



Oregon

Kate Brown, Governor



3040 25th Street, SE
Salem, OR 97302-1125
Phone: (503) 378-4880
Toll Free: (800) 874-0102
FAX: (503) 373-1688

MEMORANDUM

DATE: September 8, 2015

TO: Oregon Aviation Board

FROM: Jeff Caines, AICP – Aviation Planner

SUBJECT: Sunset Airstrip & Sunset Orchards Estates

The Owner of Sunset Orchards Estates requests the Oregon Aviation Board to amend Airport License #16 – Sunset Airstrip to include the property recently included in Washington County's Comprehensive Plan including but not limited to associated Planning Elements and Policies.

In 2013 Washington County Board adopted A-Engrossed Ordinance 772 to amend Policy 28 AIRPORTS and adopt a new development code overlay zone (Residential Airpark Overlay District). This newly created overlay district is located both north and south of the existing Sunset Airstrip (License #16) located south of North Plains and approximately 3.6 miles northwest of RW 13-31 at the Portland Hillsboro Airport (HIO).

The original airport was approved in August 1967 and later modified to increase the number of based aircraft from 25 to 50 in July 1973. This specific request by Sunset Orchards Estates is to modify the license to increase the airport boundary as defined by ORS 836.640(1) which *"includes the combined public and private properties that are permitted to have direct access to the airport runway by aircraft"* to match Washington County's approved documents.

Attached is a brief history of both the Sunset Airstrip and Sunset Orchards Estates with supplemental supporting documentation.

Action Item:

Department Staff requests the Board take the following action with regards to this request and modification to the Sunset Airstrip license:

- Approve the new airport boundary to match adopted Washington County plans and policies to modify the Sunset Airstrip license to include the area identified as Sunset Orchards Estates to reflect Washington County's Airport Policy #28 and overlay districts.
- Recognize that 50 aircraft can be based at Sunset Airstrip and distributed between the Sunset Airpark and Sunset Orchard Estates.
- Confirm Conditions of Approval as stated in the July 20, 1973 letter to Roth Development, consistent with Oregon Department of Justice's letter dated September 18, 1973 for all properties located within the modified airport boundary.
 - No more than 50 aircraft, belonging to owners/residents of property adjacent to Sunset Airstrip, may be based at Sunset Airstrip. Terms and conditions under which these permanently based aircraft may operate from the Sunset Airstrip are subject to periodic review and revision by the Oregon State Board of Aviation.
 - In the event it becomes necessary for the operation of Portland-Hillsboro Airport (HIO), all property owners within the revised airport boundary agree to grant to the Port of Portland, without charge, airspace easements over the runway and taxiways leading to Sunset Airstrip
 - The Sunset Airstrip shall be constructed and maintained to meet at least minimum airport standards established by the Oregon Board of Aviation.
 - Ingress and egress to the airport will be conducted in accordance with procedures coordinated with the Chief, Hillsboro Airport Air Traffic Control Tower and the Oregon State Board of Aviation. These procedures will include, but are not limited to:
 - Arrival paths
 - Departure paths
 - Communication requirement
 - Communication procedures
 - Air Traffic Control instructions
 - No take-off or landing will be accomplished at the Airstrip when weather conditions at the Sunset Airstrip, or being reported by the Hillsboro Air Traffic Control Facility, are less than required for operation under the Visual Flight Rules of the Federal Aviation Administration (FAA).
 - At each end of the runway, there shall be established and maintained a sign directing pilots who are about to take off to contact the Hillsboro Traffic Control Facility for traffic advisory information.
 - Any substantial failure by licenses or assigns to comply with conditions of the license as stated herein, or of the letter of agreement with the Hillsboro Traffic Control Tower, shall constitute cause for the Board of Aviation to institute revocation procedures for the airport license under provision of ORS 836.110.

History:

Sunset Airstrip

May 22, 1967 – Application for Sunset Airstrip was filed with FAA. It was proposed as a 2,200'x140' turf runway.

July 10, 1967 – Board of Aeronautics held a public hearing about the Sunset Airpark.

August 11, 1967 – Sunset Airpark was approved by the Oregon Board of Aeronautics; in the letter it states “Any change in the character of the use as proposed by you in your request for approval of this site must be approved by the Board.”

August 11, 1967 – The FAA states in a letter to Mr. Roth (Sunset Airstrip) that the FAA “has determined that the proposed airport would adversely affect the safe and efficient use of airspace by aircraft due to its proximity to the existing Portland-Hillsboro Airport.”

September 6, 1968 – Board granted approval – but specifically identified four (4) conditions of approval:

- 1) No more than 25 families with aircraft shall have easements for the use of the airstrip at any one time.
- 2) Sunset Airpark will grant Portland-Hillsboro airspace easements without charge.
- 3) Airstrip will be constructed to meet minimum airport safety standards
- 4) Ingress and egress to the airport will be coordinated with the HIO Control Tower including:
 - a. Arrival Paths
 - b. Departure Paths
 - c. Traffic Patter
 - d. Communication requirement
 - e. Communication procedures
 - f. Air Traffic Control Instructions

January 20, 1970 – Division of Aeronautics re-issues Sunset Airpark Airport License #16 again stating the conditions of approval from September 6, 1968 (Annual Renewal Letter).

March 20, 1973 – Port of Portland wrote a letter objecting to the airport due to future FAA capital improvements to HIO. The letter indicated that the Port will conduct a Master Plan for HIO and any decisions about Sunset Airpark should be delayed.

March 20, 1973 – Sunset Airpark requests an increase in the number of based plans. The airpark requested that the possible increase in the number of based aircraft be heard at the next Board meeting (March 30, 1973).

April 19, 1973 – The Port of Portland requested that the decision to increase the number of based aircraft from 25 to 50 be delayed “until after completion of the Portland-Hillsboro Airport Master Plan Study.”

July 20, 1973 - Division of Aeronautics issues an amendment to the Sunset Airpark Airport License #16, which becomes part of the valid license. Item #1 states that “no more than fifty (50) aircraft belonging to owners or residents of property adjacent to Sunset Airstrip may be based at Sunset Airstrip.”

August 2, 2073 – Sunset Airstrip requests that Condition of Approval #1 be revised to state “No more than 50 airport access easements ...”

September 18, 1973 – Oregon DOJ issued a guidance letter to the Division of Aeronautics giving guidance on the issue of aircraft vs easements. In summary DOJ stated that the number of easements is not a matter of air safety, rather the number of airplanes based at the airstrip is a matter of safety.

November 27, 2003 – Washington County adopts Development Code standards for Private Use Airports, which includes Sunset Airpark. (CDC 385 & CDC 386 – WA CO Ordinance # 609).

Sunset Orchards Estates

October 2007 – A Notice of Development was mailed to the Department of Aviation for the development of properties north and south of Sunset Airstrip (Sunset Orchards). This development included a 20 lot subdivision and property line adjustments.

April 2009 – Notice of Development was mailed to the Department of Aviation for a 15 lot subdivision and property line adjustments.

October 22, 2013 – Policy 28 was amended to include Sunset Orchards Overlay was formally adopted by Washington County. It also included a new section of the Washington County Development Code (CDC 389) which only covers Sunset Orchards Estates.

In summary: Sunset Airpark has a long history with the Department of Aviation and Hillsboro Airport due to its location and flight activity. Washington County amended its comprehensive plan (i.e., Policy 28) to include Sunset Orchards Estates while creating a new and separate development overlay zone (CDC 389) which is separate than the one covering Sunset Airpark (CDC 385 & 386).

**FEDERAL AVIATION AGENCY
NOTICE OF LANDING AREA**

- ESTABLISHMENT } Complete All Sections
 ALTERATION }
 DEACTIVATION Complete Sections A and I only

NAME OF PROPONENT (Individual or Organization)

Roth Development, Incorporated

ADDRESS (Number, Street, City, Zone and State)

3323 S. W. Harbor Drive
Portland, Oregon 97201

A. LOCATION OF LANDING AREA (Attach aeronautical chart showing plotted position)

1. NEAREST CITY OR TOWN Hillsboro	2. COUNTY Washington	3. STATE Oregon	4. DISTANCE AND DIRECTION FROM NEAREST CITY OR TOWN Miles: 3.41 Direction: S 21 W	
5. NAME OF LANDING AREA	6. LATITUDE 45° 34' 20"	7. LONGITUDE 122° 57' 42"	8. ELEVATION 200'	

B. PURPOSE (If new landing area - state if landing area is for public or limited private use; list localities to be served. If alteration - briefly describe proposed changes and reasons therefor.)

Limited Private Use - To serve the immediately adjacent housing in an airstrip - residence development.

DATE CONSTRUCTION	To Begin: 15 July '67
	Estimated to be Completed Sept. '67

C. OTHER LANDING AREAS WITHIN 20 MILES

1. NAME	2. MILES TO	3. DIREC. TO
Hillsboro Airport	2.33	S 18 1/2 E
Scappoose Airport	14.80	N 19 3/4 E
Portland International	17.99	N 85 E
Beaverton Airport	9.24	S 57 E

F. OBSTRUCTIONS WITHIN 5 MILES (If available, attach U.S. Geological Survey quad sheet or equivalent; show obstructions in accordance with applicable obstruction criteria. Also attach master plan if available.)

1. TYPE OF OBSTRUCTION	2. MILES TO	3. DIREC. TO
Hills - 1,000'	5	North
No other obstructions		

D. LANDING AREA DATA

INDICATE MAG. BRG. OF R/WAYS		160-340		
3. TYPE OF SURFACE	Actual			
	Proposed	Turf		
1. LENGTH OF RUNWAY (Feet)	Actual			
	Proposed	2,200'		
2. WIDTH OF RUNWAY (Feet)	Actual			
	Proposed	140'		
4. DIRECTION OF PRINCIPAL APPROACH		N	5. DIRECTION OF PREVAILING WIND: NE	

G. OPERATIONAL DATA

1. NO. AND TYPE OF BASED AIRCRAFT (Annually)	PRESENT	ANTICIPATED
	Append Letter E if estimated.	
Multi-engine		None
Single engine	E5	E12
2. NO. AND TYPE OF LANDINGS (Monthly)	None	None
	General Aviation	E25
3. ARE IFR OPERATIONS ANTICIPATED <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, WITHIN _____ YRS.		

H. LICENSING (Check applicable boxes)

Application for airport licensing
 has been made to will be made to not required
 State County Municipal Authority

E. NOISE ABATEMENT FACTORS (Distance and direction to schools, hospitals, churches and residential areas within 2 miles)

1. IDENTIFY	2. MILES TO	3. DIREC. TO
Church	1 3/4 est.	WNW

I. CERTIFICATION

I hereby certify that all of the above statements made by me are true, complete and correct to the best of my knowledge.

SIGNATURE OF PERSON MAKING CERTIFICATION

 Date: 5/22/67 Title: Director

BOARD MEMBERS

WILLIAM F. MADDRON, EUGENE, CHAIRMAN
ROBERT E. VEATCH, KLAMATH FALLS
VICE-CHAIRMAN
ALVA C. GOODRICH, BEND
JOHN Y. LANSING, PORTLAND
ROGER LOENNIG, HAINES



STATE OF OREGON
BOARD OF AERONAUTICS
3040 25TH STREET S.E.
SALEM 97310

ROTH DEVELOPMENT, Inc.

AIRPORT SITE HEARING
HILLSBORO

The hearing was held in the Washington County Court House, at 2000 PDT, July 10, 1967. The attendance record is attached to this resume of comments.

DR. JOHN ROTH:

He and two other persons planned this as a residential type strip, houses with attached hangars. They intend to restrict the use of the strip to those persons having home sites there as much as possible. They have planned it for one acre for each home site. It is planned for VFR operations only, and their forecast is for one operation per day during the week, and five per day on weekends. The pattern would be at 500', and all aircraft using the strip would be in contact with the Hillsboro tower. The strip will have white 'X's on it.

HOLT WARRENS:

Has operated out of Olingers strip for years and had no traffic conflict with Hillsboro traffic.

MERRILL ROTH:

They intend to make every effort to promote safety.

ROLAND SMITH:

The General Aviation Division, Port of Portland, is opposed to the approval of this strip for traffic conflict reasons. Their future development plans would make runway 12 an ILS runway and this site would be in the approach area. They have recently changed their taxiway construction project to provide the minimum clearances required for an IFR approach. He feels that FAA might refuse an ILS at Hillsboro if this site is approved. He felt that this airport is not needed since it is less than two miles from a General Aviation Airport.

NORMAN RALSTON:

Feels that any person should be able to keep his ship at his home.

ERNEST ZUCHER:

Lives across the road, north, and a short distance west. He is opposed because the strip would have an adverse effect on homesite development on his property. He has taken no action as yet, but has it under consideration. He feels that low flying aircraft would disturb his cattle, although aircraft from Hillsboro do not affect the cattle.

There were no representatives of the FAA at this hearing. The chief of the Hillsboro tower was contacted by phone, 10 July 67, regarding the hearing. He stated that they knew of the hearing, but would not attend.

Hillsboro/Roth

August 11, 1967

Merrill R. Roth
Roth Development, Incorporated
811 NW 23rd Avenue
Portland, Oregon

Dear Mr. Roth:

This letter will constitute a certificate of approval provided for in Oregon Revised Statutes 492.170 for your airport site located at latitude 45° 34' 20", longitude 122° 57' 42" in Washington County. This approval is for a private airport for the use of the residents alongside the airport as you proposed, and is not for general public use. We request that you contact the Federal Aviation Administration's control tower at Hillsboro Airport to arrange for airport advisory service.

The Board, in granting this approval, determined that your site is adequate for the airport, that it does conform with minimum standards of safety, and that air traffic patterns are safe as you proposed and do not conflict with other traffic patterns.

The Board discussed and considered, regarding your site, the general public interest and safety, the safety of persons receiving instruction concerning, operating, using or traveling in aircraft, and the safety of persons or property on land or water, and the development and promotion of aeronautics in Oregon.

Any change in the character of the use as proposed by you in your request for approval of this site must be approved by the Board.

This certificate of approval for your airport site does not supersede the requirements of other government agencies.

The effective date of this approval is August 8, 1967.

Sincerely,

Robert W. Dunn
Director

mj

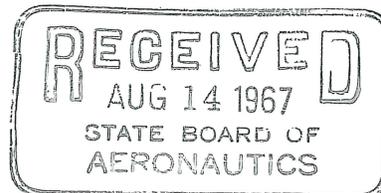
cc: Washington County Planning Commission
Federal Aviation Administration - Seattle

OSBA

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
SEATTLE AREA OFFICE
FAA BUILDING, BOEING FIELD
SEATTLE, WASHINGTON 98108

August 11, 1967

IN REPLY
REFER TO: SEA-600



Mr. Merrill R. Roth
Roth Development, Inc.
3323 Southwest Harbor Drive
Portland, Oregon 97201

Dear Mr. Roth:

Reference is made to your "Notice of Landing Area Establishment", Form FAA-2681, dated May 22, 1967, proposing establishment of an airport approximately 2 1/3 miles northwest from the Portland-Hillsboro Airport, Hillsboro, Oregon.

It has been determined that the proposed airport would adversely affect the safe and efficient use of airspace by aircraft due to its proximity to the existing Portland-Hillsboro Airport. Establishment of the proposed airport would adversely affect the safety of aircraft operating from the Portland-Hillsboro Airport as well as those operating from the new airport.

A copy of this letter is being furnished to Mr. Robert W. Dunn, Director, Oregon State Board of Aeronautics, for his information. If you have further questions concerning this matter, please do not hesitate to contact this office.

Sincerely yours,

Original signed by
Robert O. Blanchard

Robert O. Blanchard
Area Manager

Enclosure
Form FAA 2681

September 6, 1968

Dr. John G. Roth
Roth Development, Inc.
1600 Northeast 25th Street
Hillsboro, Oregon 97123

Dear Dr. Roth:

This letter will constitute a certificate of approval provided for in Oregon Revised Statute 492.170 for the Sunset Airstrip site at North Plains, Oregon, as requested by you.

The Board, in granting this approval, determined that this site is adequate for this airport, that it does conform with minimum standards of safety, and that air traffic patterns can be established that do not conflict with other traffic patterns.

The Board, in granting this approval, placed certain conditions as part of the approval. These conditions are:

1. No more than 25 families with aircraft shall have easements for the use of the airstrip at any one time.
2. In the event it becomes necessary for the operation of Portland-Hillsboro Airport, Roth Development, Inc. agrees to grant to the Port of Portland, without charge, airspace easements over the runway and taxiways at Sunset Airstrip.
3. The Sunset Airstrip shall be constructed to meet at least the minimum airport standards established by the Board of Aeronautics.

Dr. John G. Roth
September 6, 1968
Page 2

4. Ingress and egress to the airport are conducted in accordance with procedures coordinated with the Chief, Hillsboro Airport Traffic Control Tower and the Oregon State Board of Aeronautics. These procedures will include but are not restricted to:
 - a. Arrival paths
 - b. Departure paths
 - c. Traffic pattern
 - d. Communication requirement
 - e. Communication procedures
 - f. Air traffic control instructions

Regarding your site, the Board discussed and considered the general public interest and safety, the safety of persons receiving instruction concerning, operation, use, or travel in aircraft, and the safety of persons or property on land or water, and the development and promotion of aeronautics in Oregon.

Any change in the character of the use as proposed by your request for approval of this site must be approved by the Board. This certificate of approval for your airport site does not supersede the requirements of other governmental agencies. The effective date of this approval is September 3, 1968.

Sincerely,
ROBERT W. DUNN, Director

Ralph W. McGinnis
Assistant Director for Safety

January 20, 1970

Roth Development, Inc.
1600 N.E. 25th Avenue
Hillsboro, Oregon 97123

ATTENTION: Mrs. Ivy A. Roth
Treasurer

Dear Mrs. Roth:

This acknowledges receipt of your application for a license for Sunset Air Strip, North Plains, and of the \$1.00 license fee.

Airport License No. 16 is forwarded herewith. In accordance with our letter to you dated September 6, 1968, the following conditions have been noted on the reverse side of the license:

Conditions:

1. No more than 25 families with aircraft shall have easements for the use of this airstrip at any one time.
2. In the event it becomes necessary for the operation of Portland-Hillsboro Airport, Roth Development, Inc., agrees to grant to the Port of Portland, without charge, airspace easements over the runway and taxiways at Sunset Airstrip.
3. The Sunset Airstrip shall be constructed to meet at least the minimum airport standards established by the Board of Aeronautics.
4. Ingress and egress to the airport will be conducted in accordance with procedures coordinated with the Chief, Hillsboro Airport Traffic Control Tower and the Oregon State Board of Aeronautics. These procedures will include, but are not restricted to:

Objection by
The port

March 20, 1973

E. G. Westerdahl II

SUNSET AIRSTRIP, ROTH DEVELOPMENT, INC., NORTH PLAINS, OREGON

Roth Development, Inc. is a corporation controlled by two Hillsboro brothers, Dr. John G. Roth and Merrill R. "Rod" Roth who is a Washington County Commissioner and home developer. This week the Port received a telephone call from Roth Development, Inc. asking for our concurrence to increase the number of families using their Sunset Airstrip from 25 to 100.

In 1967 the Roth Development applied to the FAA for permission to establish an airport 8,500 feet northwest of Runway 12-30 and 300 feet east of the extended centerline (shown in blue on the attached drawing). The FAA disclosed that operations at this proposed airport would adversely affect the safe and efficient utilization of airspace by aircraft executing prescribed and proposed instrument and VFR procedures to and from the Portland-Hillsboro Airport. The airport was never built and the plans were abandoned.

Later in 1967 Roth Development again applied to the FAA for and was granted permission to build Sunset Airstrip approximately 4 miles northwest of PHA and located on the extended centerline of Runway 12-30. This airport has one 3,000' x 200' turf runway aligned 060°/240° Mag., 200 AMSL with both ends of the strip having a 1,000-foot displaced threshold because of obstructions. (Shown in green on the attached map.)

The FAA and OSBA granted the owners permission to establish the airport with the following conditions:

1. Use of airstrip is restricted to the personal use of the owner/residents.
2. Ingress and egress to the airport are to be conducted in accordance with procedures coordinated with the PHA Tower Chief, including but not restricted to:

- a. Arrival paths
 - b. Departure paths
 - c. Traffic patterns
 - d. Communication requirements
 - e. Communication procedures
 - f. Air traffic control instructions
3. No more than 25 families with aircraft shall have easements for the use of the airstrip at any one time.
 4. In the event it becomes necessary for the operation of PHA, Roth Development, Inc. agrees to grant to the Port of Portland, without charge, airspace easements over the runway and taxiways at Sunset Airstrip.
 5. The Sunset Airstrip shall be constructed to meet at least minimum airport standards established by OSBA.
 6. Any change in the character of the use as proposed by Roth Development, Inc. must be approved by OSBA. OSBA's requirements do not supersede requirements of other governmental agencies. The overall approval was effective September 8, 1968.

The Port pointed out to FAA that their decision to establish the Sunset Airstrip will cause a very real and serious problem at PHA, such as the feasibility of an instrument approach passing over a non-controlled airport. The Port also asked FAA for a clarification as to whose responsibility it will be to ensure the conditions as set forth are carried out and what recourse is open if the users of the Sunset Airstrip choose to ignore these conditions. The FAA stated in their November 4, 1968 letter that it will be the responsibility of Dr. John G. Roth to ensure that the conditions as stipulated by FAA are followed.

The recommended Port's position as to further development of the Sunset Airstrip should be in opposition because as Runway 12-30 is extended and the FAA installs an Instrument Landing System (ILS), recently funded by Congress, the 50:1 clear zone would run out with an elevation of 207 feet AGL (Above Ground Level) and the 40:1 criteria beyond that would show a clearance of only 447 feet AGL just south and adjacent to the Sunset Airstrip. If the users of the future ILS system chose to not use the 50:1 and 40:1 criteria and instead use a standard $2\frac{1}{2}^{\circ}$ to 3° descent (300 feet/mile), the altitude over Sunset Airstrip would be approximately 900 feet AMSL (Mean Sea Level) and 700 feet AGL.

E. G. Westerdahl II
Page 3
March 20, 1973

If during the PHA Master Plan it is determined that PHA has potential as a commercial reliever for PIA, it is questionable whether the airlines would use PHA under those conditions.

The other item that should be considered is the insurance aspects for users of Sunset Airstrip. Under the above mentioned criteria, insurance premiums for users of the Sunset Airstrip would be very high with the possibility that the insurance companies may deny insurance to the users.

At any rate, the Port should delay any consideration to modify the Sunset Airstrip until after the PHA Master Plan is completed.


I. J. Church

Attachments

cc: R. W. Finley
R. Kusche, R. Dixon Speas

Request your concurrence.
This will probably get to
Gov. and of course affects
Tulsa County.


AGENDA ITEM # 5 3/23 () *Supp 3-26*

DUSENBERY, MARTIN, BISCHOFF & TEMPLETON
ATTORNEYS AT LAW
1107 STANDARD PLAZA
PORTLAND, OREGON 97204
TELEPHONE 224-3113

OUR CABLE ADDRESS
"DUSLAW"
PORTLAND, OREGON

VERNE DUSENBERY
JEROME S. BISCHOFF
WILLIAM C. MARTIN
DAVID P. TEMPLETON
RICHARD L. BIGGS
LLOYD B. ERICSSON
FREDERICK T. SMITH
ROBERT E. GLASGOW
STEVEN H. HUGHES
JOHN L. LANOSLET

March 20, 1973

PRIORITY INFORMATION

Mr. Paul Burket
Oregon State Board of Aeronautics
3040-25th Street, SE
Salem, Oregon 97310

Dear Mr. Burket:

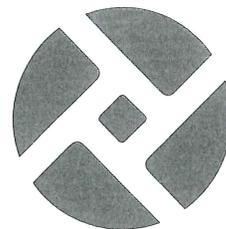
Roth Development holds approval from the Oregon State Board of Aeronautics for operation of a private use airport known as the Sunset Airstrip. The original approval by the Board limited the number of based airplanes to 25. With the operating experience of the number of years the airport has been in existence, and the resulting minimal traffic count, it is our opinion that an increase in the authorized number of based airplanes would not produce any traffic level to the extent of creating a significant conflict with Hillsboro or any other aeronautical operations. Accordingly, we respectfully request the Board to hear our presentation at the next meeting of the Oregon State Board of Aeronautics concerning this request. I understand Mr. Bill Duncan of Hillsboro who represents the lot developer has already telephoned Ralph McGinnes about the possibility and learned that the next possible Board meeting would be on March 30. If the matter can be placed on the agenda for that date, please notify us immediately and let us know also where and at what time the Board meeting will then be held.

Respectfully
Lloyd B. Ericsson
Lloyd B. Ericsson

LBE/vas

cc Mr. Bill Duncan
Roth Development, Inc.

REC'D DESU 16
MAR 22 1973



April 19, 1973

Port of Portland

Box 3529 Portland, Oregon 97208
503/233-8331
TWX: 910-464-6151 FAX: FDH

Mr. Robert Veatch, Chairman
Oregon State Board of Aeronautics
3040 25th Street S. E.
Salem, Oregon 97310

SUNSET AIRSTRIP - NORTH PLAINS, OREGON

During the monthly OSBA meeting held on March 30, 1973, the owners of the Sunset Airstrip requested a modification of the conditions of their airport license to allow an increase from 25 to 50 aircraft using the facility.

The OSBA Commission delayed any action until after the Port Commission's recommendation could be made known.

The Port Commission, at their April 11 meeting, approved a recommendation to delay a modification of the Sunset Airstrip license until after completion of the Portland-Hillsboro Airport Master Planning Study.

A copy of the adopted agenda item is attached for your convenience.

Edward G. Westerdahl II
Executive Director

Attachment

cc: Don Maluchi, A. R. Johns Company

COPIES TO BOARD

APR 23 1973

REC'D ASST
APR 23 1973

REC'D BOARD
APR 23 1973

ODA's
amendment

July 20, 1973

CERTIFIED MAIL

Roth Development, Inc.
1600 NE 25 Street
Hillsboro, OR 97123

Gentlemen:

Pursuant to an order by the Oregon State Board of Aeronautics dated June 29, 1973, the following amendment is made to Airport License 16, for the Sunset Airstrip, North Plains, Oregon, and becomes a part of that license.

1. No more than fifty (50) aircraft, belonging to owners/residents of property adjacent to Sunset Airstrip, may be based at Sunset Airstrip. Terms and conditions under which these additional twenty-five permanently-based aircraft may operate from the Sunset Airstrip are subject to periodic review and revision by the Oregon State Board of Aeronautics.

2. In the event it becomes necessary for the operation of Portland/Hillsboro Airport, Roth Development, Inc. agrees to grant to the Port of Portland, without charge, airspace easements over the runway and taxiways at Sunset Airstrip.

3. The Sunset Airstrip shall be constructed and maintained to meet at least the minimum airport standards established by the Board of Aeronautics.

4. Ingress and egress to the airport will be conducted in accordance with procedures coordinated with the Chief, Hillsboro Airport Air Traffic Control Tower and the Oregon State Board of Aeronautics. These procedures will include, but are not restricted to:

- a. Arrival paths
- b. Departure paths
- c. Traffic pattern
- d. Communication requirement
- e. Communication procedures
- f. Air Traffic Control instructions
- g. No take-off or landing will be accomplished at the Sunset Airstrip when weather conditions at the Sunset Airstrip, or being reported by the Hillsboro Air Traffic Control Facility, are less than required for operation under the Visual Flight Rules of the Federal Aviation Administration.

5. Roth Development, Inc., or any successor in interest thereto shall include in their deed covenants, the following provisions:

"All members of the Homeowners Association, members of their family, heirs, successors and assigns, who operate an aircraft from Sunset Airstrip agree to abide by the rules and regulations and special conditions for the operation of aircraft from the Sunset Airstrip, as established by the Federal Aviation Administration and the Oregon State Board of Aeronautics. Upon substantial evidence of a violation by a member of the Homeowners Association of the aforementioned rules and regulations and conditions, the Homeowners Association shall suspend the offending member's right to use said airstrip for a period of six months. Upon a second violation by the same member within a two-year period, the right of that member to use the airstrip, as an easement pertinent to his property, shall be permanently revoked and shall revert to the Homeowners Association without cost to the Homeowners Association and without compensation to the offending member. Each member of the Homeowners Association is absolutely responsible for the conduct of all who use his individual airstrip right. Should it become necessary to enforce this covenant in a court of law or equity, the Homeowners Association shall be entitled to their reasonable attorneys' fees, costs and disbursements, in addition to other damages arising out of the same action or suit."

6. At each end of the runway, there shall be established and maintained a sign directing pilots who are about to take off to contact the Hillsboro Traffic Control Facility for traffic advisory information.

7. Any substantial failure by licensee or his assigns to comply with conditions of the license as stated herein, or of the letter of agreement with the Hillsboro Traffic Control Tower, shall constitute cause for the Board of Aeronautics to institute revocation procedures for the airport license under the provisions of ORS 492.220.

The previous amendment is cancelled effective June 29, 1973.

Sincerely,

PAUL E. BURKET
Aeronautics Administrator

PEB:RWM:ps

VERNE DUSENBERY
JEROME S. BISCHOFF
WILLIAM C. MARTIN
DAVID P. TEMPLETON
RICHARD L. BIGGS
LLOYD B. ERICSSON
FREDERICK T. SMITH
ROBERT E. GLASGOW
STEVEN H. HUGHES
JOHN L. LANGSLET

DUSENBERY, MARTIN, BISCHOFF & TEMPLETON
ATTORNEYS AT LAW
1107 STANDARD PLAZA
PORTLAND, OREGON 97204
TELEPHONE 224-3113

OUR CABLE ADDRESS
"DUSLAW"
PORTLAND, OREGON

August 2, 1973

Mr. Paul Burkett
State Board of Aeronautics
Salem Municipal Airport
Salem, Oregon

Re: Roth Development Inc.

Dear Mr. Burkett:

Roth Development Inc. has asked me to respond to your letter of July 20. We have questions about the separately numbered paragraphs set forth herein.

1. It was our understanding that the aircraft limitation was to be phrased in terms of the number of aircraft operating easements appurtenant to lots within the development rather than aircraft per se. We believe paragraph 1 should be revised to read:

"No more than 50 airport access easements, each appurtenant to lots within the Air Acres subdivisions, may be issued."

4(g). We believe 4(g) should be amended by adding, after "Federal Aviation Administration" the following language:

"Unless the FAA shall have issued an appropriate ATC IFR clearance for a takeoff under instrument conditions for a vectored approach."

The possibility of a vectored approach does not now exist, but further expansion could result in radar coverage of that area.

5. Roth Development Inc. has not consented to become a policeman nor to the establishment of a Homeowners' Association which does not presently exist. We do not believe any part of paragraph 5 is an appropriate or legal restriction. Not only

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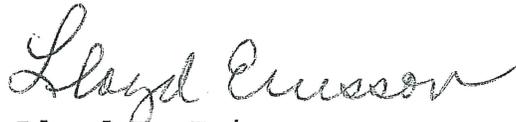
Mr. Paul Burkett
August 2, 1973

does Roth Development not have the power to control operations other than by actions for trespass or violation of the terms and conditions of the existing agreements, there is no provision which would allow Roth Development to revoke the appurtenant easement. There is no conceivable way that each of the potentially 50 people could be held responsible for the conduct of one of their number. We must respectfully reject this provision.

I would observe that conduct of all pilots is subject to the provisions of FAR Part 91. It would be my opinion that operations in violation of the currently existing restrictive covenants and letter of agreement with the tower would constitute a violation of one or more provisions of FAR Part 91. Under the circumstances existing at Sunset Air Strip, it seems that the Hillsboro Control Tower is the agency most likely to first become aware of any violations which fits well with the federal scheme of enforcing proper operating practices through the GADO.

The balance of the letter of July 20 appears to be acceptable.

Sincerely,



Lloyd B. Ericsson

LBE:kam

cc: Mr. Merrill Roth



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION
103 STATE OFFICE BUILDING
SALEM, OREGON 97310
TELEPHONE: (503) 378-4620

September 18, 1973

DOJ response to
Roth's objections

Mr. Paul E. Burket
Aeronautics Administrator
Aeronautics Division
Department of Transportation
3040 25th Street SE
Salem, Oregon 97310

Re: Sunset Airstrip, Roth Development, Inc.

Dear Mr. Burket

You have given this office a copy of the objections dated August 2, 1973, pertaining to the Sunset Airstrip order and have requested our comments.

Roth has requested that the limitation of 50 aircraft be restricted or made appurtenant to each lot. This is not a matter of concern to the Aeronautics Division. Aeronautics is concerned primarily with safety in connection with the operation of the airstrip in the proximity of other airports. Whether the aircraft operating out of Sunset are all owned by one lot owner or distributed to each lot is a matter solely within the concern of Roth Development.

The condition under 4(g) is a matter within the expertise of Aeronautics. It would appear that all takeoffs and landings being controlled by the Hillsboro Tower would cover the matter, but we leave this determination to Aeronautics.

We believe some of the objections to condition No. 5 are contrary to the application and the evidence presented in support of the additional use of the airstrip. This is a matter that Aeronautics can check through the transcript, but we recollect that Roth already has similar provisions in the deeds to the lots that have already been sold. There is no legal prohibition for complying with such use in each new deed containing conditions and providing for suspension of use if violated. Such conditions are most certainly consistent with the idea that each lot owner has the privilege of using the airstrip as long

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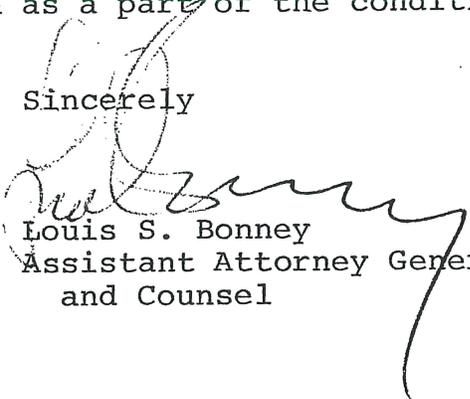
Mr. Paul E. Burket
September 18, 1973
Page 2

as he complies with the regulations. Whether or not there is a homeowner's association does not matter. The developer is selling the lots with the privilege of using the airstrip. The proposed conditions and covenants in the deeds should be enforced by the developer, as well as other homeowners.

The sentence making each member of the Homeowners' Association absolutely responsible for another member's conduct may not be proper and probably should be eliminated. Also, whether or not Aeronautics should spell out specific penalties for enforcement by Roth or the Association, such as six-months' suspension for the first violation and permanent suspension for two violations within two years, should be reconsidered and possibly eliminated.

The last paragraph of Ericsson's letter is possibly true, but it does not eliminate the additional enforcement required of the developer or the Association as a part of the conditions to operate the airstrip.

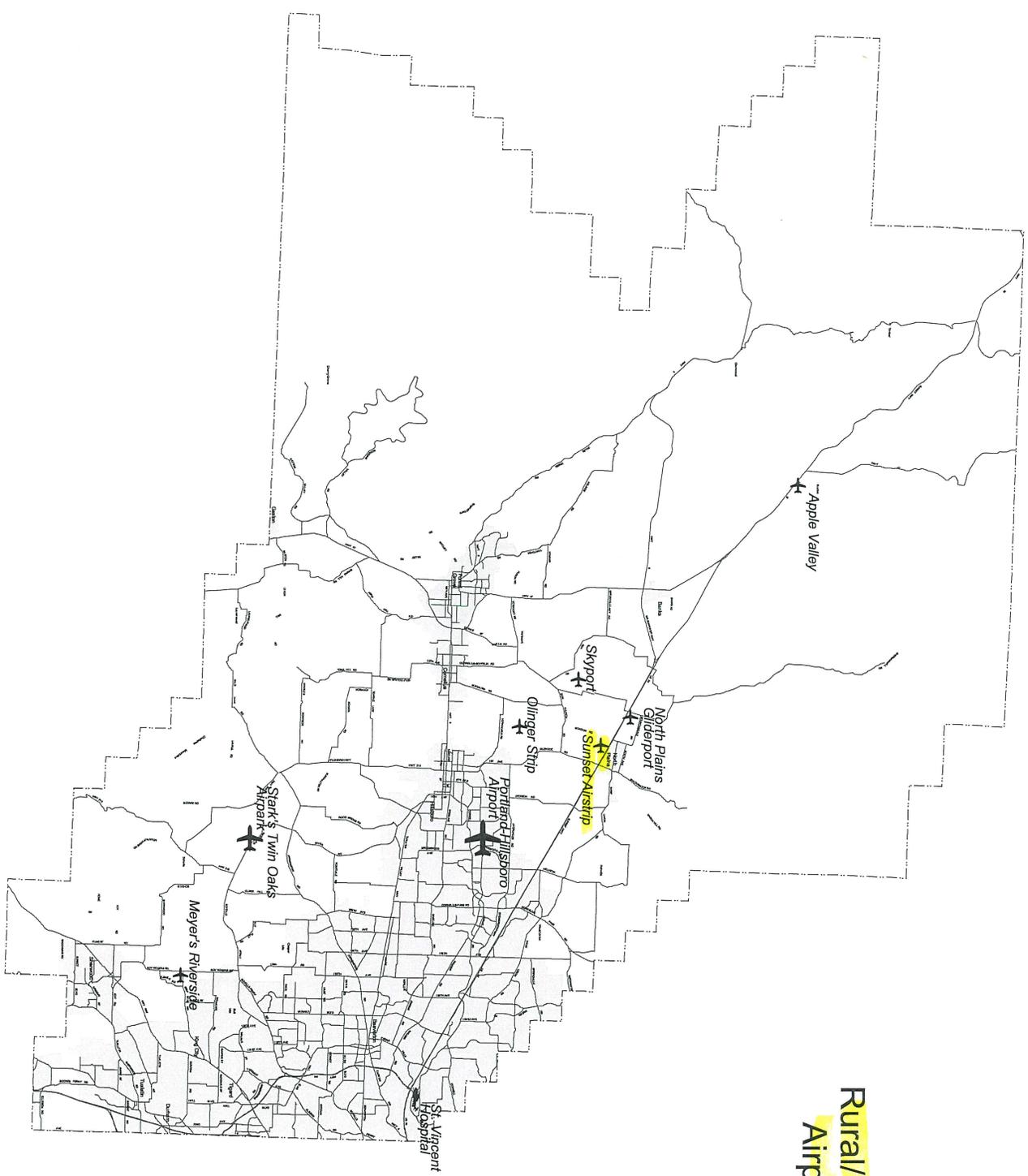
Sincerely



Louis S. Bonney
Assistant Attorney General
and Counsel

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Rural/Natural Resource Plan Airport Overlay Districts



Airports

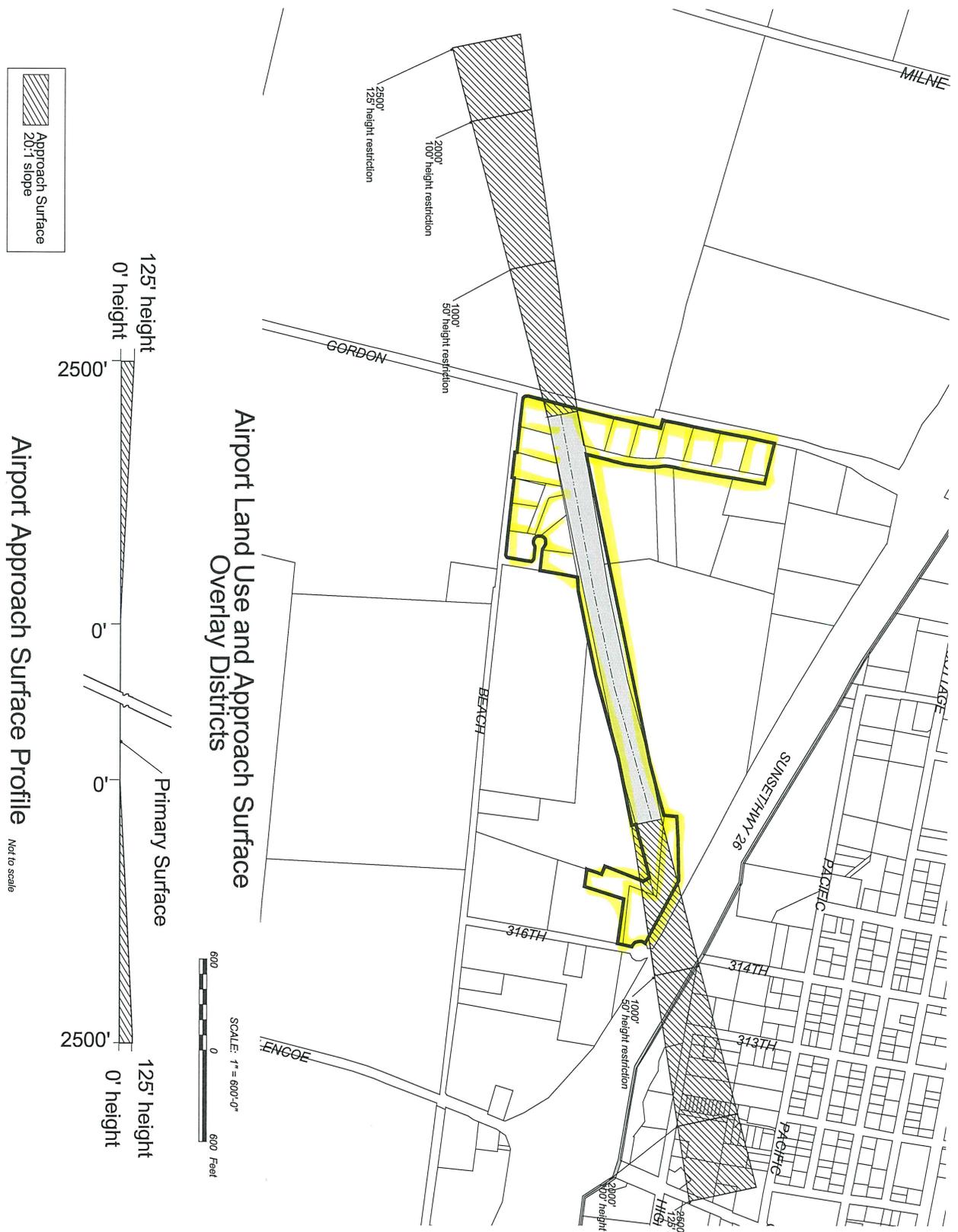
Heliport

Urban Area

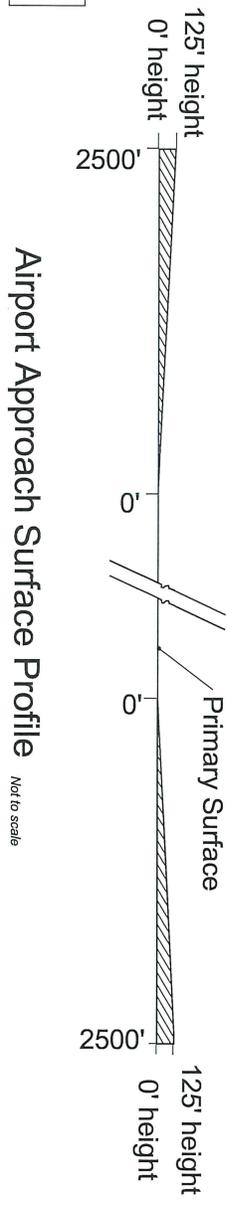
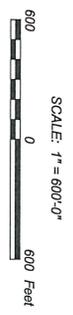
County Line

Note:
 Land Use and Safety Overlay Districts
 for the hospital at St. Vincent Hospital are
 identified in the Cedar Hills-Cedar Mill
 Community Plan.





Airport Land Use and Approach Surface Overlay Districts



Sunset Airstrip
 Taxlot 1N311AA02200

	Runway	3050' x 200'
	Dimensions	207'
	Elevation	Turf
	Approach Surface	
	Primary Surface	
	Runway Centerline	
	Airport Land Use Overlay District Boundary	

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