Southwest Oregon Regional Airport

Airport Master Plan

Chapter Seven: On-Airport Land Use Planning

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Chapter 7. On-Airport Land Use Planning

The FAA released Order 5190.6C, *Airport Compliance Manual*, during February of 2026 to incorporate changes related to the FAA Reauthorization Act of 2024 (Public Law No. 118-63) as well as other policy and statute changes since the original 2009 version of Order 5190.6B including Changes 1 through 3. The Airport Compliance Manual provides basic guidance for FAA staff in interpreting and administering the various continuing commitments airport sponsors make to the United States as a condition for the grant of federal funds or the conveyance of federal property for airport purposes. Under the various federal grant programs, airport sponsors agree to assume certain federal obligations pertaining to the operation and use of the airport. These federal obligations are embodied in the application for federal assistance as sponsor or grant assurances.

Chapter 22 of FAA Order 5190.6C, *Land Use Changes and Releases of Federally Acquired and Federally Conveyed Land*, discusses the laws, regulations, policies, and procedures pertaining to an airport sponsor's request for a land use change or a release from federal obligations to permit the sale or conveyance of airport land. The FAA's authority to consent to or approve a change in land use or grant a release of obligations for the sale of the land depends on the type of obligating document, such as a property conveyance or grant agreement.

7.1 FAA Land Use Designations

FAA policy requires aeronautical land to be used for aeronautical purposes unless the FAA discharges the airport sponsor of that obligation. The FAA considers the aeronautical use of an airport to be any use that involves, makes possible, is required for the safety of, or is otherwise directly related to, the operation of aircraft. Aeronautical use includes services provided by air carriers related directly and substantially to the movement of passengers, baggage, mail and cargo on the airport. Limiting the use of aeronautical land and facilities to aeronautical purposes ensures that airport land and facilities are available to meet the aeronautical demand of the airport, including future demand. Aeronautical users should not be displaced by non-aviation commercial uses, especially those that could be conducted off airport property.

Land uses for airport purposes are directly related to the actual operation or the foreseeable aeronautical development of a public airport whose nonaeronautical components do not conflict with existing or foreseeable aeronautical demands. These uses do not require FAA consent or approval of land use. These are situations where a primary aeronautical facility has a nonaeronautical component that supports that facility's core aeronautical function within its operation. The nonaeronautical components should not impact existing aeronautical uses or conflict with existing or foreseeable aeronautical demands and should be paying a fair market value lease rate. Examples of these uses at OTH include terminal amenities, fixed base operator, service roads, air cargo staging, and parking.

Mixed uses at an airport include both aeronautical and nonaeronautical uses where the nonaeronautical use could be located off airport property. Mixed uses require FAA consent or approval. The FAA considers whether the nonaeronautical component will impact existing uses or

conflict with existing or foreseeable aeronautical demand. An example of a mixed use at OTH is cargo processing that expands into nonaeronautical elements.

All other uses that are not considered aeronautical use or airport purpose are deemed nonaeronautical uses. This includes any aviation-related uses that do not need to be located at an airport. Nonaeronautical uses are not afforded protection by the grant assurance and there is no federal requirement to accommodate nonaeronautical uses at an airport. Nonaeronautical uses require FAA consent or approval. Examples of nonaeronautical uses at OTH include commercial and industrial activities, parking, recreational, and a proposed hotel.

7.2 Release of Federal Obligations and Letter of Consent or Approval

The release from federal obligations is a formal, written authorization discharging and relinquishing all or part of the FAA's right to enforce an airport's contractual or deeded obligations. In some cases, the release is limited to releasing the airport sponsor from a particular grant assurance or federal obligation. In other cases, the release may permit the sale of airport property.

The FAA's action on a proposed land use change is documented in a letter of consent or a letter of approval. The letters serve the same purpose of granting a land use change. When the property was federally acquired, a letter of approval is issued. When the property was federally conveyed, a letter of consent is issued. Federally acquired land is land that was acquired with federal financial assistance including the Airport Improvement Program (AIP), Federal Aid to Airports Program (FAAP), Airport Development Aid Program (ADAP), and funding as part of an AP-4 agreement. It also includes sponsor-acquired land that was used for the sponsor match for an AIP grant or was swapped for AIP purchased land. Federally conveyed land is land conveyed to the airport sponsor by the federal government through a written deed of conveyance or instrument of transfer that contain specific restrictions or allowances for the use of the land.

7.3 FAA Land Use Authority on Sponsor Acquired Land

Under the FAA Reauthorization Act of 2024, Section 743, *Review of Airport Plans*, the FAA retains ALP approval authority on sponsor acquired land when the land use change materially impacts the safe and efficient operation of aircraft at, to, or from the airport, adversely affects the safety of people or property on the ground as a result of aircraft operations, or adversely affects the value of prior federal investments to a significant extent. When FAA does not have land use approval authority, the airport sponsor remains contractually obligated to act in accordance with all its grant obligations in managing the airport. The airport sponsor should retain sufficient authority over the land to prevent uses that conflict with its federal obligations and related requirements or create conditions resulting in violations of the grant assurances.

To retain their authority, airport sponsors should consider using subordination clauses, reservations, covenants, or other restrictions in deeds or other instruments, to protect the public's

right to fly over the land, prohibit obstructions to air navigation or interference with the flight of aircraft, and assure compatible land use. The deed or other instrument containing the restrictions should be recorded in local land records. The airport sponsor must manage the entire airport and its property in accordance with its obligations and comply with all federal, state, and local laws and regulations.

7.4 FAA Approval of a Land Use Change on Federally Conveyed Land

When the airport sponsor proposes to use federally conveyed land for a nonaeronautical use, mixed use, or interim use for revenue production, the airport sponsor must request and receive FAA consent to the land use change. Consent to a land use change does not constitute a release from sponsor obligations. FAA consent is not needed for a proposed land use that meets the definition of aeronautical use or airport purpose. This scenario is the most likely to occur at OTH, as much of the airport property was acquired via land transfer from the federal government in 1947. When an airport sponsor is ready to request a land use change, the following is submitted to the FAA:

1. Identification of the property and documentation on how the land was acquired (i.e., federal conveyance document, federal grant agreements, Exhibit "A").
2. The current use of the property.
3. The current and future aeronautical demand of the airport (e.g., airport master plan, forecasts, hangar waitlists).
4. Proposed use of the property and expected duration of the use.

In accordance with the Revenue Use Policy, nonaeronautical lease rates must be at fair market value. Airport sponsors considering requests to use airport land for recreational purposes who are planning future airport development projects should assess the applicability of Section 4(f) under the Department of Transportation Act of 1966.

During the FAA's evaluation of the airport sponsor's request, consideration is given to the following criteria:

1. The reasonableness and practicality of the request.
2. The effect of the request on needed aeronautical facilities.
3. The net benefit to civil aviation.
4. The compatibility of the proposal with the needs of civil aviation.
5. Compliance with any requirements under the National Environmental Policy Act of 1969.

7.5 Process for FAA Release of Federally Conveyed Land for Sale, Conveyance, or Exchange

The FAA Region or ADO decision to release federally conveyed property depends on the specific factors pertinent to the type of agreement and the release requested. The FAA Region or ADO must obtain written concurrence from the FAA's Airport Compliance Division (ACO-100) prior to releasing property for sale or conveyance.

The required documentation needed for the release of surplus airport property is outlined in 14 CFR §155.11, *Form and content of requests for release*. The sponsor's written request must be signed by an authorized official of the sponsor, submitted to the FAA Region or ADO, and include the following:

1. A description of how the property was acquired or obtained including all obligating agreement(s) and land conveyance documents to which the property concerned is subject.
2. A description of the present condition and use of property concerned.
3. The purpose for which the property was originally transferred to the airport.
4. The purpose of the release. The sponsor must show the property is no longer needed for the purpose for which it was acquired and not needed for present or foreseeable airport purposes.
5. A statement of the circumstances justifying the release based on the benefit to civil aviation, with supporting documentation.

   NOTE: Only benefits to the airport may be cited as justification for the release. The non-aviation interest of the sponsor or the local community – such as making land available for economic development – does not constitute an airport benefit that can be considered in justifying a release.
6. Maps, photographs, plans or similar material of the airport and the property concerned that are appropriate to determine whether the release is justified.
7. The proposed use and disposition of the property, including the terms and conditions of the proposed sale and the status of negotiations.
8. A certified copy of a resolution, ordinance, or similar documentation of the governing body of the airport sponsor obligating itself to use the proceeds of the sale exclusively for the development, improvement, operation, or maintenance of a public airport. (FAA Order 5190.6C, See section 22.21, *Determining Fair Market Value for Sale or Disposal*, for information on determining fair market value and section 22.13.d, *Distribution of Proceeds from the Sale or Conveyance of Federally Conveyed Property* for information on disposition of proceeds).
9. A suggested letter or other instrument of release that would meet the requirements of state or local law for the release requested.

In addition to the documents required under 14 CFR §155.11, the following items must be submitted:

1. A comparison of the relative advantage or benefit to the airport from the sale of the property as opposed to retention for rental income.
2. Height limit computations to limit the height of fixed objects to ensure navigation and compatible land use. It is essential to prevent an incompatible obstruction to air navigation from being located on or near the airport on property the airport once owned.
3. An updated Exhibit "A".

Following FAA approval of release of federally conveyed airport land, the FAA Region or ADO will issue a letter or other instrument of release. The release will include any special conditions, qualifications, restrictions, cite the agreements affected, and identify specific areas or facilities involved. The release will include provisions addressing the continuing right of flight, restrictions on the property, and approval of the use of the proceeds as described below.

1. The instrument of release must specify that the sponsor is obligated to include in any deed, lease, or other conveyance of a property interest to another a reservation assuring the public rights to fly aircraft over the land released and to cause inherent aircraft noise over the land released. The following language must be used:

   This is hereby reserved to the (full name of the grantor or lessor), its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein (state whether conveyed or leased). This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operation on the (official airport name).
2. The instrument of release must specify that the sponsor is obligated to include in any deed, lease, or other conveyance of a property interest to others, a restriction that:
   a. Prohibits the erection of structures or growth of natural objects that would constitute an obstruction to air navigation; and
   b. Prohibits any activity on the land that would interfere with or be a hazard to the flight of aircraft over the land or to and from the airport, or that interferes with air navigation and communication facilities serving the airport. These restrictions are set forth in the instrument of release and identify the applicable height limits above which no structure or growth is permitted. The airport sponsor will compute these limits according to the currently effective FAA criteria as applied to the airport. The ADO, regional airports division, and airport sponsor will not incorporate advisory circulars, design manuals, Federal Aviation Regulations (found in Title 14 Code of Federal Regulations (CFR)), or other such documents by reference in the instruments or releases issued by the FAA in lieu of actual computed limits.
3. FAA's approval of how the proceeds from the sale will be allocated.

The sponsor must provide the FAA Region/ADO with any acknowledgment or copies of executed instruments or documents as required for FAA record purposes.

The release of federally conveyed airport land for sale or disposal shall be at fair market value and subject to the airport sponsor's written commitment that it has obligated itself to use the proceeds from the sale exclusively for developing, improving, operating or maintaining a public airport. The FAA shall not issue a release without this commitment:

1. The net proceeds realized from the sale of surplus property – or the equivalent amount if the property is not sold – must be placed in an identifiable interest-bearing account to be used for the purposes listed in 2 below.
2. The proceeds of sale must be used for one or more of the following purposes as agreed to by FAA and reflected in the supporting documentation for the deed of release:
    a. Eligible items of airport development set forth in the current airport grant program and reflected in the airport's capital improvement program (CIP).
    b. Any aeronautical items of airport development not eligible under the grant program.
    c. Retirement of airport bonds that are secured by pledges of airport revenue, including repayment of loans from other federal agencies.
    d. Development of common use facilities, utilities, and other improvements on dedicated revenue production property that clearly enhances the revenue production capabilities of the property.
3. All aeronautical improvements funded by the proceeds of sale will be accomplished in accordance with current applicable FAA design criteria or such state standards as have been approved by the FAA.
4. Any interest earned by the account holding the proceeds of sale may be used for the operating and maintenance of the aeronautical portion of the airport or to enhance the revenue producing capability of the aeronautical activities at the airport.

The FAA generally will not release more property than the airport sponsor has requested and may decline to release the entirety of the parcel(s) requested. The statutes, regulations, and policy applicable to the specific types of agreements involved will guide the decision to grant or deny the request. When evaluating a sponsor's request to release property for sale or conveyance, the FAA Region or ADO will evaluate the total impact of the sponsor's proposal on the airport and the airport sponsor's federal obligations.

After evaluating the airport sponsor's request, the FAA Region or ADO will take the following actions before issuing the release documentation:

1. Obtain written consent from ACO-100.
2. Ensure NEPA coordination with the FAA Environmental Protection Specialist (EPS).
3. Obtain a Release of any National Emergency Use Provision (NEUP) in conveyance documents, if applicable.
4. Issue a public notice for comment, if applicable.

7.6 On Airport Land Use Planning at OTH

OTH was originally built, owned, and operated by the federal government for use as a military facility. In 1947, the federal government declared OTH to be surplus property and transferred ownership to the City of North Bend via Instrument of Transfer (WAA-32-RPD-171) on September 15, 1947. In 1967, the City of North Bend sold a portion of OTH back to the federal government for use as a U.S. Coast Guard Air Station. Subsequently, the City of North Bend transferred its property interest in OTH to the Coos County Airport District (CCAD) in 2005 along with all of the stipulations stated in the Instrument of Transfer. A list of the notable, but not all of the stipulations are paraphrased below:

- That all of the property transferred shall be used for public airport purposes, and only for such purposes, on reasonable terms and without unjust discrimination and without grant or exercise of any exclusive right for use of the airport.
- That the entire landing area and all structures, improvements, facilities and equipment of the airport shall be maintained at all times in good serviceable condition to assure its efficient operation.
- That insofar as is within its powers and reasonable possible, the party of the second part, and all subsequent transferees, shall prevent any use of land either within or outside the boundaries of the airport, including the construction, erection, alteration, or growth of any structure or other object thereon, which use would be a hazard to the landing, taking off, or maneuvering of the airport, or otherwise limit its usefulness as an airport.
- That the building areas and non-aviation facilities shall be used, altered, modified, or improved only in a manner which does not interfere with the efficient operation of the landing area and of the airport facilities.
- That itinerant aircraft owned by the United States of America shall at all times have the right to use the airport in common with others; provided, however, that such use may be limited as may be determined at any time by the Civil Aeronautics Administration or the successor Government's use to less than 25 percent of capacity of the landing area of the airport.
- Government use of the airport shall be without charge of any nature other than payment for damage caused by such itinerant aircraft.
- That the airport may be successively transferred only with the approval of the Civil Aeronautics Administration or the successor Government agency, and with the provision that such subsequent transferee assumes all the obligations imposed by the provisions of this instrument.

All of the area shown in Figure 7-1 is subject to the Instrument of Transfer described above, except for the U.S. Coast Guard. The blue shaded area represents CCAD property that contains water and mud flats. This area is approximately 263 acres and is not suitable for nonaeronautical development. Accordingly, the water and mud flats should continue to be protected as aeronautical use areas and designated as such on the Airport Layout Plan (ALP).

The red shaded area of Figure 7-1 represents CCAD property that contains existing nonaeronautical uses, such as the Bureau of Land Management (BLM), Oregon Department of

Human Services (ODHS), Oregon State Police (OSP), North Bend Senior Center, the Enterprise Business Center, United Parcel Service (UPS), Airport Heights Park, Peterson CAT, and other light industrial uses. The total nonaeronautical use areas at OTH is approximately 98 acres and largely constrained by terrain or too disconnected from the airfield to be suitable for aeronautical uses. Consequently, the red shaded areas should be designated nonaeronautical use on the ALP and developed with compatible nonaeronautical uses that generate fair market value revenue to the CCAD or released for sale.

The existing nonaeronautical uses described previously are expected to remain in place for the foreseeable future through long-term leases. The large parcel south of the City of North Bend Waster Water Treatment Plant is approximately 45 acres and has the most space available for development. Future uses in this area should be focused on revenue generating compatible commercial or industrial uses. South of Colorado Avenue between the Department of Human Services facility and the Enterprise Business Center, there is a 2.5-acre parcel suitable for commercial and industrial uses or additional parking.

The remainder of the airfield at OTH that contains the runways, taxiways, safety areas, object free areas, runway protection zones, aprons, hangars, navigational aids, fixed base operator, terminal, and terminal parking are considered aeronautical uses, or uses for airport purposes, and should be protected as such. This area is adequate to accommodate the forecast aeronautical needs of OTH through the 20-year planning period.

The infield between the closed runway, Runway 5-23, and Runway 13-31 will continue to be reserved for future aeronautical development as the need arises. The area between West Airport Way, East Airport Way, and Maple Leaf is suitable for future aviation business development and supporting infrastructure, as it has direct connectivity to the apron and streets. There is an opportunity to convert the 0.3-acre parking lot at the OSP facility to passenger terminal parking, then move the current OSP parking to the storage yard on the other side of the building.

The runway protection zone (RPZ) south of Runway 31 extends outside of the CCAD property boundary. Future opportunities should be explored as circumstances dictate to acquire or otherwise protect the RPZ from incompatible uses. An example is the Pony Creek parcel, which presents an opportunity to protect the RPZ and the approach corridor to Runway 31.

Figure 7-1 On-Airport Land Use Plan
Southwest Oregon Regional Airport

Source: Ardurra, 2026