro Airport, owned by the Port of Portland, is located within the city limits of Hillsboro. However, land use and noise impact areas associated with this airport affect County lands. The County's planning efforts for rural lands around the Portland-Hillsboro airport therefore will be coordinated with the City of Hillsboro ~~after the current (2003) master plan update process is complete~~

LCDC's Airport Planning Rules prescribe different levels of protection for the listed airports, depending on the nature of use and the size of the facility. In general, state requirements are applied to facilities within the County's jurisdiction through the application of Airport Overlay Districts to regulate land uses. ~~There county utilizes~~ are two sets of overlays: one set applies to Public Use Airports (Portland-Hillsboro and Stark's Twin Oaks), and one set applies to Private Use Airports, including all of those identified in List 3, above. For each airport category (public and private), the overlay district set consists of 1) a land use overlay district to regulate airport related land uses at the airport site, and 2) a safety and/or land use compatibility overlay district to mitigate land uses and height of structures and objects on properties immediately surrounding airports. For the Private Use Airports, the protection of the safety overlay district is limited to graduated height restrictions along approach corridors. For the Public Use Airport (i.e., Stark's Twin Oaks), the second overlay district is more elaborate and mitigates land uses and safety hazards in a broader area surrounding the airport. This overlay includes boundaries to identify areas subject to noise impacts, bird strike hazards, and protection measures for imaginary surfaces for airborne aircraft.

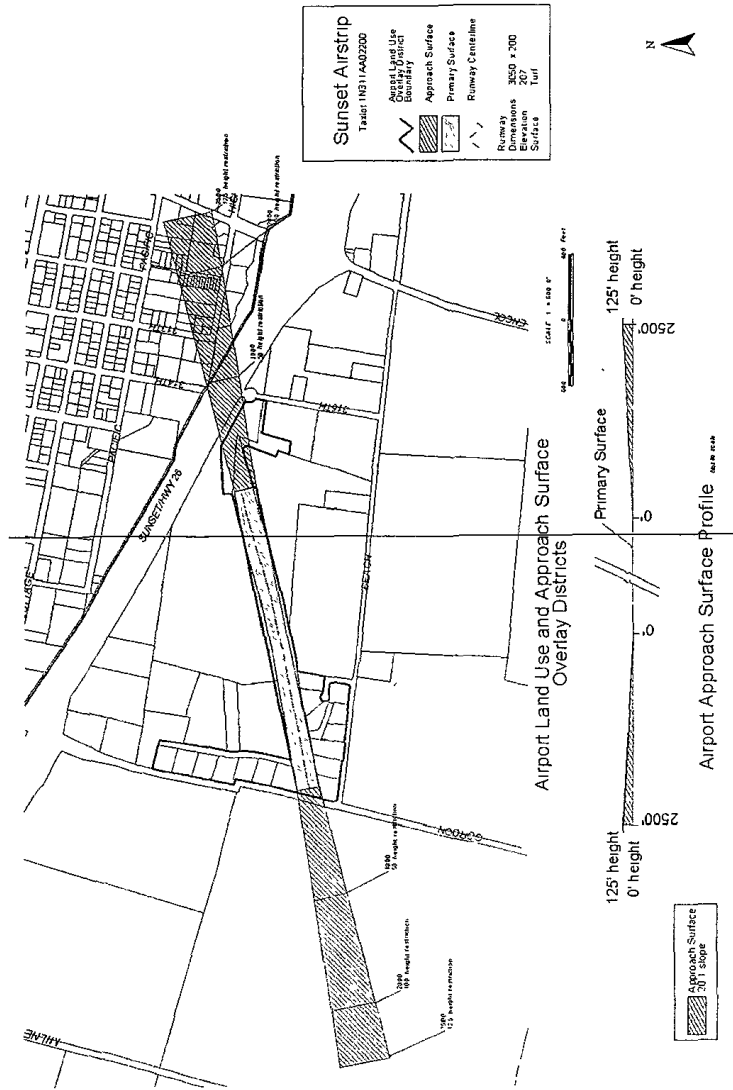
Policy 28 identifies an additional overlay, the Residential Airpark Overlay District. The Residential Airpark Overlay District applies to certain rural lands adjacent to Sunset Airstrip. This district supports the continued operation of the Sunset Airstrip and the uniqueness of Residential Airpark Development by authorizing limited accessory uses commonly associated with airstrip use. This district also promotes public health and safety in the vicinity of Sunset Airstrip by ensuring that Residential Airpark Development

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complies with the provisions of the Private Airport Safety Overlay District and the standards of the Residential Airpark Overlay District

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2. Amend Policy 28, AIRPORTS, of the Rural / Natural Resource Plan to remove the Sunset Airstrip map shown below:



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