

**WALLOWA COUNTY PLANNING COMMISSION**  
**7:00 pm October 26, 2021**  
**Wallowa County Courthouse**  
**Agenda**

- 1. Minutes of September 28, 2021 Meeting**
- 2. WC COMP PLAN CHAPTER 9 AMD#21-02** – Oregon Senate Bill 2 (2019) provided statutory authority to re-zone up to 50 acres for employment lands (ORS 197.716) with the completion of an Economic Opportunity Analysis (EOA). If approved, the resulting EOA replaces Appendix 9.1 of the Wallowa County Comprehensive Land Use Plan.
- 3. JOHNSON ZC#21-01** – The above-referenced EOA proposed to change the zoning on 20 acres of property described as Township 1 North, Range 42 East, Section 14, Tax lot 100 currently zoned Exclusive Farm Use (EFU) and owned by Clint Johnson. If approved, 20 acres would be rezoned to Rural Commercial (RC) and the Wallowa County Comprehensive Land Use Plan and associated zoning maps would be revised.
- 4. AIRPORT DEV AMD#21-01** – *Continued discussion from September 28, 2021.* Proposed amendment, AMD#21-01 submitted by D. Rahn Hostetter of Hostetter Law Group, LLP on behalf of S&V Properties, LLC is a request to add a new airport adjacent zone titled **ARTICLE 58 AIRPORT DEVELOPMENT**. This amendment would not constitute a rezone of any parcel but could provide the opportunity for property owners adjacent to the Enterprise or Joseph airports to apply for a zone change.
- 5. Other Business:**

**The next Planning Commission meeting is scheduled for November 30, 2021**

**Planning Commission Minutes  
September 28, 2021**

This meeting of the Wallowa County Planning Commission convened at 7:00 p.m. on September 28, 2021. This meeting was held via Zoom, a video conferencing application, and in the Thornton Conference Room of the Courthouse. The following were present:

**COMMISSIONERS (CM):**

Ramona Phillips (Chair)  
Kim Tippett  
Jim Nave  
Chris Bullat  
Georgene Thompson (via Zoom)  
Rob DeSpain (via Zoom)

**STAFF:**

Franz Goebel, Planning Director (PD)  
Jean Jancaitis, Department Specialist

**OTHERS PRESENT:**

Mike Mercer  
Paula Krieger, AMD#21-01  
John Kearns  
Jean MacConnachie  
Cindy Bowker  
Sarah Lucas, Oregon Department of  
Aviation  
Dick Stangel  
Lucas Stangel  
Rahn Hostetter, representing AMD#21-01  
Frances Buckles

**PRESENT via ZOOM:**

Brian Rahn  
Seth Thompson, Oregon Department  
of Aviation

**[Please note that draft and adopted findings, staff reports, written testimony, and the official Planning Commission meeting audio record are available for review and/or purchase in the Planning Department.]**

**Public Hearing Procedure**

Ladies and Gentlemen, I call the regular September 28, 2021 hearing session of the Wallowa County Planning Commission to order. My name is Ramona Phillips, and I am the Chair of the Planning Commission for Wallowa County, Oregon. The members of the Planning Commission are appointed by the Wallowa County Board of Commissioners and we all serve as volunteers.

Now I would like to introduce the current members of the Commission who are present tonight, and the staff of the Planning Commission, who have prepared the materials we will consider. [Introductions of members and staff]

## Planning Commission Minutes September 28, 2021

We conduct two types of hearings, legislative and quasi-judicial. Legislative hearings involve the making of rules, either new ones or revisions to existing rules. In these cases, we recommend our conclusions to your elected lawmakers, the County Commissioners, who always take the final action on legislative issues.

Oregon law requires that persons who attend land-use hearings are advised of certain rights and duties before the quasi-judicial hearing begins. We must tell you about approvals criteria, the raise-it-or-waive rule, and the right to have the record left open.

First approval criteria: the law requires the County to list the applicable County and State zoning criteria. A County Planner will do so in a few minutes. The law requires us to identify those standards of which an applicant must satisfy in order for the County to approve an application. Each of the standards must be supported by substantial evidence in the record. Make sure to direct your testimony, claims, or evidence toward the criteria which you believe applies to the application.

Second, the raise-it-or-waive-it rule. The law says that any issue which might be raised in an appeal of the decision after this hearing must be raised before the record of this hearing is closed, you cannot raise the issue on appeal. You must identify the issue clearly enough so that the County and all parties have an opportunity to respond to the issue.

Third, the right to have the record remain open. The law grants the participant the right upon to proper request to have the record of the hearing remain open for at least seven days. The request must be made before the conclusion of this hearing. The participant is the applicant or anyone who has submitted written or oral testimony regarding the application. The request may be made at any time during the initial hearing but must be made prior to the time the Planning Commission Chair announces that the hearing is closed. Once the hearing is closed, there is no longer a legal right to have the record remain open for additional evidence.

**CM Phillips** proceeds to the minutes of the August 31, 2021 Planning Commission Meeting.

### 1. June 29, 2021 Minutes

**CM Bullat** moves to approve the minutes of the August 31, 2021 Planning Commission meeting.

**CM Nave** seconds the motion.

**[CM Phillips – Yes;**

**CM Tippet – Yes;**

**CM Bullat – Yes;**

**Planning Commission Minutes  
September 28, 2021**

CM Nave – Yes;  
CM Thompson – Yes;  
CM DeSpain – Yes;

Motion Passes 6-0-0]

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**2. GOLLBERG CUP#21-10 FINDINGS**

PD Goebel presents the Findings Report.

CM Nave moves to approve the findings to deny the application.  
CM Bullat seconds the motion.

[CM Phillips – Yes;  
CM Tippet – Yes;  
CM Bullat – Yes;  
CM Nave – Yes;  
CM Thompson – Yes;  
CM DeSpain – Yes;

Motion Passes 6-0-0]

The findings for denial of the application are approved.

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**3. AIRPORT DEV AMD#21-01**

PD Goebel reminds the Commissioners that the Staff Report has already been presented and that the Staff Report as well as other documents related to the file are available for review in the Planning Office.

PD Goebel describes a conversation with Patrick Wingard of the Department of Land Conservation and Development (DLCD). Mr Wingard advised that Comprehensive Plan Amendments have additional DLCD notification requirements than other mailed notices. These notification requirements were not followed with this application. Mr. Wingard recommended continuing the hearing until next month to correct the notification process omissions.

PD Goebel reads a summary of the timeline of the file (Exhibit A).

PD Goebel reads the Department of Aviation's memo into the record (Exhibit B).

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**CMs** agree to wait to discuss the issues identified in the September 21, 2021 Work Session until the October 26, 2021 Planning Commission Meeting.

**PD Goebel** recommends a continuance so that he can fulfil the DLCDC notification requirement for the proposal.

**CM Thompson** agrees as there could be consequences for improper process in the future.

**Counselor Hostetter**, representing the applicant, makes the following assertions:

- He is and has been involved in the Joseph Airport Master Plan process.
- The Airport Land Use Compatibility Guidebook is a guide and not law.
- Wallowa County zoned the S&V Properties first as Industrial (M-1) and then as Recreation Residential (R-2). This could not have happened if it was in violation of Goal 12, Transportation. The DLCDC reviewed these changes and approved.
- The statement in ODA's memo that, "Therefore, ODA comments are applicable to BOTH airports and the County must comply with the Guidebook to be in compliance with the Land Conservation and Development Commission (LCDC) and DLCDC rules and regulations." is false. ODA does not have veto power. He notes that he will take the case to LUBA if Wallowa County decides to enforce ODA's guidelines.
- He urges the Commissioners to not hand over veto power to ODA and the FAA.
- The Joseph Master Plan does have a 'Reserve' area for potential aviation use. He has discussed this with "principles" in the Joseph Master Planning process that support residential use as an option. He cites Independence, Oregon as a successful example.
- He will provide a more detailed written rebuttal to the ODA memo prior to the next hearing.
- S&V Properties has been in contact with ODA regarding the potential of their 60 acres east of the Joseph Airport. It is zoned R-2 and this gives S&V the right to build residences there.
- The proposal is to create a zone with airports in mind that is more appropriate than EFU. This allows for economic development.
- He contends that S&V Properties and the Stangels will not use a new zone that gives ODA "veto power." Passing an Article 58 with "veto power" given to ODA would be "a waste of time."

**Sarah Lucas, Planner with Oregon Department of Aviation**, responds:

- ODA is not saying they have "veto power". ODA has noted that these are DLCDC laws and rules. DLCDC looks to ODA to make sure proposals comply with ODA guidelines. ODA cannot say this proposal is in compliance because

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- of the inclusion of residential use in the transitional zone. ODA's intent is compliance with standard land use planning for public use airports.
- Couns. Hostetter said that he spoke with "principles" of the Joseph Master Planning process. She assumes he meant the contractor, Century West Engineering. She has an email from Century West Engineering directing Mr. Hostetter to contact her as she is the lead planner on the master plan process. To date, she has not been contacted by him and neither has any of her colleagues.
  - Regarding the rezoning of S&V Properties' land to R-2, she needs to research ODA's involvement in the process. She maintains the Article 29 overlay still applies to the underlying zoning. While the prohibition on residential uses was removed from Article 29 by the Wallowa County Board of Commissioners, it did not properly notice DLCD of the final decision within the 10-year time limit; therefore, residential development is not allowed within the transitional surface.
  - ODA does not oppose development adjacent to the airport. There are many consistent and compatible development options adjacent to airports as demonstrated in Table 1 of Article 29.
  - The Independence State Airpark is a misleading comparison because it was a planned development that started in the 1970s.
  - The Sisters Airport is a more comparable example. She recommends contacting them. One specific challenge they are having is that neighboring landowners are refusing to sign liability release documents. In some cases, landowners are unable to build on their property.
  - The Guidebook was developed by order of LCDC to help local jurisdictions comply with DLCD rules. ODA is required by law to let DLCD know whether proposals comply with the Guidebook.
  - ORS 836 and OAR 660 are DLCD rules, they are not ODA rules. Mr. Wingard will be consulting with ODA and requesting ODA's opinion on compatibility.
  - Regardless of the assertions by Couns. Hostetter, there are no plans for residential use in the draft Joseph Airport Master Plan.

**CM Nave** asks Planner Lucas to describe the ODA review process.

**ODA Planner Lucas** responds that ODA is notified as part of the normal notification process. ODA then has the responsibility to provide their determination on whether a proposal complies with the Guidebook. The burden is then on the County to show DLCD how a proposal complies with state laws and regulations.

**CM Phillips** asks how to address the notification failure of the removal of Footnote 14 from Table 1 of Article 29.

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**ODA Planner Lucas** defers to DLCD since it is their process. It probably requires starting the process over again, but Mr. Wingard may have other options. ODA would oppose the change because it does not increase the safety of airport operations to have residential use in a transitional zone.

**CM Phillips** asks whether Seth Thompson, Aviation Planner for ODA, would like to add anything.

**ODA Planner Thompson** notes that hold harmless agreement can be useful, but a landowner has no requirement to sign one. Some landowners in Sisters purchased lots without the opportunity to sign one. Regardless, the county still has great potential for liability.

**CM Nave** asks whether the Commissioners are going to rewrite the amendment.

**PD Goebel** responds that the Commissioners have options. They may recommend approval of the amendment, approval of the amendment with changes, or denial of the proposal. The Planning Department could rewrite it under the direction of the Planning Commissioners.

**CM Nave** asks whether a re-written amendment would need to be renoticed?

**PD Goebel** responds that he will ask Mr. Wingard. The Planning Commissioners should also note that whatever is passed up to the Wallowa County Board of Commissioners will be noticed. [PD Goebel later spoke to Mr. Wingard, who noted that re-notice would not be required. However, a revised document would need to be submitted through the DLCD PAPA process.]

**CM Nave** is not interested in the amendment and doesn't think the burden is on the Planning Commissioners to rewrite it.

**CM Thompson** request clarification on how the proposal is classified.

**PD Goebel** responds that the proposal is a Comprehensive Plan amendment in the form of a new type of zone; however, the zone will be an option for certain landowners, not an automatic rezoning.

**CM Thompson** wants to make sure we follow proper procedure before rendering a recommendation.

**CM Thompson** moves to keep the AIRPORT DEV AMD#21-01 record open for further public comment, and for the continuance of the review to be on the October Planning Commission meeting.

**CM Tippett** seconds the motion.

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[CM Phillips – Yes;  
CM Tippet – Yes;  
CM Bullat – Yes;  
CM Nave – Yes;  
CM Thompson – Yes;  
CM DeSpain – Yes;

**Motion Passes 6-0-0]**

**CM Bullat** asks why the burden of rewriting the amendment should be on the Planning Commissioner?

**CM Thompson** worries that the Board of Commissioners may choose to approve it as it is written.

**CM Nave** notes that the Board of Commissioners could do that whether the Planning Commission tries to put forth a revised version.

**CM Tippett** asks if Article 29 is currently in compliance.

**PD Goebel** responds that if Footnote 14 of Table 1 remains in effect and the two column title scrivener errors mentioned in ODA's memo are fixed, it is in compliance.

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**4. OTHER BUSINESS**

None

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**CM Bullat** moves to adjourn the meeting.

**CM Tippett** seconds the motion.

[CM Phillips – Yes;  
CM Tippet – Yes;  
CM Bullat – Yes;  
CM Nave – Yes;  
CM Thompson – Yes;  
CM DeSpain – Yes;

**Motion Passes 6-0-0]**

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Meeting was adjourned at 8:18 PM

**Planning Commission Minutes  
September 28, 2021**

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Jean Jancaitis

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Date

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Exhibit A

Proposed Airport Development Zone AMD#21-01: Timeline and Notification (9/22/2021)



**WALLOWA COUNTY**  
 Planning Department  
 101 S River Street #105  
 Enterprise, Oregon 97828  
 541-426-4543 ext. 1170

**PROPOSED AIRPORT  
 DEVELOPMENT ZONE, AMD#21-01  
 TIMELINE & NOTIFICATION  
 9/22/2021**

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**TIMELINE**

| Date       | Action  |
|------------|---|
| 04/26/2021 | Amendment filed (Amendment to the Comprehensive Plan)   |
| 05/04/2021 | Neighboring property owner notice sent  |
| 05/10/2021 | Agency notification sent  |
| 06/09/2021 | Notice in the Chieftain of 6/29/2021 Planning Commission Public Hearing   |
| 06/16/2021 | Notice in the Chieftain of 6/29/2021 Planning Commission Public Hearing   |
| 06/23/2021 | Notice in the Chieftain of 6/29/2021 Planning Commission Public Hearing   |
| 06/29/2021 | Planning Commission Public Hearing where Planning Commissioners passed a motion to continue the legislative hearing and discussion at the next scheduled Planning Commission meeting and kept record open for comments. <p style="margin-left: 20px;">Present:</p> <ul style="list-style-type: none"> <li>Commissioners - Ramona Phillips, Chris Bullat, Gay Fregulla, Georgene Henson, Jim Nave</li> <li>Staff - Franz Goebel, Planning Director; Jean Jancaitis, Department Specialist</li> <li>Others present - Amy Mork, Janice Hill, Patrick and Sherry Burns, Judy Swank, June Colony, Dick Stangel, Lucas Stangel</li> </ul>   |
| 07/14/2021 | Notice in the Chieftain of 7/27/2021 Planning Commission Public Hearing   |
| 07/27/2021 | Planning Commission Public Hearing where Staff Report presented, public comments received, and Planning Commissioners kept record open for comments. A motion was passed to continue the legislative hearing and discussion at the next scheduled Planning Commission meeting on 8/31/2021. <p style="margin-left: 20px;">Present:</p> <ul style="list-style-type: none"> <li>Commissioners - Ramona Phillips, Chris Bullat, Georgene Henson, Jim Nave, Kim Tippett, Rob DeSpain</li> <li>Staff - Franz Goebel, Planning Director; Harold Black, Senior Planner</li> <li>Others present - Janice Hill, Dick Stangel, Lucas Stangel, June Colony, Rebecca Knapp, Kimberly Stoffel, Jeff Stoffel</li> </ul> |

## Planning Commission Minutes September 28, 2021



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 Planning Department  
 101 S River Street #105  
 Enterprise, Oregon 97828  
 541-426-4543 ext. 1170

**PROPOSED AIRPORT  
 DEVELOPMENT ZONE, AMD#21-01  
 TIMELINE & NOTIFICATION  
 9/22/2021**

| Date       | Action   |
|------------|--|
| 08/15/2021 | Notice in the Chieftain of 8/31/2021 Planning Commission Public Hearing  |
| 08/31/2021 | Planning Commission Public Hearing where the application's representative presented the proposal, public comments received, and Planning Commissioners requested a work session while keeping the record open for comments. A motion was passed to continue the legislative hearing and discussion at the next scheduled Planning Commission meeting on 9/28/2021.   |
|            | Present: <ul style="list-style-type: none"> <li>• Commissioners – Ramona Phillips, Chris Bullat, Jim Nave, Gay Fregulia</li> <li>• Staff – Franz Goebel, Planning Director; Jean Jancaitis, Department Specialist</li> <li>• Others present – Sharon Martin, Jean MacConnachie, Dick Stangel, Dan Niezen, Paula Krieger, John Kearns, Brian Rahn, Frances Buckles, Jared Hillock, Cindy Bowker, Rahn Hostetter, Christopher Strong, Rebecca Knapp, Greg Gollberg</li> </ul>  |
| 09/09/2021 | Emailed invitation for Special Public Work Session on 9/21/2021 to: <ul style="list-style-type: none"> <li>• Commissioners – Ramona Phillips, Chris Bullat, Jim Nave, Gay Fregulia, Kim Tippett, Rob DeSpain, Georgene Thompson</li> <li>• Staff – Franz Goebel, Planning Director; Harold Black, Senior Planner</li> <li>• Others – Dick Stangel, Dan Niezen, Paula Krieger, Brian Rahn, Jared Hillock, Rahn Hostetter, Lacey McQuead (City of Enterprise), Seth Thompson (Oregon Department of Aviation), Brock Eckstein (City of Joseph)</li> </ul> |
| 09/16/2021 | Notice in the Chieftain of 9/28/2021 Planning Commission Public Hearing  |
| 09/16/2021 | Notice in the Chieftain of 9/21/2021 of Special Public Work Session  |
| 09/21/2021 | Special Public Work Session where Planning Commissioners reviewed the text of the proposal and fleshed out issues to be discussed at the next scheduled quasi-judicial meeting on 9/28/2021. This session was not a decision-making forum, it was solely for detailed review.  |
|            | Present: <ul style="list-style-type: none"> <li>• Commissioners – Chris Bullat, Georgene Henson, Jim Nave, Rob DeSpain, Kim Tippett</li> <li>• Staff – Franz Goebel, Planning Director; Jean Jancaitis, Department Specialist</li> <li>• Others present – Paula Krieger, Brian Rahn, Dick Stangel, Rahn Hostetter, Lucas Stangel, Heather Peck, Sarah Lucas, Seth Thompson, Lacey McQuead</li> </ul>   |

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PROPOSED AIRPORT  
DEVELOPMENT ZONE, AMD#21-01  
TIMELINE & NOTIFICATION  
9/22/2021

| Date | Action |
|------|--------|
|------|--------|

**NEIGHBORING LANDOWNERS AND AGENCY NOTIFICATION**

Notification included the announcement of the June 29, 2021 Public Hearing and a copy of the proposed amendment. Notices were mailed to the below landowners within 500 ft. the Enterprise and Joseph airports and applicable agencies.

Here is a copy of the letter.

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WALLOWA COUNTY  
Planning Department  
101 S River Street #105  
Enterprise, Oregon 97828  
541-426-4543 ext. 1170

PROPOSED AIRPORT  
DEVELOPMENT ZONE, AMD#21-01  
TIMELINE & NOTIFICATION  
8/22/2021



WALLOWA COUNTY  
Planning Department  
101 S River Street #105  
Enterprise, Oregon 97828  
541-426-4543 ext. 1170  
Plansec@co.wallowa.or.us

April 29, 2021

Dear Property Owner:

The Wallowa County Planning Commission will hold a public hearing on June 29<sup>th</sup>, 2021 at the Wallowa County Courthouse in the Thornton Conference Room at 7:00 pm and online via Zoom (please check the Land Use Planning page on the Wallowa County website after June 1st for details) to consider a request for an amendment to our land use articles applied for by S&V Properties, LLC. The proposed amendment, AMD#21-01, would add a new airport adjacent zone called, **ARTICLE 58 AIRPORT DEVELOPMENT**. This amendment would not constitute a rezone of any parcel but could provide the opportunity for property owners adjacent to Enterprise or Joseph Airports to apply for a zone change.

As an owner within 500 feet of the subject airports or an individual/entity with other interests in the property, you are entitled to notice of this application, and you have the right to make comment in favor of or in opposition to its approval.

This request will be reviewed for conformance to the provisions of Articles 5, 8, 14, 24, 25, 29, and 36 of the Wallowa County Land Development Ordinances and any other applicable goal, regulation or ordinance of Wallowa County or the State of Oregon. For those who wish to review the above-mentioned Articles and Goals, please visit the County web site at <https://co.wallowa.or.us/community-development/land-use-planning/> and select ORDINANCE ARTICLES or COMPREHENSIVE PLAN from the menu on the left-hand side. All Ordinance Articles and Goals are available for review and/or purchase in the Planning Department.

Failure to raise an issue in writing or failure to provide sufficient specificity to afford the review authority an opportunity to respond to the issue precludes appeal on that issue to the Wallowa County Board of Commissioners and Land Use Board of Appeals.

**Written comments regarding this application must be received by this office by 3:00 p.m. on June 29<sup>th</sup>, 2021.** They may be delivered by hand or mail to the address at the top of this notice. Emailed comments are also acceptable. Copies of the full application may be reviewed in the Planning Department.

Sincerely,

Jean Jancalis  
Planning Specialist  
Wallowa County Planning Department

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 Planning Department  
 101 S River Street #105  
 Enterprise, Oregon 97828  
 541-426-4543 ext. 1170

**PROPOSED AIRPORT  
 DEVELOPMENT ZONE, AMD#21-01  
 TIMELINE & NOTIFICATION  
 9/22/2021**

**ENTERPRISE NEIGHBORING LANDOWNERS:**



STANGEL INDUSTRIES &  
 MACH SHOP  
 PO BOX 157  
 ENTERPRISE, OR 97828

STANGEL, RICHARD C & NANCY J  
 807 E GREENWOOD ST  
 ENTERPRISE, OR 97828

CAINE, MICHAEL J & KIRSTEN  
 1202 SAGEWOOD ST  
 ENTERPRISE, OR 97828

ENTERPRISE, CITY OF  
 108 NE FIRST ST  
 ENTERPRISE, OR 97828

WADDELL, ANDREA  
 1980 SE PARK AVE  
 OAK GROVE, OR 97222

ABLES, BILL L & JUDY M  
 61413 LIME QUARRY RD  
 ENTERPRISE, OR 97828

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September 28, 2021**



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 101 S River Street #105  
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**PROPOSED AIRPORT  
 DEVELOPMENT ZONE, AMD#21-01  
 TIMELINE & NOTIFICATION  
 9/22/2021**

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|---|--|--|
| KISS, CARL G<br>1102 SAGEWOOD ST<br>ENTERPRISE, OR 97828                                    | PAGANO, PAUL G ET UX<br>PO BOX 67<br>JOSEPH, OR 97846                      | LOCKE, DIANA<br>712 S HOLLADAY DR<br>AMMON, ID 83406                   |
| NEWTON, TIMOTHY W &<br>CRYSTAL M<br>401 PACE AVE<br>ENTERPRISE, OR 97828                    | KARLIN, RACHAEL ET VIR<br>203 PACE AVE<br>ENTERPRISE, OR 97828             | LATHROP, WILL & ARMINDA<br>65264 STEEN RD<br>JOSEPH, OR 97846          |
| MCLEOD, JOHN D &<br>GLENIS<br>PO BOX 897<br>LITTLEROCK, CA 93543                            | THOMPSON, JAKEB<br>203 LEONE<br>ENTERPRISE, OR 97828                       | MAASDAM, CAROLYN E<br>808 E GREENWOOD ST<br>ENTERPRISE, OR 97828       |
| NAISBITT, KRIS<br>301 W NORTH ST<br>ENTERPRISE, OR 97828                                    | STROHM, RANDY J & JONI M<br>205 PACE AVE<br>ENTERPRISE, OR 97828           | LDS CHURCH<br>708 E GREENWOOD ST<br>ENTERPRISE, OR 97828               |
| HILL, GEORGE T & JANICE<br>M<br>208 PACE AV<br>ENTERPRISE, OR 97828                         | LDS CHURCH<br>708 E GREENWOOD ST<br>ENTERPRISE, OR 97828                   | ARQUETTE, LUTHER D & SANDRA R<br>PO BOX 274<br>ENTERPRISE, OR 97828    |
| LDS CHURCH, FILE #503-<br>4256<br>50 NE TEMPLE ST 22ND<br>FLOOR<br>SALT LAKE CITY, UT 84150 | SLINKER, RANDALL & PAMELA<br>811 NW FIRST ST<br>ENTERPRISE, OR 97828       | HART, ALLEN J & SANDRA K<br>705 E MAIN ST<br>ENTERPRISE, OR 97828      |
| TAYLOR, LESLIE A ET AL<br>8810 SW OAK LANE<br>PORTLAND, OR 97223                            | STANGEL, RICHARD C & NANCY J<br>807 E GREENWOOD ST<br>ENTERPRISE, OR 97828 | BARSTAD, MALFRED & SUZANNE<br>608 E MAIN ST<br>ENTERPRISE, OR 97828    |
| CONCEPTS INVESTMENTS<br>LLP<br>515 S VISTA AVE<br>BOISE, ID 83705                           | MELMLLE, TIMOTHY J & AUDRY J<br>84887 JOSEPH HWY<br>ENTERPRISE, OR 97828   | BRIDGES, LESTER A & AVAE<br>805 E GREENWOOD ST<br>ENTERPRISE, OR 97828 |

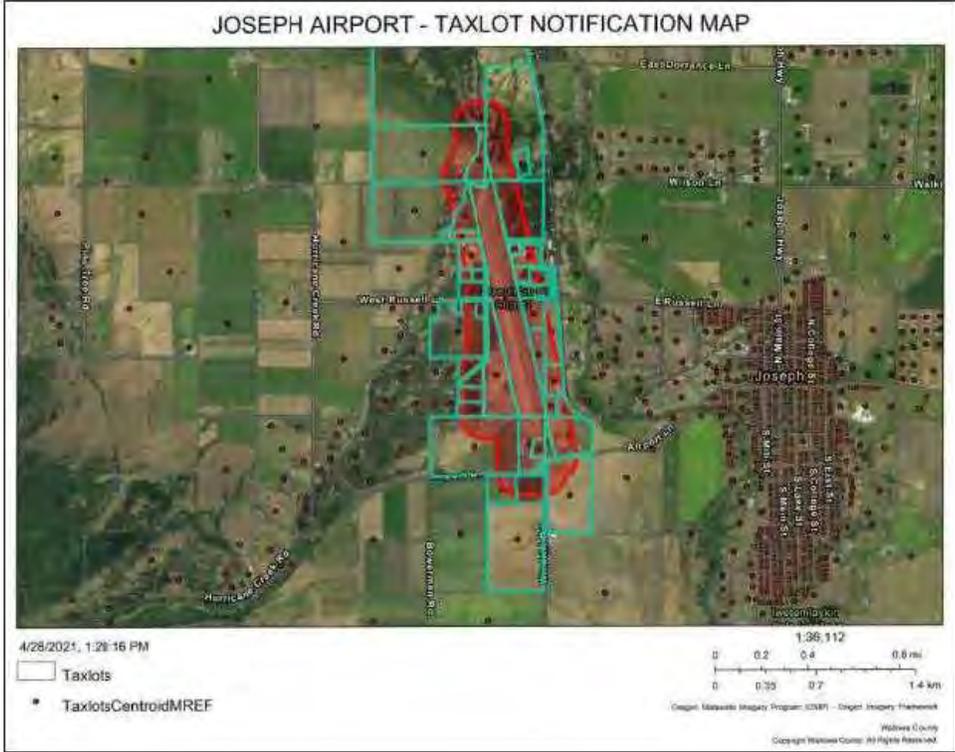
# Planning Commission Minutes September 28, 2021



WALLOWA COUNTY  
Planning Department  
101 S River Street #105  
Enterprise, Oregon 97828  
541-426-4543 ext. 1170

PROPOSED AIRPORT  
DEVELOPMENT ZONE, AMD#21-01  
TIMELINE & NOTIFICATION  
9/22/2021

JOSEPH NEIGHBORING LANDOWNERS:



S & V PROPERTIES LLC  
PO BOX 89  
JOSEPH, OR 97846

OREGON DEPARTMENT OF  
AVIATION  
4040 FAIRMEW INDUSTRIAL DR SE #2  
SALEM, OR 97302-1142

S & V PROPERTIES LLC  
PO BOX 89  
JOSEPH, OR 97846

**Planning Commission Minutes  
September 28, 2021**



**WALLOWA COUNTY**  
 Planning Department  
 101 S River Street #105  
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**PROPOSED AIRPORT  
 DEVELOPMENT ZONE, AMD#21-01  
 TIMELINE & NOTIFICATION  
 9/22/2021**

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|---|---|--|
| LENAHAN, JOHN J &<br>MARILYN S<br>PO BOX 129<br>ENTERPRISE, OR 97828            | SMERGUT, CASEY J & EMILY<br>4132 BONA VILLA DR<br>OGDEN, UT 84403         | BOTTS, CASSANDRA R<br>83654 EGGLESON LANE<br>ENTERPRISE, OR 97828  |
| JOSEPH CEMETERY MAINT<br>DISTRICT<br>62052 PRAIRIE CREEK RD<br>JOSEPH, OR 97846 | BAYLESS, BONNIE S<br>63851 WOODLAND LN<br>JOSEPH, OR 97846                | KLIEWER, STEPHEN P &<br>MARGARET<br>PO BOX 218<br>JOSEPH, OR 97846 |
| MCCRAB, KEVIN ET AL<br>11312 195TH AVE EAST<br>BONNEY LAKE , WA 98391           | JOSEPH, CITY OF (HANGER)<br>PO BOX 15<br>JOSEPH, OR 97846                 | COX, FLINT A & RONA J<br>63872 AIRWAY RD<br>JOSEPH, OR 97846       |
| STONE, DONALD L<br>83063 RUSSELL LN<br>JOSEPH, OR 97846                         | SETTERGREN, GENE H &<br>ELIZABETH<br>83428 RUSSELL LN<br>JOSEPH, OR 97846 | DUNHAM FAMILY TRUST<br>70823 DUNHAM RD<br>ENTERPRISE, OR 97828     |
| KISER, DON & PAM<br>PO BOX 359<br>JOSEPH, OR 97846                              | HOLCOMB, RUSSELL & DIANA (H)<br>64050 AIRWAY RD<br>JOSEPH, OR 97846       | SWANK, JUDY LINN<br>83093 W RUSSELL LN<br>JOSEPH, OR 97846         |
| GILBERT-NOBLES TRUST ET<br>AL<br>64120 AIRWAY RD<br>JOSEPH, OR 97846            | BUSHWHACK PROPERTIES, LLC<br>PO BOX 50<br>JOSEPH, OR 97846                | ROTZLER, RUSSELL J<br>83516 RUSSELL LN<br>JOSEPH, OR 97846         |
| DAWSON, JEFF J & CAROLYN<br>J<br>64290 AIRWAY RD<br>JOSEPH, OR 97846            | MCMULLEN, DAVID & BETTY ET<br>AL<br>64126 AIRWAY RD<br>JOSEPH, OR 97846   | DAWSON, JEFF J & CAROLYN J<br>64290 AIRWAY RD<br>JOSEPH, OR 97846  |
| BOWERMAN RANCH, LLC<br>62456 BOWERMAN RD<br>JOSEPH, OR 97846                    | STEEN, CONNIE J<br>16225 W PERRYDALE RD<br>SHERIDAN , OR 97378            | BRENNAN, JAMES & MARILYN<br>83440 E RUSSELL LN<br>JOSEPH, OR 97846 |

# Planning Commission Minutes September 28, 2021



WALLOWA COUNTY  
Planning Department  
101 S River Street #105  
Enterprise, Oregon 97828  
541-426-4543 ext. 1170

PROPOSED AIRPORT  
DEVELOPMENT ZONE, AMD#21-01  
TIMELINE & NOTIFICATION  
9/22/2021

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LATHROP, H MICHAEL &  
ANNETTE  
65264 STEEN RD  
JOSEPH, OR 97846

**AGENCIES:**

WC ROAD DEPARTMENT  
619 MARR POND LN  
ENTERPRISE, OR 97828

DAMD BATES, DISTRICT 7  
WATERMASTER  
401 NE 1ST ST #11  
ENTERPRISE, OR 97828

MATT HOWARD, ODF  
802 WEST HWY 82  
WALLOWA, OR 97885

ODF&W  
65495 ALDER SLOPE RD  
ENTERPRISE, OR 97828

BUREAU OF LAND MANAGEMENT,  
BAKER FIELD OFFICE  
3100 H STREET  
BAKER CITY, OR 97814

PATRICK WINGUARD, DLCD  
635 CAPITOL ST. #150  
SALEM, OR 97301-2540

LISA HAYES, DISTRICT 13  
OPERATIONS  
COORDINATOR  
3014 ISLAND AVE  
LA GRANDE, OR 97850

A copy of the notice was also emailed to:

- [Patrick.Wingard@state.or.us](mailto:Patrick.Wingard@state.or.us)
- [Sarah.Lucas@aviation.state.or.us](mailto:Sarah.Lucas@aviation.state.or.us)
- [Heather.Peck@aviation.state.or.us](mailto:Heather.Peck@aviation.state.or.us)

**Planning Commission Minutes  
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## Exhibit B

Memo from the Oregon Department of Aviation, Subject: Compliance with OAR 660-13 and ORS 836



**Oregon**  
Kate Brown, Governor

**Oregon Department of Aviation**

3040 25<sup>th</sup> Street SE  
Salem, OR 97302-1125  
Office: 503-378-4880  
Fax: 503-373-1688



**TO:** Franz Goebel, Planning Director, Wallowa County

**CC:** Members of Wallowa County Planning Commission  
Lacey McQuead, Administrator/Recorder, City of Enterprise  
Ashley Sullivan, Mayor, City of Enterprise  
Patrick Wingard, Regional Representative, DLCD  
Betty Stansbury, Director, ODA

**FROM:** Heather Peck, Planning & Projects Manager, ODA

**DATE:** September 24, 2021

**SUBJECT:** Compliance with OAR 660-13 and ORS 836

Oregon Department of Aviation (ODA) staff attended a Special Public Work Session of the Wallowa County Planning Commission on September 21, 2021. This memo is intended to clarify aviation-related requirements for compliance with Department of Land Conservation and Development (DLCD) rules and regulations for airport planning, as well as the Federal Aviation Administration's (FAA's) Airspace Requirements. It also supplements my memo dated 9/21/2021, wherein airport planning information was provided for you to disseminate among the Planning Commission.

**State and Federal Regulatory Oversight**

First, let it be clear: ODA and FAA do have statutory and regulatory oversight of both the Joseph State and Enterprise Municipal Airports, as they are public-use facilities. There appears to be confusion over this issue, as Joseph is state-owned and operated, and receives federal funding while Enterprise is owned and operated by the City of Enterprise.

- Oregon's planning system is predicated on conformance with the nineteen statewide planning goals. Requirements for meeting these goals are expanded in applicable state statutes and administrative rules, and must be embodied in local comprehensive plans adopted by each county and city. Each of these local plans must be acknowledged by the state Land Conservation and Development Commission (LCDC) as in fact conforming to the goals, statutes, and rules. Oregon Revised Statute (ORS) 836.619, *State Compatibility and Safety Standards for Land Uses near Airports*, states "Following consultations with the ODA, the LCDC shall adopt rules establishing compatibility and safety standards for use of land near airports ..." Statewide Planning Goal 12 is implemented via the Transportation Planning Rule (Oregon Administrative Rule (OAR)-660-12) that cites "for airports, the planning area shall include all areas within airport imaginary surfaces and other areas covered by state or federal regulations" [OAR-660-012-0020-2e]. These rules

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apply to all airports listed in Appendices L and N of the Oregon Airport Land Use Compatibility Guidebook, of which both Enterprise Municipal and Joseph State are listed. As a result, Wallowa County must comply with OAR 660 and ORS 836 for both airports. **Oregon's guidance to compliance is the Airport Land Use Compatibility Guidebook.** Therefore, ODA comments are applicable to BOTH airports and the County must comply with the Guidebook to be in compliance with LCDC and DLCD rules and regulations.

- On the federal level, BOTH airports are part of the national airspace system. The FAA has established Code of Federal Regulation (CFR) 14 Part 77 – *Safe, Efficient Use and Preservation of the Navigable Airspace* – which are more commonly referred to as “Imaginary Surfaces” to protect the airspace system. As a result there are specific notification requirements for development near a public-use airport (specific requirements listed later in memo). ODA is also required by state law (ORS 836.535 and OAR 738-070) to determine if a structure constitutes a hazard to air navigation.
- Furthermore, Joseph State is listed within the National Plan of Integrated Airport Systems (NPIAS) and receives federal funding. As a recipient of that federal funding, ODA must comply with specific grant assurances – one of which is Compatible Land Use, “take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations”. ODA meets this grant assurance with application of the Airport Land Use Compatibility Guidebook.

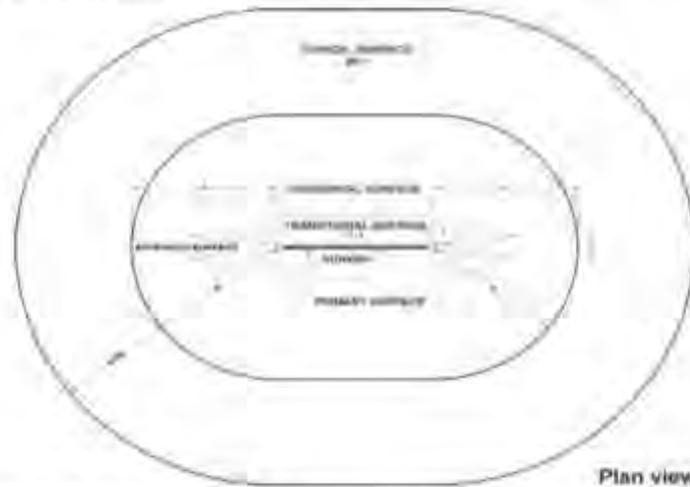
### Compliance with Oregon Land Use Laws

As clarified above, the Oregon Airport Land Use Compatibility Guidebook was developed by ODA for the LCDC, in coordination with DLCD and other agencies, as a roadmap to compliance for local jurisdictions and is enforceable by state law. “A city or county with planning authority for one or more airports, or areas within safety zones or compatibility zones described in OAR 660 Division 13, shall adopt comprehensive plan and land use regulations for airports consistent with the requirements of this division and ORS 836.600 through 836.630. DLCD Chapter 660 Division 13 implements ORS 836.600 through ORS 836.630 and Statewide Planning Goal 12. These rules are intended to promote a convenient and economic system of airports in the state and for land use planning to reduce risks to aircraft operations and nearby land uses.” In our review of Wallowa County’s Article 29, *Airport Protection Zone*, much of the Guidebook appears to have been incorporated – with two notable exceptions:

1. **Article 29, Table 1:** It is clear this table was adapted from the Guidebook’s Table 7-1. They are identical in all areas, except the column headings. The Guidebook lists the headings as such: RPZ (Runway Protection Zones), Approach Surface, Direct Impact Area, and Secondary Impact Area. The latter two columns were inexplicably replaced with Horizontal Surface and Conical Surface in Table 1 of Article 29. This is important, as the Direct Impact Area consists of the Transitional and Horizontal Surfaces. When Article 29 renamed this column, it effectively removed consideration of the transitional surface. For reference on where the transitional surface is, in relation to a runway, a high level diagram is included herein. The transitional surface is situated close-in, parallel to the runway.

## Planning Commission Minutes September 28, 2021

**FAR Part 77 Surfaces<sup>1</sup>**



2. **Article 29, Table 1, footnote 14:** Footnote was removed via AMD#08-02 on 9/17/2008. The Wallowa County Board of Commissioners (BOC) approved this amendment as it was properly noticed and all criteria were determined to be met. DLCD was noticed, but it is unclear if they provided comment. While ODA was listed as an affected agency, we cannot find any other evidence of notice mailed to ODA or comment received from ODA as a result of the notice. Upon current review, ODA opposes the Finding 6.5, which states "the proposed text amendment is in conformance with statewide planning goals and guidelines ... the portion of text proposed for removal was a recommendation from the ODA, not a requirement." It cannot be understated: conformance with ODA is a requirement, as put forth through DLCD's OAR 660 and ORS 836.
  - a. Upon further discussion with DLCD, ODA cannot recognize this amendment, as it was never properly noticed. The amendment is not acknowledged by DLCD as no notice of adoption was submitted by Wallowa County within the 10 year required time limit.

It is very concerning that Wallowa County has removed the transitional surface from consideration of their Airport Overlay. The Overlay should be reviewed by Wallowa County Planning staff to ensure compliance with LCDC/DLCD's airport planning rules. Again, the Airport Land Use Compatibility Guidebook was developed for that objective. We are unsure how the removal of transitional surface restrictions could benefit an airport or "reduce risks to aircraft operations and nearby land uses".

**State and Federal Notification Requirements**

<sup>1</sup> Diagram is for visual reference for readers unfamiliar with CFR 14 Part 77 surfaces. Length and width of surfaces will vary depend on runway visibility minimums.

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During the Work Session there was discussion as to what notification radius would be required for future development. ODA would like to remind the County of the following federal notification requirements for Airspace Review, which are also the same for ODA review (Tall Structures Program).

§ 77.9 — Any person/organization who intends to sponsor (owner or builder) any of the following construction or alterations must notify the Administrator of the FAA:

- **Any construction or alteration exceeding 200 ft above ground level<sup>2</sup>**
- Any construction or alteration
  - **within 20,000 ft of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with at least one runway more than 3,200 ft.<sup>3</sup>**
  - **within 10,000 ft of a public use or military airport which exceeds a 50:1 surface from any point on the runway of each airport with its longest runway no more than 3,200 ft.<sup>3</sup>**
  - within 5,000 ft of a public use heliport which exceeds a 25:1 surface
- Any highway, railroad or other traverse way whose prescribed adjusted height would exceed that above noted standards
- When requested by the FAA
- Any construction or alteration located on a public use airport or heliport regardless of height or location

Persons failing to comply with the provisions of FAR Part 77 are subject to Civil Penalty under Section 902 of the Federal Aviation Act of 1958, as amended and pursuant to 49 U.S.C. Section 46301(a).

FAA has the authority to deem any structure a hazard. It is because of this ODA included general comment #6 in our original letter dated 6/21/2021.

It is worth noting, if Wallowa County pursues Article 58 – as written – and permits development adjacent to either airport, it is possible neither the County nor the applicant will know if the structure(s) are hazards to air navigation until notice is provided to FAA (must be at least 45 days prior to construction). Submittal for FAA review typically occurs long after a subdivision has been approved through land use and each lot is surveyed, recorded, and sometimes sold.

### Compatible Land Uses

During the Work Session, ODA Staff noted several instances where the Planning Commission was unsure if a certain type of development was compatible with an airport. It appeared there was the possibility that compatibility would be determined on a case-by-case basis through Conditional Use Permits.

<sup>2</sup> Regardless of proximity to an airport.

<sup>3</sup> Joseph State Airport runway length is 5,200'

<sup>4</sup> Enterprise Municipal Airport runway length is 2,850'

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DLCD, in coordination with ODA, has created a list of airport-compatibility. It is included here for your reference. This is the standard for compliance with Oregon Statewide Planning Goals.

| <b>Table 3-4: Compatible Land Uses per FAR Part 77 Surfaces and FAA Safety Areas</b> |                 |                      |                    |                 |                  |                        |
|--|-----------------|----------------------|--------------------|-----------------|------------------|------------------------|
| <b>Legend:</b>   |                 |                      |                    |                 |                  |                        |
| C Generally compatible land use  |                 |                      |                    |                 |                  |                        |
| NC Incompatible Land Use   |                 |                      |                    |                 |                  |                        |
| • Not clearly compatible or incompatible, requires specific study                    |                 |                      |                    |                 |                  |                        |
| <b>Criteria for Compatibility:</b>   |                 |                      |                    |                 |                  |                        |
| 1. Does not exceed height standards  |                 |                      |                    |                 |                  |                        |
| 2. Does not attract large concentrations of people                                   |                 |                      |                    |                 |                  |                        |
| 3. Does not create a bird attractant   |                 |                      |                    |                 |                  |                        |
| 4. Does not cause a distracting light/glare  |                 |                      |                    |                 |                  |                        |
| 5. Does not cause a source of smoke  |                 |                      |                    |                 |                  |                        |
| 6. Does not cause an electrical interference   |                 |                      |                    |                 |                  |                        |
| 7. Does meet compatible DNL sound levels   |                 |                      |                    |                 |                  |                        |
| Land Uses  | Primary Surface | Transitional Surface | Horizontal Surface | Conical Surface | Approach Surface | Runway Protection Zone |
| <b>Residential</b>   |                 |                      |                    |                 |                  |                        |
| Residential, other than those listed below   | NC              | NC                   | •                  | C               | •                | NC                     |
| Mobile home parks  | NC              | NC                   | •                  | C               | •                | NC                     |
| Transient lodgings   | NC              | NC                   | •                  | C               | •                | NC                     |
| <b>Public Use</b>  |                 |                      |                    |                 |                  |                        |
| Places of public assembly (schools, hospitals, churches, auditoriums)                | NC              | NC                   | •                  | C               | NC               | NC                     |
| Government services  | NC              | •                    | C                  | C               | •                | NC                     |
| Transportation (parking, highways, terminals)  | NC              | •                    | C                  | C               | •                | •                      |
| <b>Commercial Use</b>  |                 |                      |                    |                 |                  |                        |
| Offices, business and professional   | NC              | •                    | C                  | C               | •                | NC                     |
| Wholesale & retail - building materials, hardware and farm equipment                 | •               | •                    | C                  | C               | •                | NC                     |
| Retail trade - general   | NC              | •                    | C                  | C               | •                | NC                     |
| Utilities  | NC              | •                    | •                  | •               | •                | •                      |
| Communication  | NC              | •                    | •                  | •               | •                | NC                     |
| <b>Manufacturing &amp; production</b>  |                 |                      |                    |                 |                  |                        |
| Manufacturing - general  | NC              | •                    | •                  | •               | •                | NC                     |
| Agricultural (except livestock) and forestry   | •               | •                    | C                  | C               | •                | •                      |
| Livestock farming and breeding   | NC              | •                    | •                  | C               | •                | NC                     |
| Mining and fishing, resource production and extraction                               | NC              | NC                   | •                  | •               | •                | NC                     |
| <b>Recreational</b>  |                 |                      |                    |                 |                  |                        |
| Outdoor sports arenas and spectator sports   | NC              | NC                   | •                  | C               | NC               | NC                     |
| Nature exhibits and zoos   | NC              | NC                   | •                  | C               | NC               | NC                     |
| Amusement parks, resorts and camps   | NC              | NC                   | C                  | C               | NC               | NC                     |

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|              |    |    |   |   |    |    |
|--------------|----|----|---|---|----|----|
| Golf courses | NC | NC | C | C | NC | NC |
| Parks        | NC | *  | * | * | *  | *  |

*\*Oregon Airport Land Use Compatibility Guidebook Excerpt, page 3-14.*

### **Written vs. Stated Intent of Article 58**

ODA has apprehensions regarding the stated purpose of Article 58, when compared to the actual discussion of the article's intent. Staff has recommended the purpose "is to allow for development and uses which may benefit from airport adjacency and/or through-the-fence access to the airport." The idea is the development zone would have the potential to create economic hub(s). However, much of the discussion was centered on residential development, and the need for more housing within the County. If housing is the impetus, it may be more appropriate to look at the Urban Growth Boundaries and determine if any adjustments are justified.

### **Point of Clarification: Joseph State Airport Master Plan**

There have been a few statements during recent Planning Commission meetings that have focused on the current Master Plan project for the Joseph State Airport. ODA would like to clear up a few of those points.

- On 8/31/ 2021, Counselor Hostetter incorrectly stated the current Master Plan project "is consistent with the proposal and the Master Plan includes some residential use." While it is true an area to the east of the airport was identified as an Aviation Development Reserve, there is absolutely no support for residential development in that area. If Mr. Hostetter had attended the public meetings, he would have understood that area was identified in the event demand for aviation facilities exceeded the 20-year forecast and couldn't be accommodated within the other development areas shown. The text states the "East Hangar Development Reserve: Areas identified for potential aviation use facilities with access to runway."
- Support for Article 58 has included statements that it would allow for expansion of the Joseph Charter School Aviation Program and that there is no room for expansion at the Joseph State Airport. These assertions are incorrect. There is developable space within the current airport boundary. If the Career and Technical Education (CTE) facility is an incentive for Article 58, it would seem inconsistent with residential development.
- Commissioners Nave and Bullat inquired on 8/31/2021 if Enterprise Municipal had a master plan. The discussion was that it did not because it is not owned by the state. Master planning occurs at all federally-funded airports; not just state-owned. Non-federally funded airports, such as Enterprise Municipal, can undergo a master plan process if they so desire.

### **Request for Additional Information**

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Moving forward, ODA asks for the following clarification/information from Wallowa County Planning:

- Was ODA noticed as a commenting agency or just as a property owner for the Joseph State Airport?
- My counterparts at DLCD said they have not received any notifications regarding the Comprehensive Plan Amendment or process that you have embarked on to date. What type of notification did you send them? Perhaps I have contacted the wrong division or maybe your amendment notification is still early in the Comp Plan amendment process. Either way it would be good to touch base with them since their review is required. In the meantime could you help me out with a few questions:
  - Have you submitted the Plan Amendment (PAPA) or was that part of your process? If so when was that submitted?
  - If yes, can ODA get a copy of the PAPA or a copy of the text submitted to DLCD?
  - Is your Comp plan amendment applicant/owner driven or County driven?
  - What category did you submit under?
  - Will it be including additional maps? Will the new development zone change a land use plan map?
  - What will the final process of incorporation into the development code look like? Will that be in a staff report?

Thank you for the opportunity to provide this additional information. I look forward to continued discussions.