



# Oregon

Kate Brown, Governor

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TO: State Aviation Board

FROM: Heather Peck  
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RE: Adoption of Aurora State Airport Master Plan Update Findings of Compatibility

The Aurora State Airport Master Plan Update (Master Plan), funded through Federal Aviation Administration (FAA) AIP Grant #3-41-0004-015, was initiated in 2009. The Master Plan was an update to the original Master Plan that was completed in 1976 and last updated in 2000. The prime contractor was WHPacific.

The Board adopted the Master Plan at its October 27, 2011, meeting and approved two options for improvements to the runway. The Master Plan was then sent to the FAA which reviewed the Master Plan and approved the Airport Layout Plan (ALP). This was accepted by the Oregon Department of Aviation (ODA) on October 19, 2012. On April 11, 2013, ODA sent the Master Plan, including the FAA approved ALP, to Marion County and requested that the County “consider adopting a resolution supporting” the Master Plan. (Exhibit A.) Marion County Commissioners adopted Resolution #13R-13 on May 8, 2013, which acknowledged and supported the Master Plan and advised ODA to “apply for land use permits for uses and projects listed in the Capital Improvement Plan of the 2012 Aurora State Airport Master Plan at such times as the Department is ready to proceed with those uses and projects.” (Exhibit B.) The Master Plan was a final decision of the ODA and not subject to challenge now.

At the time the Master Plan was adopted by the Board, ODA was subject to the Oregon Department of Transportation’s (ODOT) State Agency Coordination (SAC) program as set forth in OAR chapter 734, division 015.<sup>1</sup> The purpose of ODOT SAC “is to establish procedures used by the Department of [Aviation] to implement provisions of its SAC which assure the Department land use programs are carried out in compliance with the statewide planning goals and in a manner compatible with acknowledged comprehensive plans, as required by ORS 197.180 and OAR 660, divisions 30 and 31.” OAR 731-015-0005. Airport master plans are, by definition, a type of transportation facility that was subject to the ODOT SAC. As a result, ODA and the Board were required to adopt a master plan that complied with those statewide land use

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<sup>1</sup> ODOT’s SAC program was adopted when ODA was the Aeronautics Division of ODOT. ODA continued to be subject to ODOT’s SAC until ODA adopted an update in 2017. ODA updated and the Board adopted the SAC in 2017. OAR Chapter 738, division 130, contains the same requirements as ODOT’s SAC except for substituting the Oregon Aviation Board for the Oregon Transportation Commission.

planning goals that were applicable to the Master Plan and in a manner that is compatible with Marion County's acknowledged comprehensive plan.

All of these requirements were met by ODA and the Board in 2009-2013 when preparing and adopting the Master Plan. However, the Board did not adopt specific findings of compatibility with any affected jurisdiction's comprehensive plan or specific findings of compliance with the applicable statewide planning goals. OAR 731-015-0065. Due to the potential of a legal challenge to the Master Plan, the Board should adopt a finding of compatibility with the Marion County comprehensive plan and compliance with the applicable statewide planning goals. The following sets out proposed findings for the Board to consider:

### **ODOT SAC Requirements - Applicable to the Master Plan in 2011-2012**

As set forth above, ODOT's SAC Rule, OAR 731-015-0065, applied at the time the Master Plan was approved by the Board. Each requirement is set forth below with findings as to how the board and ODA complied with the requirement.

#### ***OAR 731-015-0065***

##### ***Coordination Procedures for Adopting Final Master Plans***

***(1) Except in the case of minor amendments, the Department shall involve DLCD and affected metropolitan planning organizations, cities, counties, state and federal agencies, special districts and other interested parties in the development or amendment of a facility plan. This involvement may take the form of mailings, meetings or other means that the Department determines are appropriate for the circumstances. The Department shall hold at least one public meeting on the plan prior to adoption.***

**Findings:** The Master Plan went through an extensive public process in 2009-2011 which included six Planning Advisory Committee (PAC) meetings, which were open to the public, five open houses, and regular updates to the project website. (Master Plan, Appendices E and G.) The composition of the PAC, along with PAC meeting summaries can be found in Appendix E of the Master Plan. The Airport Master Plan Notice List shows that the Department of Land Conservation and Development (DLCD), the ODOT, Mid-Willamette Valley Council of Government, Clackamas County, Marion County, Aurora, Wilsonville, Canby, Friends of French Prairie, Thousand Friends of Oregon, and numerous interested parties were provided notice of and opportunity to take part in the Master Plan process. (Exhibit C.) DLCD staff attended at least two of the PAC meetings. (Exhibit D.) This shows that all cities and counties around the airport were given the opportunity to participate, and did participate, in the process either by being members on the PAC or as members of the public. ODA also sought input from state and federal agencies as necessary: ODOT was consulted regarding traffic issues related to proposed improvements to the airport, including providing evidence that the Master Plan did not significantly affect I-5's Boone Bridge. The FAA was involved with the review of the Master Plan and approval of the Airport Layout Plan.

On September 6, 2019, ODA staff sought additional input from DLCD in a meeting with DLCD and Marion County. DLCD was given notice of and the opportunity to provide input on the compatibility and compliance issues on August 20, 2019. (Exhibit E.) As of the date of this report, DLCD has not provided written comments.

***(2) The Department shall provide a draft of the proposed facility plan to planning representatives of all affected cities, counties and metropolitan planning organization and shall request that they identify any specific plan requirements which apply, any general plan requirements which apply and whether the draft facility plan is compatible with the acknowledged comprehensive plan. If no reply is received from an affected city, county or metropolitan planning organization within 30 days of the Department's request for a compatibility determination, the Department shall deem that the draft plan is compatible with that jurisdiction's acknowledged comprehensive plan. The Department may extend the reply time if requested to do so by an affected city, county or metropolitan planning organization.***

**Findings:** Aurora Airport is located in Marion County. All proposed improvements listed in the Master Plan and ALP would occur within the county. Marion County was invited to attend the PAC meetings and open houses and Patti Milne, Marion County Commissioner, was a member of the PAC. Brandon Reich, Marion County Planning, and Don Russo, Marion County, received notices of Airport Master Plan public meetings and PAC meetings and each attended at least one PAC meeting or open house. (Exhibit D.)

In 2013, ODA's director sent the Master Plan to Marion County with a request that the county adopt a resolution supporting the Master Plan. (Exhibit A.) Marion County's Board of Commissioners adopted Resolution 13R-13 which acknowledged and supported the Master Plan and advised that ODA "apply for land use permits for uses and projects listed in the Capital Improvement Plan (CIP) of the 2012 Aurora State Airport Master Plan at such times as the Department is ready to proceed with those uses and projects." (Exhibit B.) This resolution is evidence that the Marion County considered and found that the Master Plan was compatible with its comprehensive plan in 2012.

ODA met with Marion County and requested that the county confirm this determination on September 6, 2019. In a letter dated September 27, 2019, Joe Fennimore, Marion County Planning Director, explained that the capital improvement projects in the Master Plan "appear generally consistent with the 1976 Aurora State Airport Master Plan" which is an adopted component of the county's comprehensive plan and that the Board of Commissions had adopted the above resolution [13R-13] acknowledging so in 2013. (Exhibit F.)

***(3) If any statewide goal or comprehensive plan conflicts are identified, the Department shall meet with the local government planning representatives to discuss ways to resolve the conflicts. These may include:***

***(a) Changing the draft facility plan to eliminate the conflicts;***

*Oregon Department of Aviation's mission is to provide infrastructure, financial resources,  
and expertise to ensure a safe and efficient air transportation system*

*(b) Working with the local governments to amend the local comprehensive plans to eliminate the conflicts; or*

*(c) Identifying the conflicts in the draft facility plan and including policies that commit the Department to resolving the conflicts prior to the conclusion of the transportation planning program for the affected portions of the transportation facility.*

**Findings:** In 1981, Marion County incorporated the 1976 Aurora State Airport Master Plan into its comprehensive plan and zoned the airport as Public (P) and Airport Overlay (AO) “Primary” zone. The AO zone expressly authorizes and is designed to protect runways. Airport uses are authorized in the P zone as conditional uses. Therefore, all projects proposed in the Master Plan’s ALP and CIP are located on airport property zoned Public and are allowed in the P zone as conditional uses. (Master Plan, Appendix to Chapter 5, at 5.)

As indicated above, no comprehensive plan conflicts were identified; therefore, this requirement was met.

*(4) The Department shall evaluate and write draft findings of compatibility with acknowledged comprehensive plans of affected cities and counties, findings of compliance with any statewide planning goals which specifically apply as determined by OAR 660-030-0065(3)(d), and findings of compliance with all provisions of other statewide planning goals that can be clearly defined if the comprehensive plan of an affected city or county contains no conditions specifically applicable or any general provisions, purposes or objectives that would be substantially affected by the facility plan.*

#### **Compatibility with Comprehensive Plans of Affected Cities and Counties**

**Findings:** “Affected local government” is limited to those local governments having planning authority over the Master Plan. OAR 660-031-0010(2). The only local government having planning authority over Aurora State Airport and the projects listed in the Master Plan and ALP is Marion County. As a result, findings of compatibility only need to be written for Marion County’s comprehensive plan.

As set forth above, Marion County determined that the Master Plan was compatible with its comprehensive plan in 2012. Before a project listed in the Master Plan can be constructed, ODA will obtain any conditional use permits required by Marion County. ODA’s SAC rule also specifies that the agency obtain all applicable land use approvals and planning permits prior to construction of a project. OAR 738-130-0065.

ODA staff has reviewed and evaluated Marion County’s findings and agrees that the Aurora State Airport Master Plan Update 2012 was and is compatible with Marion County’s comprehensive plan.

## **Compliance with Statewide Goals per OAR 660-030-0065**

ODA may demonstrate compliance with the statewide planning goals by showing compatibility with applicable comprehensive plans. OAR 660-030-0065(2). *Witham Parts and Equipment Co, Inc. v. ODOT*, 42 Or LUBA 435 (2002), *Murray v. Marion County*, 23 Or LUBA 268 (1992). Therefore, since the Master Plan is compatible with the applicable comprehensive plan, it has demonstrated compliance with the statewide planning goals.

Comments have been received concerning compliance with the goals listed below. Even though these goals are not applicable and findings are not required, we have set forth evidence that shows how the Master Plan met each of the goals.

**Goal 1: Citizen Involvement** – To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

**Findings:** The Master Plan went through an extensive public process in 2009-2011 and included six Planning Advisory Committee (PAC) meetings, which were open to the public, five open houses, and regular updates to the project website. The composition of the PAC, along with PAC meeting summaries can be found in Appendix E of the Master Plan. Input on the preferred alternative can be found in Appendix K of the Master Plan and a compilation of PAC comments can be found in Appendix G of the Master Plan.

The Aurora State Master Plan Update’s comprehensive public involvement program documented in Appendices E, K and G of the Master Plan constitutes compliance with Goal 1.

**Goal 3: Agricultural Lands** – To preserve and maintain agricultural lands.

**Findings:** The Master Plan indicates that no farm land will be impacted by the Master Plan. The land at the south end of the proposed runway extension that will be under the RPZ can continue being used as farm land. (Master Plan at 7-3.) Comments have been received that the ALP shows the Stopway at the end of the proposed runway extension and the Runup area are on EFU zoned property. Matthew Maas, ODA Aurora Airport Manager, explains that “The master plan is a concept document that shows where future development might go.” It is not surveyed or engineered at this point in the planning process.” It is also not the intent of ODA to construct any pavement on land zoned EFU as part of the runway extension. (Exhibit G.)

Any impacts related to a specific project will be reviewed through an environmental assessment and all land use approvals obtained prior to final design. OAR 738-130-0065. ODA will obtain any necessary conditional use permits from Marion County before constructing a project. If the runway is extended as proposed in the ALP there will be a corresponding increase in the Runway Protection Zone (RPZ) over EFU land. ODA may purchase the farm land under

the RPZ but farm use is a compatible land use in this area.<sup>2</sup> (Master Plan at 7-3.) The Aurora State Airport Master Plan Update will not impact agricultural lands adjacent to the Aurora Airport.

**Goal 11: Public Facilities and Services** – To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

**Findings:** The proposed projects in the Master Plan and ALP, like an extension or upgrade of runway, will not have a direct impact on any utilities at the airport. The airport has electricity, water, septic and telephone. New growth at the airport may be limited by the sanitary facilities since the airport is not on a sewer system. However, the improvements planned for the airport do not require any improvements to these utilities. Moreover, all public facilities and services improvements will occur within the County’s acknowledged P zone, further establishing the Master Plan’s compliance with this Goal.

**Goal 12: Transportation** – To provide and encourage a safe, convenient and economic transportation system.

**Findings:** The selected alternative set forth in the ALP will extend the runway to the south by 1000 ft. This would require that Keil Rd. be dead-ended with no access to Highway 551. Keil Rd. is a local road so closure of this road would not require an amendment to Marion County’s Transportation System Plan. In addition, impacts to transportation or farming will be addressed if the runway extension is built through the environmental assessment and OAR 738-130-0065. The build impacts associated with the Master Plan on Boone Bridge on I-5 were analyzed by the Oregon Department of Transportation and were found to be insignificant. (Master Plan at 5-20.) Traffic impacts were analyzed as set forth in Appendix K and PAC Meeting #4, page 2.

**Goal 14: Urbanization** – To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

**Findings:** In *Murray*, the Land Use Board of Appeals (LUBA) found that the airport and proposed airport improvements were an urban use outside of an urban growth boundary. *See Murray* at 9. However, LUBA held that this did not matter because these uses were allowed in the County’s acknowledged comprehensive plan. *Id.* at 10. Similar to *Murray*, all improvements to the airport contemplated by the Master Plan will occur in the County’s acknowledged P zone. The only exception is that the localizer (a public utility facility necessary for public service) will

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<sup>2</sup> “Per FAA guidance, some agricultural uses are compatible with airport operations. No development would occur within the areas to be acquired, beyond relocation of Keil Road.” (Master Plan, Appendix to Chapter 5, page 5.)

be moved to land zoned EFU. But this is an allowed use of EFU zoned land (ORS 215.283(1)(c) and, as a result like with the P zone, does not implicate Goal 14.

*(5) The Department shall present to the Aviation Board the draft plan, findings of compatibility with the acknowledged comprehensive plans of affecting cities and counties and findings of compliance with applicable statewide planning goals.*

**Findings:** ODA is requesting that the board adopt these findings. The Master Plan was determined to be compatible with Marion County's comprehensive plan in 2012, as confirmed by the County in Exhibit F and, as a result, the Master Plan is also in compliance with applicable statewide planning goals.

*(6) The Aviation Board shall adopt findings of compatibility with the acknowledged comprehensive plans of affected cities and counties and findings of compliance with applicable statewide planning goals when it adopts the final facility plan.*

**Findings:** The board finds that the Master Plan and the projects listed in the ALP and CIP are compatible with the Marion County Comprehensive Plan. The board finds that the Master Plan is compliant with the applicable statewide planning goals as set forth above.

*(7) The Department shall provide copies of the adopted final facility plan and findings to DLCD, to affected metropolitan planning organizations, cities, counties, state and federal agencies, special districts and to others who request to receive a copy.*

**Findings:** Copies of the Master Plan are available on ODA's website. ODA will send the a copy of the findings of compatibility and the Master Plan to DLCD, affected governmental entities and those who request a copy after adoption by the board.

**Board Action**

Staff recommends that the State Aviation Board adopt the above findings that the Aurora State Airport Master Plan Update (2012), as adopted by the Board in 2011 was compatible with the Marion County Comprehensive Plan and, therefore, compliant with the statewide planning goals.