

A G E N D A
UMATILLA COUNTY BOARD OF COMMISSIONERS
Meeting of Tuesday, October 20, 2015, 1:30 p.m.
Umatilla County Courthouse, 216 SE 4th St., Room 130, Pendleton, OR

** **

A. CALL TO ORDER

B. NEW HEARING: Appeal of Planning Commission decision, #LUD-175-14, Request for approval of a Non-Farm dwelling on 1.25 acre parcel zoned Exclusive Farm Use (EFU), Casey Severe, applicant and property owner. The Planning Commission approved the Non-farm dwelling, however applicant is requesting Board reconsider a condition of approval. Property is located to the south and east of Adams Road. Access to the parcel is Helix Highway, adjacent to the ODOT rock quarry and north of State Highway 11. Standards for approval are found in Umatilla County Development Code Section 152.059(8).

C. ADJOURN

Umatilla County

Department of Land Use Planning



October 12, 2015

**DIRECTOR
TAMRA MABBOTT**

**LAND USE
PLANNING,
ZONING AND
PERMITTING**

**CODE
ENFORCEMENT**

**SOLID WASTE
COMMITTEE**

**SMOKE
MANAGEMENT**

**GIS AND
MAPPING**

**RURAL
ADDRESSING**

**LIAISON, NATURAL
RESOURCES &
ENVIRONMENT**

MEMO

TO: Board of Commissioners

FROM: Tamra Mabbott

RE: Appeal of Planning Commission Decision

LUD-175-14 Non-Farm Dwelling by Casey Severe

Planning Commission approved the non-farm dwelling application filed by Casey Severe. Mr. Severe filed an appeal and has asked county to remove condition 1 and confirm the approval. Condition 1 reads as follows:

1. Submit a soil survey from a DLCD Certified Soil Scientist, that the home site will be located on a portion of the parcel that complies with UCDO Section 152.059(k)(b)(i) and (ii). This includes the requirement that the applicant provide a soil assessment from a DLCD certified soil scientist in accordance with OAR.

Background Prior to the Planning Commission hearing, Mr. Severe conducted some research and chose not to retain a soil scientist. Therefore staff could not draft findings that confirm his application complies with the standards set forth in the Umatilla County Development Code, namely 152.059(K)(8) and ORS 215.284.

The Findings as drafted and adopted by the Planning Commission show that the application complies with most of the criteria, except two directly standards related to the soil classification. In order to conclude the application met 152.059(8)(ii) Planning commission adopted condition 1. At the time, staff and Planning Commission believed that the only way to meet that standard was to hire a DLCD certified soil scientist. This was based on interpretations of the OAR and conversations with DLCD staff.

After the hearing, staff received information to the contrary. Katherine Daniels, DLCD Farm Forest Planner shared the following: "In general, the presumption in rule that class I-VI soils in eastern Oregon are (always) suitable for farm use is, as a lawyer once told me, a rebuttable presumption, depending on a variety of other factors, such as you've described in your findings. A little wiggle room there. "

Recommendation Given the interpretation and opinion of DLCD, county staff supports Mr. Severe's request to remove condition 1.

If the Board supports Mr. Severe's request, staff also recommends the Board adopt findings that conclude that given the uniqueness of Mr. Severe's property, especially the very small size and existence of a concrete pad at the proposed home site, the decision does not establish a precedent for parcels in the EFU Zone.

**UMATILLA COUNTY
PLANNING COMMISSION
MINUTES**

JUNE 25, 2015

LAND USE DECISION REQUEST #LUD-175-14, Casey Severe, Applicant/Property Owner: The applicant requests approval to construct a Non-Farm Dwelling on a 1.25 acre parcel zoned Exclusive Farm Use. The property is located to the south and east of Adams Road. Access to the parcel is Helix Highway, adjacent to the ODOT rock quarry and north of State Highway 11. Standards for approval are found in Umatilla County Development Code Section 152.059 (8).

(Minutes adopted on August 27, 2015)

would still be a problem because a fire truck would need a forty foot easement in order to drive through the property. There should be a twenty foot setback on both properties. Discussion followed.

Deliberation: Chair Randall closed the hearing and deliberations began. Commissioner Rhinhart stated that the variance should be denied at this time. He added that if Mr. Esparza cleaned up the property and was in compliance with Code Enforcement the variance request for the carport could be addressed at another time. Commissioner Danforth stated she agreed. Chair Randall said if the issue of the variance could be revisited there should be time limit of ninety days for Mr. Esparza to come into compliance with Code Enforcement. Commissioner Marlatt stated that the code violations are a separate issue from the variance request before the Planning Commission at this hearing.

Mrs. Mabbott stated that Mr. Esparza had the opportunity to reapply for the variance request within one year. He also has the right to appeal the decision of the Planning Commission to the Board of Commissioners.

Commissioner Rhinhart moved to deny the Variance Request and the motion was seconded by Commissioner Marlatt. Motion to deny the application carried 7:0.

Mrs. Mabbott stated that she would re-write the findings to reflect the decision of the Planning Commission before the Chair could sign them.

NEW HEARING:

LAND USE DECISION REQUEST #LUD-175-14, Casey Severe, Applicant/Property Owner: The applicant requests approval to construct a Non-Farm Dwelling on a 1.25 acre parcel zoned Exclusive Farm Use. The property is located to the south and east of Adams Road. Access to the parcel is Helix Highway, adjacent to the ODOT rock quarry and north of State Highway 11. Standards for approval are found in Umatilla County Development Code Section 152.059 (8).

Chair Randall called for any declarations of ex parte` contact, bias or conflicts. Commissioner Wysocki stated that he has had contact outside the hearing with the applicant and has been to the property, and had advised Mr. Sever on soils types. He said that he would abstain from the vote on this application. Commissioner Rhinhart stated that he also knew the applicant outside of the hearing, but it would not reflect on his participating in this hearing.

Staff report: Tamra Mabbott presented the staff report. She referenced a map showing the property provided to the commission. Last year the Planning Commission approved an application for Oregon Department of Transportation (ODOT) for a Goal 5 significant resource site. The proposed dwelling site would be more than 500 feet from this quarry. The property is near Wildhorse Creek, but is not in a designated floodplain.

The standards to approve a Non-Farm Dwelling application require extensive analysis, with mapping included. Staff are required to estimate how many Non-Farm dwellings could be created in the surrounding areas, and determined that number could be as many as 20. Mrs. Mabbott explained the cumulative effect that might impact surrounding properties and farming practices. She discussed the two options open to the Planning Commission for this application. Mr. Severe, applicant, purchased the subject parcel from the Duff family in 2000. They had a Lot-of-Record dwelling approval from 1999, which is subject to the grandfather provision in the Oregon Administrative Rules (OAR). Mr. Severe had requested several extensions for the Lot-of-Record approval, but did not act on it and it expired after 4 years. Mrs. Mabbott said that the small parcel was created prior to 1948 by the Duff family for a grain storage structure.

Mrs. Mabbott discussed the process for applying for a Non-Farm dwelling and how important the soil surveys are to this process. Mr. Severe was not able to meet the criteria of approval of providing a soil survey from a certified soil scientist. She stated that Mr. Severe directed staff to proceed with his new application without a current soil survey. Mrs. Mabbott said the application did not meet the criteria for a soil test, and even though it is a small parcel, it could be combined with another parcel and farmed and therefore cannot be considered for a “non-farm” dwelling parcel. Putting a “non-farm” dwelling there would also not meet the “impact” rule test.

Mrs. Mabbott drafted two (2) conclusions for the Planning Commission to consider. The first one was for the Planning Commission to find that the application does not comply with the standards, or the Planning Commission could make findings requiring that the applicant submit the soil survey showing that the parcel is not farmable in order to qualify for the non-farm dwelling status.

Chair Randall asked for input from the members of the Planning Commission who have farming experience, and discussion followed on the merits of farming a small parcel. Commissioner Marlatt asked if the OAR’s took property ownership into account when requiring the small parcel to be combined with an adjoining parcel, and it does not. Commissioner Wysocki asked if the soils were mostly Class 7, could this lead to a parcel being allowed to have a non-farm dwelling. Commissioner Rhinhart advised that it would have to be at least 51% of the soils under the Class 7 designation to be classified as eligible for a non-farm dwelling.

Applicant Testimony: Casey Severe, 301 NE Olins Court, Pendleton, OR. Mr. Severe stated he had photographs of the property to share with the Commission. He said that he paid \$39,000.00 for the property, and has invested another \$20,000.00 by drilling a well, and having 9 grain silos removed from the property. In 2000, he had been looking for property to build a home, when he found the subject parcel and bought it. At the same time he was building a home in town. He stated that he was aware of the permit deadlines at the time, and consulted with Bob Perry, Planning staff, about what his options were. Mr. Perry had advised him that he needed to start building, but that staff does not typically go out and inspect properties for building progress. Mr. Severe stated that he believed that he was in compliance with the permit, but was not aware that he

needed to take out a Zoning Permit to keep the process going forward. He stated that Mr. Perry should have advised him of the need for a Zoning Permit. Mr. Severe said that he was not lying about these conversations with Mr. Perry. He showed receipts for work that he has had done on the parcel, such as well drilling, excavation and weed prevention. It was never his intention to allow the permit to lapse, as demonstrated by all the work he had done on the parcel.

Chair Randall asked what Mr. Severe's intentions were, should his application be approved. Mr. Severe stated that he intended to build a dwelling on this parcel. Commissioner Rhinhart asked about the Oregon Department of Transportation (ODOT) easement for the property, and Mr. Severe stated that he did have a copy of the recorded access easement. He also said that he had the Department of Environmental Quality (DEQ) site evaluation and approval for a septic system for the property. Commissioner Rhinhart asked Mrs. Mabbott if someone could build a farm building on the property. Mrs. Mabbott confirmed that a shop could be built as long as it was for farming purposes. She went on to explain that a farm shop may not qualify for an Ag Exempt permit because the property is not on farm-deferral tax status. Commissioner Rhinhart said that there was some potential for building on the property, should the dwelling not be approved.

Mr. Severe referenced his packet and the 2000 Impact Analysis on page 3A for Non-Farm dwellings. He discussed a grain facility that had been put there by the McCormack's in the past. He confirmed that he would keep the tax lots separate even though he owns both. He intends to have this dwelling be his retirement residence, and would develop it to promote wildlife habitat. Mr. Severe discussed the criteria for approval in the packet. He had assistance with his application from Richard Jennings. He pointed out that a dwelling had been approved on this parcel before Dennis Olson was the Planning Director, and read from the Findings of that application. He discussed the parcel being approved as farm land, without Class 7 Soils, and he has to show why it is unreasonable to farm this small parcel. Mr. Severe said the property cannot be farmed due to the slope hill to the south, the creek and rail bed to the north with compacted soil, and ODOT owns the property to the east for gravel storage. Farming is not really an option on this small parcel for all these reasons.

Commissioner Danforth asked about the auger that is still left onsite. Mr. Severe said that they discovered a transfer system when they were removing the silos, and it was a concrete tunnel auger from the grain bins. The auger is still in the ground. Discussion followed on what Mr. Severe intended to do with this system and equipment. He said that the red bricks being stored on the property were from Hawthorne School for some people that he knows.

Mr. Severe discussed criteria for approval on farm use and soil quality, and he explained how the soils have been repeatedly disturbed and moved around on the subject parcel. He talked about where he wanted to build the proposed home and that he was being very careful to meet setbacks. Chair Randall asked if he had an exempt residential well, and Mr. Severe confirmed that it was. He stated that nothing has changed on the subject

parcel since the application for a Lot-of-Record dwelling had been approved for the Duff's. The location of the proposed dwelling is on a parcel that has never been used for farming, and was the site of an old grain elevator that has been removed. The concrete slab from the grain elevator is still there. There is considerable sloping on the property, as well as poor quality soils that have been disturbed. For these reasons, Mr. Severe feels that this meets the criteria for approval for a non-farm dwelling. He said that the surrounding land owners have farmed that land for many years, and would probably not consider converting to other non-farm dwellings within the 2000 acres impact area.

Mr. Severe referenced a letter from April 2015, where he amended his proposal of where to build the non-farm dwelling. He said he is fine to build a home on the concrete slab if that is the best solution. He reiterated that he would develop the surrounding property to wildlife habitat with no formal landscaping. He thought that he was in compliance on the original permit, and felt that had he been told by the Planning staff that a Zoning Permit was needed, he wouldn't be in this position today. There is no power to the property at this time. He said that he waited so long because he had built the other house, and used money there instead of the subject property. He is ready to develop this property now.

Proponent Testimony: none

Opponent Testimony: none

Agency Testimony: none

Chair Randall closed the hearing and moved to deliberation.

Deliberation: Commission Rhinhart asked if neighboring land owners were given notice of this hearing, and Mrs. Mabbott confirmed that they were and referenced the public notice page in the packet. She clarified that when the first application was processed, there was no requirement for the soils analysis from a soils scientist on the approved list from the Department of Land Conservation and Development (DLCDC), but there is now. She said that Mr. Severe did not submit a soils analysis for this current application. She said that if the Planning Commission chose to approve this application, they would be required to include a Condition of Approval that the applicant would need to submit a soils analysis from a soils scientist on the DLCDC list. Discussion followed on whether to approve this application or not, and would it set a precedent on non-farm dwellings on Class 7 soils.

Commissioner Danforth asked about the Condition of Approval that would require the applicant to submit a soils study completed by a soils scientist from the DLCDC approved list for the home site. Mrs. Mabbott said she had no way to foresee if this would enable the applicant to build a home or not, but if the condition was not required, it would be a violation of the Administrative Rule. She also said that Mr. Severe had been in the office multiple times over the years, according to notes in the file. He spoke with several members of staff who would have explained how the process worked and he was granted

extensions of time so it would seem that he was aware of needing the final permit before the original approval for a Lot-of-Record dwelling expired.

Chair Randall asked why the status whether or not the parcel was farmable had changed from the original approval to this current application. Mrs. Mabbott explained that the Administrative Rules for determining this had changed since the original application was processed, and the current application did not meet the standards for non-farm status. Discussion followed on the impact of allowing a dwelling on this parcel to the area.

Commissioner Danforth asked if there was some sort of grandfather clause on this parcel, and Mrs. Mabbott explained that right expired with the original application when it expired. Mrs. Mabbott said that the Condition of Approval should read that the applicant will provide a soils survey from a DLCD soil scientist that the home site will be located on the portion of the parcel that is not farmable and that the application complies with Chapter 152.059 (K8; 1 and 2). Commissioner Rhinhart asked if a survey could be a condition of approval, and Mrs. Mabbott replied that a condition must be related to a standard, and there was no standard requiring a survey to be done. Discussion followed on what conditions of approval should be included if the application was approved, and would they be setting a precedent if the application was approved. Mrs. Mabbott said she could add language to the findings that the Planning Commission determined the parcel to not be farmable and that it would not set a precedent for other non-farm dwellings.

Commissioner Marlatt moved to approve #LUD-175-14 with the conditions of approval to be added to the findings to show that the Planning Commission found the subject parcel to not be farmable, and was seconded by Commissioner Lee. Motion carried 5:1 with one recused vote.

Mr. Severe asked if the application had been approved, with the condition that he would be required to get a soils survey. He asked how the results of the soils survey would affect the application. Mrs. Mabbott said it would have to comply with the Administrative Rule. She also indicated that the home would have to be built on the concrete slab.

Mrs. Mabbott advised the Planning Commission that they would be hearing the topic of medical marijuana and would have a recommendation to consider on definitions for land use purposes at the next hearing in July.

Chair Randall adjourned the meeting at 9 p.m.

Respectfully submitted,

Gina Miller
Secretary

**Appeal Request for #LUD-175-14
Casey Severe, property
owner and applicant.**

RECEIVED

JUL 16 2015

UMATILLA COUNTY
PLANNING DEPARTMENT



Umatilla County

Department of Land Use Planning

216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252

Notice of Appeal

Process taken from UCDC 152.766

APPEALS

(A) An appeal from a ruling of the Planning Director. An appeal of an administrative review decision or a ministerial action on a land use request made by the Planning Director or authorized agent shall be made to the Planning Commission. Such appeals must be made within 15 days of the date of the ruling or decision.

(B) An action or ruling of the Planning Commission pursuant to this chapter may be appealed to the County Board of Commissioners within 15 days after the Planning Commission has signed its findings of facts and conclusions of law.

(1) If the appeal is filed it shall be in writing stating the reasons for appeal pursuant to the criteria for review.

(2) The County Board of Commissioners shall receive the written findings of the decision and the minutes from the Planning Commission hearing and shall hold a public hearing on the appeal.

(3) The Board may amend, rescind, affirm or remand the action of the Planning Commission.

(C) All appeals shall be made in writing, accompanied by the appropriate fee, and shall state the reasons for the appeal and the alleged errors made on the part of the Planning Director or authorized agent or the Planning Commission. If the decision being appealed utilized criteria for review established elsewhere in this chapter, the reasons for the appeal shall be stated pursuant to these criteria.

(D) All appeals shall be on a de novo basis. The body hearing the appeal shall be able to receive any additional testimony presented by the applicant or proponent.

(E) Appeals of a Board of Commissioners decision shall be made to the Land Use Board of Appeals within 21 days of the date of the decision. Such appeals shall not be based on issues that are not raised at the local hearings with "sufficient specificity" as to afford the decision-makers and parties involved an opportunity to respond to the issue.

FILING FEE

Filing of an Appeal - \$800.00

(Effective July 1, 2007 via Ord. #2007-06)

It is the responsibility of the applicant to submit a complete application with all necessary attachments. Planning staff can refuse an incomplete application.

Version: February 20, 2009
File Location: H:\shared\FORMS_Master\Appeal_Notice.doc

Section 1: Request and Description of Application

This information deals with the Land Use Request Application that an Appeal is being filed against.

THE REQUEST IS FOR... (Check the one that applies)

- an Appeal to the Planning Commission from a decision of the Planning Department
 an Appeal to the Board of Commissioners from a decision of the Planning Commission

DESCRIPTION OF THE LAND USE REQUEST APPLICATION IN QUESTION:

- Land Use Request Application File Number: LUD-175-14
- Type of Land Use Request Application: NON FARM DWELLING
- Decision-Making Body: Planning Director or Planning Commission
- Date of Decision (date on Findings): 6/25/15
- Date you received notice of the decision or learned of the decision: 7/1/15

Section 2: Contact Information

Name of Appellant(s): Casey h. Severe

Address: PO Box 608

City, State, Zip: Penleton OR 97801

Telephone Number & Email

Address: 541 969 9404 Caseyteons@gmail.com

Date of Submittal for the Appeal: 7/16/15

Section 3: Basis of Appeal

Complete only when appealing a decision made by the Planning Department or Planning Commission.

The Appeal is based on the belief that certain policies and/or procedures of the Comprehensive Plan and/or provisions of the Development Code were not properly administered or followed. Please specify the chapter, section and page numbers of the Comprehensive Plan and/or Development Code where the policies and/or procedures are found; as well as a narrative explaining the issues that the Appeal is based upon (*use additional pages if necessary*):

I disagree with the findings of the Umatilla County planning department, that the criterion of Development Code 152.059 (K) (VI) 8b. (i) is not met, therefore I am appealing the decision.

I disagree with the findings of the Umatilla County planning department, that the criterion of Development Code 152.059 (K) (VI) 8b. (ii) is not met, therefore I am appealing the decision.

Section 4: Certification

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X Casey L. Severe
Signature of Appellant

7/16/15
Date

Casey L. Severe
Printed Name of Applicant

X _____
Signature of Appellant

Date

Printed Name of Applicant

X _____
Signature of Appellant

Date

Printed Name of Applicant

X _____
Signature of Appellant

Date

Printed Name of Applicant

Office Use Only

Date this paperwork was received: 7/16/15

Accepted by: Carol Johnson CAROL JOHNSON
Signature of Planning Staff & Printed Name

Fee Paid? Yes No Receipt Number: 15601

BCC packet 10/20/15

Umatilla County Planning Commission

**Information packet from
June 25, 2015 hearing**

**Appeal Request for #LUD-175-14
Casey Severe, property
owner and applicant.**

Umatilla County

Department of Land Use Planning



June 16, 2015

**DIRECTOR
TAMRA MABBOTT**

**LAND USE
PLANNING,
ZONING AND
PERMITTING**

**CODE
ENFORCEMENT**

**SOLID WASTE
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MEMO

TO: Planning Commission

FROM: Tamra Mabbott

RE: LUD-175-14 Request for Non-Farm Dwelling by Casey Severe

Attached are preliminary findings and supplemental materials for a non-farm dwelling application filed by Casey Severe. Mr. Severe acquired the property in 2000 from the Duff Family. In 1999, county approved a "lot of record" dwelling permit for the Duff Family, and then, as allowed by ORS, the Duff's transferred the permit to Mr. Severe, along with the parcel of land. That permit was granted numerous extensions and then Mr. Severe allowed the permit to expire. Since the land has changed ownership and Mr. Severe has not owned the land since January 1, 1985, he would not qualify for a "lot of record" permit.

In the summer of 2014, Mr. Severe attended a Board of Commissioners land use hearing. The land use hearing was for a Goal 5 Aggregate Amendment on a nearby parcel of land owned by the Oregon Department of Transportation. During the hearing Mr. Severe asked how the quarry may impact his future home site. Staff informed the parties that that there was not a valid permit for a dwelling on Mr. Severe's property and offered to meet with Mr. Severe to review options for qualifying for a permit and, to evaluate how the 500 foot Goal 5 impact area may affect his property. The Board postponed the hearing to allow staff to address Mr. Severe's concern.

Staff then developed a map to show that Mr. Severe's parcel was outside of the 500 foot impact area for the significant Goal 5 aggregate. The Board approved ODOT's Goal 5 application. Mr. Severe was aware that the Goal 5 decision was apart from his obligation to file appropriate application for a dwelling on the EFU zoned parcel.

Although Mr. Severe's property is not currently managed as part of a farming operation, the parcel contains lands that are classified as farm land. His parcel does not contain lands that are "non-farm" according to that definition used in ORS 215.284. To be considered "non-farm" class land, soils must be agricultural class VII or higher. The soils on Mr. Severe's property include class II soils and class VI soils.

When landowners believe that their lands are not farmable, the Administrative Rule provides a process whereby the landowner may retain one of the pre-certified soil scientists to evaluate the soils. If the soil scientist finds the soils are "non-farm", that finding may be substituted for the SCS Soil Survey.

Mr. Severe chose not to retain a soil scientist and therefore staff cannot write a finding that confirms his application complies with the minimum standards set forth in ORS 215.284 and Umatilla County Development Code . 152.059(K)(8).

The Findings as drafted show that the application complies with most of the criteria, except two directly related to the soil classification (see page 4 of 10).

Additionally, the requisite "Impact Test" required for non-farm dwellings shows that there may be up to 20 non-farm dwellings in the 2000 acre study area that could be approved, subject to a more extensive application process. This is a somewhat unique area in that it is primarily higher quality dryland farming soil, interspersed with canyons and slopes with a poor soil classification. The preliminary findings include a preliminary conclusion that full build out would likely have an impact on surrounding farm parcels and farming practices. However, given the more subjective nature of this conclusion, staff requests the Planning Commission deliberate and make an interpretation about this specific finding.

Staff drafted two conclusions, shown on page 9 of the Preliminary Findings. One option is to find that the application does not comply with the standards and deny the application. The other option, to approve, is available if Planning Commission can affirm that the application complies with all of the standards, either at the time of the hearing or with conditions of approval.

**UMATILLA COUNTY PLANNING DEPARTMENT
FINAL FINDINGS AND CONCLUSIONS
LAND USE DECISION REQUEST LUD-175-14
MAP #3N 33 23 TAX LOT 300, Account #108815**

1. APPLICANT: Casey Severe, PO Box 608, Pendleton, OR 97801
2. OWNERS: Same as applicant.
3. LOCATION: The subject property is located on the west side of State Highway 335 (Helix Highway) about ½ mile north of its intersection with State Highway 11. The property is located between Adams Road to the northwest and Highway 11 to the southeast. It is approximately five miles west of the city of Adams and 7 miles northeast of the city of Pendleton.
4. REQUEST: The request is to establish a non-farm dwelling.
5. SITUS: There is no site address.
6. ACREAGE: Tax Lot 300 is 1.25 acres. The parcel is considered a pre-existing, non-conforming lot of record. (Staff conducted some historical research to determine when this 1.25 acre parcel was created. According to available records and deeds, the 1.25 acre parcel was segregated from a larger farm parcel owned by the McCormach Family in 1948. Presumably the purpose was to construct a grain elevator, although the parcel remained in McCormach Family ownership until 1970 when the land was sold to the Duff Family. Duff Family sold the 1.25 acre parcel to Casey Severe in 2000).
7. PROP CLASS: Property Codes are assigned by the County Assessor as to the type of use present on the property. Property Code is 550, which means "Farm, Farm Zone, Vacant and is Farm Deferred."
8. TAX CODE: The Tax Code is assigned by the County Tax Office. Each Code Area has various taxing rates depending upon the services provided. The Tax Code for this parcel is 16-02.
9. PERMITS. A Conditional Use Permit for a "Lot of Record" dwelling was issued to Duff Ranch in 1999. That permit was transferred to Casey Severe and subsequently expired.
10. COMP PLAN: North/South Agriculture Plan Designation
11. ZONING: Exclusive Farm Use Zone (EFU- 160 acre minimum)
12. ACCESS: The application indicates the property has access from an easement crossing tax lot 100. An access permit for the easement has not been issued by County Public Works.

- 13. ROAD TYPE: Highway 335 is a two lane paved State Highway.
- 14. EASEMENTS: No easements on the subject property.
- 15. LAND USE: The property is vacant and is not currently farmed. Previously there was a grain elevator (McCormach Grain Elevator) on the property, which has since been removed except for the foundation.
- 16. ADJACENT USE: Surrounding properties are zoned EFU and are used for growing primarily wheat. To the immediate north is an abandoned railroad and Wildhorse Creek. To the south is a bluff which rises up to State Highway 11. The parcel to the east is owned by ODOT and has been permitted for a Goal 5 aggregate operation.
- 17. LAND FORM: Floodplain.
- 18. SOIL TYPES: The subject property contains class II and class VI soil types. High Value soils are defined in UCDC 152.003 and ORS 215 as Land Capability Class I and II.

Soil Name, Unit Number, Description	Land Capability Class	
	Dry	Irrigated
115E Walla Walla silt loam, 25-40% slopes	6e	--
39A Hermiston silt loam, 0 - 3% slopes	IIc	I

Soil Survey of Umatilla County Area, 1989, NRCS. The suffix on the Land Capability Class designations are defined as "e" – erosion prone, "c" – climate limitations, "s" soil limitations and "w" – water (Survey, page. 172).

- 19. BUILDINGS: The land is vacant except for the concrete slab where the grain elevator had once been located.
- 20. UTILITIES: No utilities are on the property.
- 21. WATER/SEWER: The property has no water or sewer developed. In 2000 the previous owners obtained from DEQ a site suitability to construct a septic system.
- 22. FIRE SERVICE: The property is not located within a fire district.
- 23. IRRIGATION: The property is not within an irrigation district.
- 24. FLOODPLAIN: The property is not within a Special Flood Hazard Area. The parcel is not located within a FEMA Flood Study boundary. See attached map of flood study.
- 25. NOTICES SENT: Notices of the hearing were mailed to adjoining property owners and public agencies on June 5, 2015.

26. CLOSING DATE: Planning Commission Hearing on June 25th.

27. AGENCIES: Umatilla County Assessor; Umatilla County Public Works Department; ODOT Region V Planning Division, Attention Patrick Knight; Umatilla County SWCD, CTUIR Department of Natural Resources; Umatilla Basin Watershed Council; Oregon Department of Fish & Wildlife, Pendleton; Katherine Daniels, DLCD (electronic); Jim Johnson, Department of Agriculture (electronic).

28. COMMENTS: No public or agency comments have been received to date.

29. STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR LAND USE DECISIONS, to establish a non-farm dwelling in the EFU Zone. The standards for approval contained in Section 152.059 (K) (VI), *Non-Farm Dwelling* are provided in underlined text as follows. The responses are indicated in standard text.

§ 152.059 LAND USE DECISION

In an EFU zone the following uses may be permitted through a land use decision via administrative review (§ 152.769) and subject to the applicable criteria found in §152.617. Once approval is obtained a zoning permit (§ 152.025) is necessary to Preliminaryize the decision.

(K) DWELLINGS.

The following permanent, single family dwellings may be authorized in an EFU zone. The dwellings may be conventional “stick built,” modular homes, manufactured homes or mobile homes meeting the definition of a dwelling and the standards in § 152.013(B) (5). All farm dwelling applications are subject to review and comment by the Department of Land Conservation and Development. Permits for dwellings approved under this section are valid for four years. A permit extension for an additional two years may be granted upon request.

(8) Non-farm dwelling. A non-farm dwelling permitted in ORS 215.284 and subject to the following criteria:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use; A dwelling on this parcel would not appear to have a significant effect on existing farming practices.

(b) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract. The parcel is comprised of two soil types,

a high value soil (39A Hermiston silt loam) and a non-high value soil (115E Walla Walla silt loam). The parcel is predominantly (51% or great) comprised of high value soils. The proposed dwelling site would be located on the flat area, on land with a class II soil Capability Classification. The parcel previously had a vertical grain elevator; remnants of which include the foundation.

- (i) A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and, The applicant indicates that the parcel has not been put to farm use in conjunction with other parcels. However, it may be feasible to combine with an adjacent parcel(s) and utilize as part of a farming operation.

The application materials and testimony show that the parcel has not been farmed for many years. The applicant presented testimony to the Planning Commission that it would not be practical or feasible to farm the small parcel given the fact that it has the concrete platform and the underground auger system. The subject parcel appears to comply with this criterion.

- (ii) A lot or parcel or portion of a lot or parcel is not generally unsuitable simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not generally unsuitable. A lot or parcel or portion of a lot or parcel is presumed to be suitable if it is composed predominately of Class I - VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or The parcel has two soil types, including Class VI and Class II. The portion of the property where the proposed home site would be located is shown as Class II. The class VI soils include the area along the slope. The land along the railroad and Wildhorse Creek is flat and contains Class II soils. No water rights are present on this parcel. It is possible that the subject parcel could be combined with adjacent parcels and incorporated into a farming operation. The applicant, Mr. Severe was informed county that he consulted with a certified soil scientist who indicated it was not likely the soil study would conclude the soul to be "non-farm." Mr. Severe chose not to do hire a DLCD certified soil scientist, which would be required to prove the home site was not farmable. See attached letter from Mr. Severe.

Planning Commission considered the testimony of Mr. Severe and discussed how to reconcile his compelling depiction of a parcel that is not farmable with the ORS requirement for a state certified soil scientist evaluation. They concluded by finding that they agree with Mr. Severe's characterization but that the requirement for a soil scientist report will be made as a condition of approval. One Commissioner commented that the application clearly meets

“the spirit of the law” even though the evidence in the record did not show compliance with the technical, ie soil scientist evaluation, requirement in the law.

The application can be found to comply with this criterion provided the applicant complies with conditions of approval below.

(iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not generally unsuitable simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not generally unsuitable. If a lot or parcel is under forest assessment, it is presumed suitable if, in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land; Umatilla County Planning Commission finds that the parcel is zoned EFU and this criterion is not applicable.

(c) The dwelling will not materially alter the stability of the overall land use pattern of the area; Materials provided by Mr Severe did not specifically address this standard. Planning Commission reviewed materials in (VIII) Impact Test and found that lands surrounding the subject parcel are not likely to be partitioned and developed with non farm dwellings given the sever slopes and limitations for access to the non farm soils. See attached vicinity map and (VIII) Impact Test discussion below.

(d) New easements, private roads or public right-of-ways, must meet at a minimum, the Option 1 design standard as depicted in the County Transportation Plan Figure 7-2A and defined in § 152.648 (D) (30 foot right of way with 16 foot travel lane). Whenever possible, new roads should not be placed upon agricultural land as defined by prior policies; The County finds that there is a 25 foot easement through tax lot 100 which may be used for legal access. An access permit may be required for access/driveway to Helix Highway.

(e) The parcel upon which a non-resource dwelling is located and being valued at true cash value for farm use under ORS 308.370 shall meet the requirements in ORS 215.236, including but not limited to:

- (i) The site shall be disqualified for farm deferral; and
 - (ii) The tax penalty shall be paid prior to Preliminary approval;
- The parcel is not on Farm Use Special Assessment.

(f) If the non-farm dwelling site is being created by a land division, the parcel shall comply with the access, improvement requirements, and follow the procedures for land divisions set forth in § 152.710 (D), and shall comply with the applicable dimensional standards of § 152.063;The County finds that a land division is not being requested in relation to this application. This criterion is not applicable.

(g) If the request involves the creation of a new parcel containing historic property as defined in ORS 358.480, the original parcel may be reduced below the minimum lot size standard, including an 11% standard deviation; The County finds that a new parcel is not being created. This criterion is not applicable.

(h) Sign and record a Covenant Not to Sue as provided in § 152.059 (K) (11). The County finds that the applicant is willing to sign a Convent Not to Sue as indicated on the associated land use request applications. This shall be included as a condition of approval.

(i) The dwelling will be sited on a lot or parcel created before January 1, 1993. (This date only applies to the placement of a non-farm dwelling on an existing, lawfully created lot or parcel.) The County finds that the subject parcel was created prior to January 1, 1993. This criterion is met.

(j) If a single-family dwelling is established on a lot or parcel as set forth in § 152.059 (K) (3) or (4), Lot of Record Dwelling, no additional dwelling may later be sited under the provisions of this sub-section The County finds that the applicant is not requesting a Lot of Record Dwelling. Previously, County approved a CUP for a “Lot of Record Dwelling.” However, the owner/applicant allowed the permit to expire.

(9) The dwelling will be sited on a lot or parcel created before January 1, 1993; Deed records show the parcel was established prior to 1993. The County finds that the criterion is met.

(10) If a single-family dwelling is established on a lot or parcel as set forth in § 152.059 (K) (II), Lot of Record Dwelling, no additional dwelling may later be sited under the provisions of this sub-section. There has never been a dwelling established on the property, according to county records. The County finds that the criterion does not apply.

(VIII) Impact Test.

In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new non-farm dwellings and parcels on other lots or parcels in the area similarly situated.

(1) The county shall identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the

smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural area. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area.

Study Area Description

The study area is comprised of 2000 acres which includes the lands within an approximate one mile radius of the subject parcel. These parcels are located along Wildhorse Creek, State Highway 11 and State Highway 336. The boundary of the study area does not follow parcel boundaries and in some cases a majority of a particular parcel may fall outside of the study area. These parcels are included in the study area if any portion of the parcel is within the boundary of the study area; however, for purposes of the dwelling calculations, only the dwellings that fall within, or could potentially fall within the boundaries of the study area are included. This area is representative of where the subject property is found due to the immediate proximity to the subject parcel, similar farm use, and zoning. The County finds that analysis for the application was completed as prescribed and that the Study Area (see attached Study Area Map) is adequate for an accurate description.

(2) Within the study area identify the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under ORS 215.263(5). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this provision.

Farm Uses in the Study Area

The predominate farm use in the area is dry land grain crops. The study area also includes sections of steep hillsides that are not in farm crops. Soil types range from Class II to Class IV and class VI with strips of ground that are not crop farmed due to erosion and steep slopes. Zoning for all of the Study Area is EFU.

Number and Type of Existing Dwellings

The Study Area contains 22 parcels including the subject parcel. The parcels range in size from 1.25 acres (smallest) to 860 acres (largest) in size. There are four dwellings located within the boundary of the Study Area. There is no existing non-farm or lot of record dwellings within the Study Area.

Development Trends since 1993

Within the study area, one permit, for a Lot of Record dwelling, has been issued since 1993. That was the Lot of Record Dwelling permit for Duff Ranches, the previous landowner of the subject parcel. That permit was not acted upon and expired.

Potential Number of Dwellings

Non-Farm Dwellings

Under specific standards a non-farm dwelling may be approved on an existing parcel; or, a maximum of two non-farm dwellings may be approved and partitioned from a large farm parcel, where the large parcel (after the two small non-farm parcels are divided) will remain at 160 acres or larger. A parcel or a portion of a parcel is presumed to be unsuitable for farming if the soil Class is VII - VIII or, if previously developed in a way that the parcel is unsuitable for farming. After review of the large parcels and the soil values on those parcels three and possibly four of the existing dwellings could meet standards to be converted to a non-farm dwelling. Based on the parcels in the study area that contain class VII soils, it may be possible for up to nine (9) non-farm dwellings could be created. Planning Commission found however, that due to the steep slope of the non-farm soils and limited access, it is not likely that many landowners would pursue permission for a non-farm dwelling.

Lot of Record Dwellings

Property owners could possibly qualify for a lot of record dwelling on their property if they, or a family member, have continually owned the property since prior to January 1, 1985; and no other dwellings existed on the parcel or tract of land as of November 4, 1993. In addition to long term family ownership the parcel or tract must be composed predominately of non-high value farm soils.

With the best information available from the County Assessor and Records Office, staff reviewed parcels in the Study Area to determine the number of parcels that may have the potential to meet the criteria for a Lot of Record Dwelling. Excluded were parcels 160 acres and larger, since those could presumably qualify for a "farm dwelling" permit. There are six (6) parcels that have been in a family ownership continuously since prior to January 1, 1985 that may qualify for a Lot of Record dwelling permit.

(3) Determine whether approval of the proposed non-farm/lot of record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area;

Determination

The study area includes some areas of EFU land that are not currently used for farming; this creates some potential for development of nonfarm dwellings. However, the reason most of these areas are not used for farming is due to steep slopes. Steep slope areas also make the

development of home sites difficult and expensive. No non-farm dwellings have been built in the study area. As described above, solely based on class VII soils, there is a potential for nine (9) additional non-farm dwelling approvals. It is not clear how likely that may be given the steep slope of the class VII soil lands. The number of possible Lot of Record dwellings is six (6).

In summary, approval of the applicant's request to establish one (1) non-farm dwelling on the subject property, along with four (4) existing dwellings in the Study Area, plus the potential for six (6) Lot of Record dwellings and nine (9) non-farm dwellings, the total could be 20 dwellings within the 2000 acre area. The overall density of 20 total dwellings would be one dwelling per 100 acres. The minimum lot size for a farm dwelling is 160 acres. Based on this, if all parcels were permitted to construct a dwelling based on one of the dwelling criteria, the density would be much higher than in other dryland farming areas.

However, Planning Commission found that given the steep slope and limited access to non-farm soils, it is reasonable to assume that few, if any of the landowners would propose to permit non-farm dwellings in the study area. Thus the approval of this unique piece of property would not likely have an impact on surrounding farm operations. The County Planning Commission finds that the proposed non-farm dwelling would not likely materially alter the stability of the land use pattern in the area.

Planning Commission concluded that the application complies with this standard.

PLANNING COMMISSION DECISION:

Planning Commission finds, BASED ON FINDINGS AS AMENDED AND SHOWN ABOVE, that this land use decision to establish a non-farm dwelling may comply with the standards of the Umatilla County Development Code, subject to the following conditions of approval.

THE FOLLOWING CONDITIONS OF APPROVAL MAY BE CONSIDERED IF PLANNING COMMISSION FINDS THE APPLICATION COMPLIES WITH THE APPLICABLE STANDARDS IN THE COUNTY DEVELOPMENT CODE AND OREGON REVISED STATUTES

Precedent Conditions: Precedent conditions must be completed prior to Preliminary approval and the issuance of a Zoning Permit.

1. Submit a soil survey from a DLCD Certified Soil Scientist, that the home site will be located on a portion of the parcel that complies with UCDO Section 152.059(k)(8)(b)(i) and (ii). This includes the requirement that the applicant provide a soil assessment from a DLCD certified soil scientist in accordance with OAR.
2. Sign and record a Covenant Not to Sue Agreement. The Agreement will be provided by the County Planning Department.

3. Obtain an Access Permit from State Highway for the easement to the home site.
4. Pay Public Notice costs.

Subsequent Conditions: The following subsequent conditions must be fulfilled following Preliminary approval.

5. Obtain a Zoning Permit from the Umatilla County Planning Department to place the home on the property with an approved site plan showing setbacks, existing structures, driveways, utilities, etc.
6. Obtain all other State permits necessary for development.
7. Authorization to place the home on this property is valid for four years with a possible two year extension. ~~Within that period of time the home must be constructed with a final inspection being completed by the State Building Codes and a Certificate of Occupancy being granted.~~

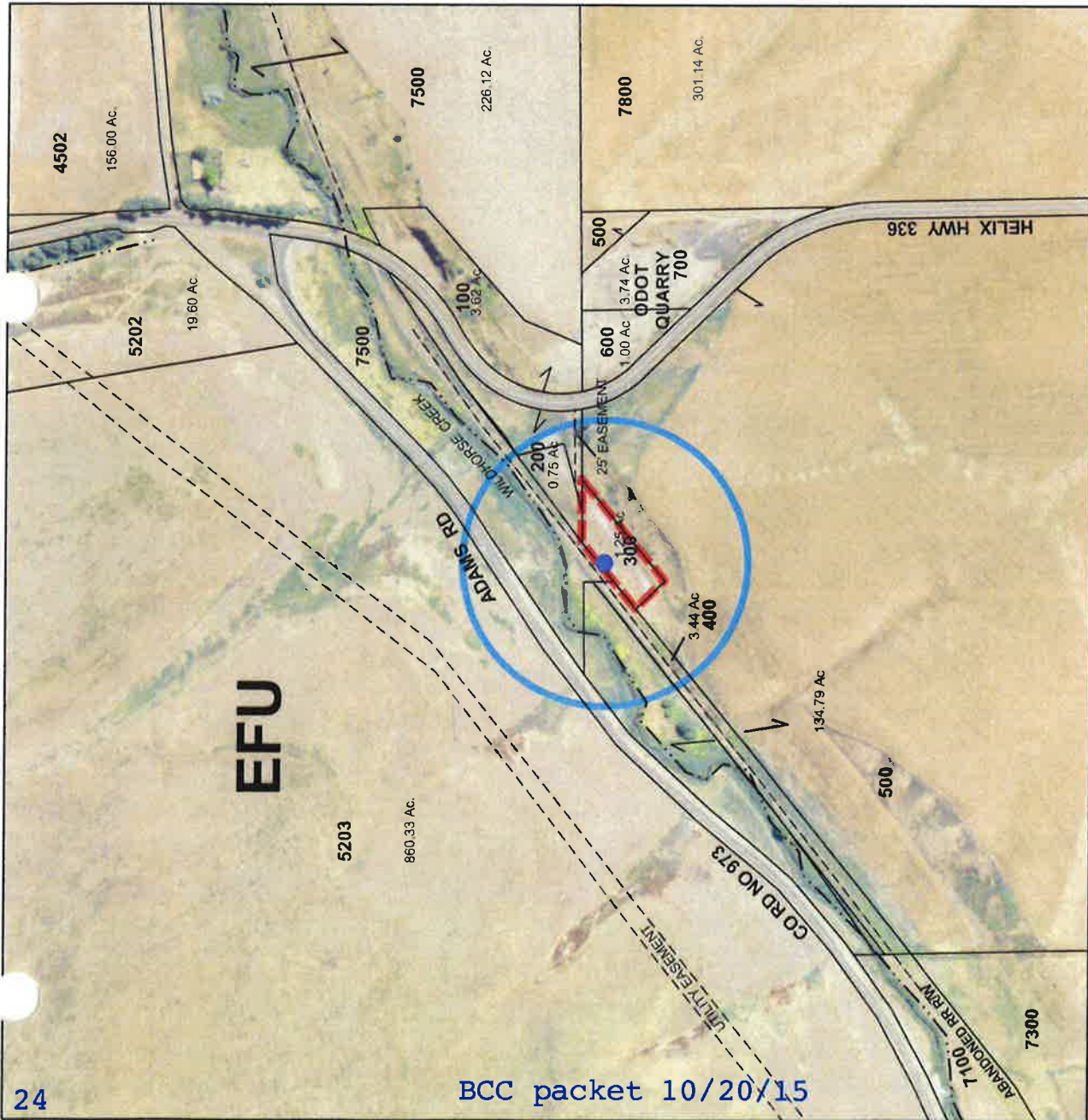
UMATILLA COUNTY PLANNING COMMISSION



Randy Randall, Chair
Umatilla County Planning Commission

6-30-15

Date



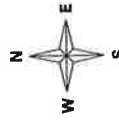
PROPERTY OWNERS WITHIN 750' NOTICE AREA OF SUBJECT PARCEL

MAP 3N333

- 4502 SPRATLING LAND LLC
- 5202 PUGH JESSE & AMANDA
- 5203 MAC-5 INC
- 7100 MCCORMMACH MORRIS O 3/4 ET AL 1/4
- 7300 ROSSELLE ROBERT D & TERI L
- 7500 PAYNE S J & V & STEELE J D (TRS)
- 7800 BAFUS FREDA M
- LHT FARMING CO (AGT)

MAP 3N3323

- 200 SEVERE CASEY L
- 300 SEVERE CASEY L
- 400 UNION PACIFIC RAILROAD CO
- 500 PAYNE S J & V & STEELE J D (TRS)
- 600 STATE OF OREGON, ODOT
- 700 STATE OF OREGON, ODOT
- 100 STATE OF OREGON, ODOT



DATE: 5/28/15




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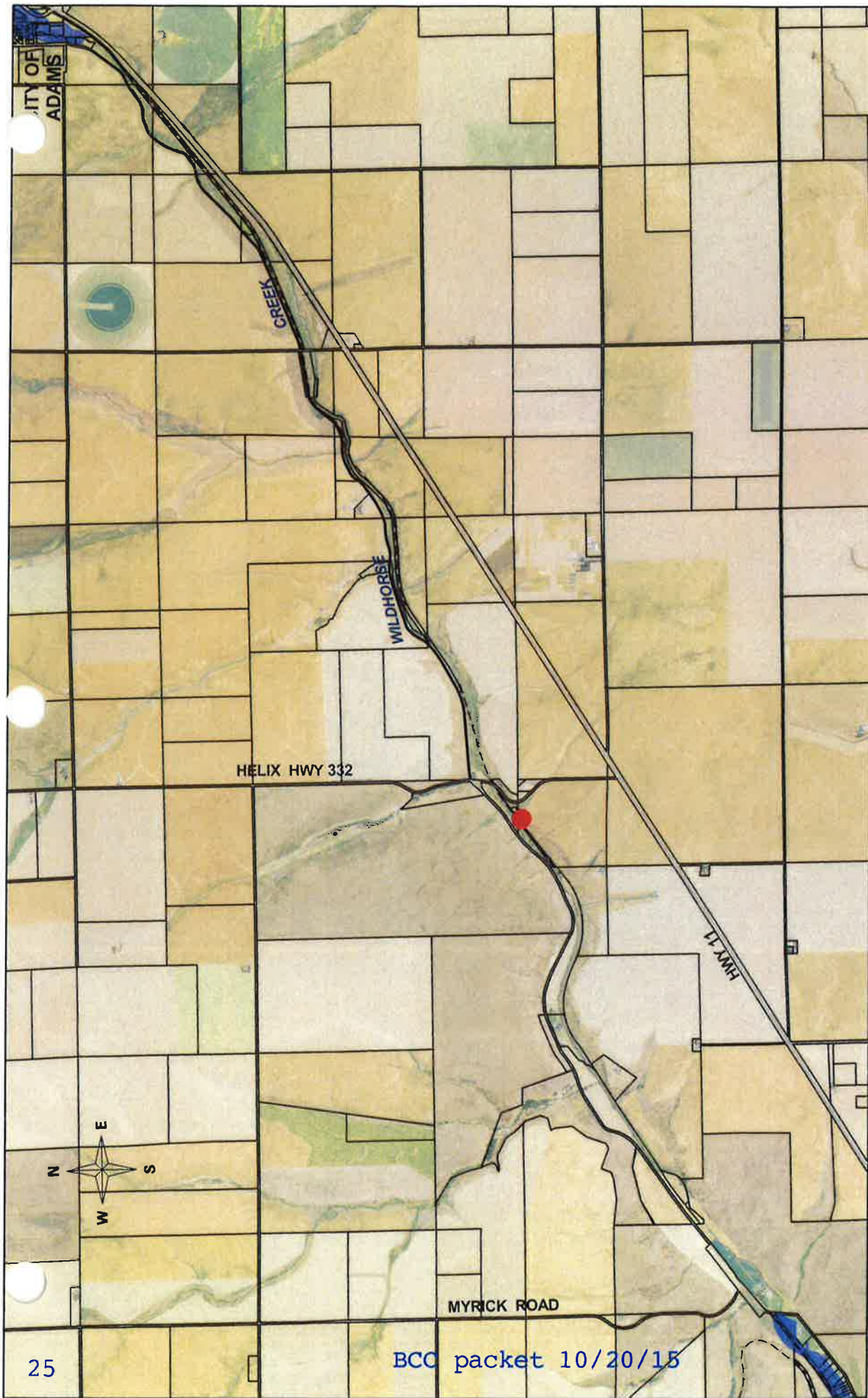
y:\workspace\planning\vicinity maps\Q-T\Severe_LUD_175_14.gws

LAND USE DECISION #LUD-175-14. NON-FARM DWELLING APPLICATION

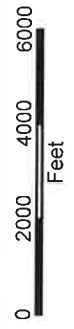
CASEY SEVERE, APPLICANT/OWNER

MAP 3N3323, TAX LOT 300

-  SUBJECT PARCEL
-  PROPOSED DWELLING
-  500 FT BUFFER

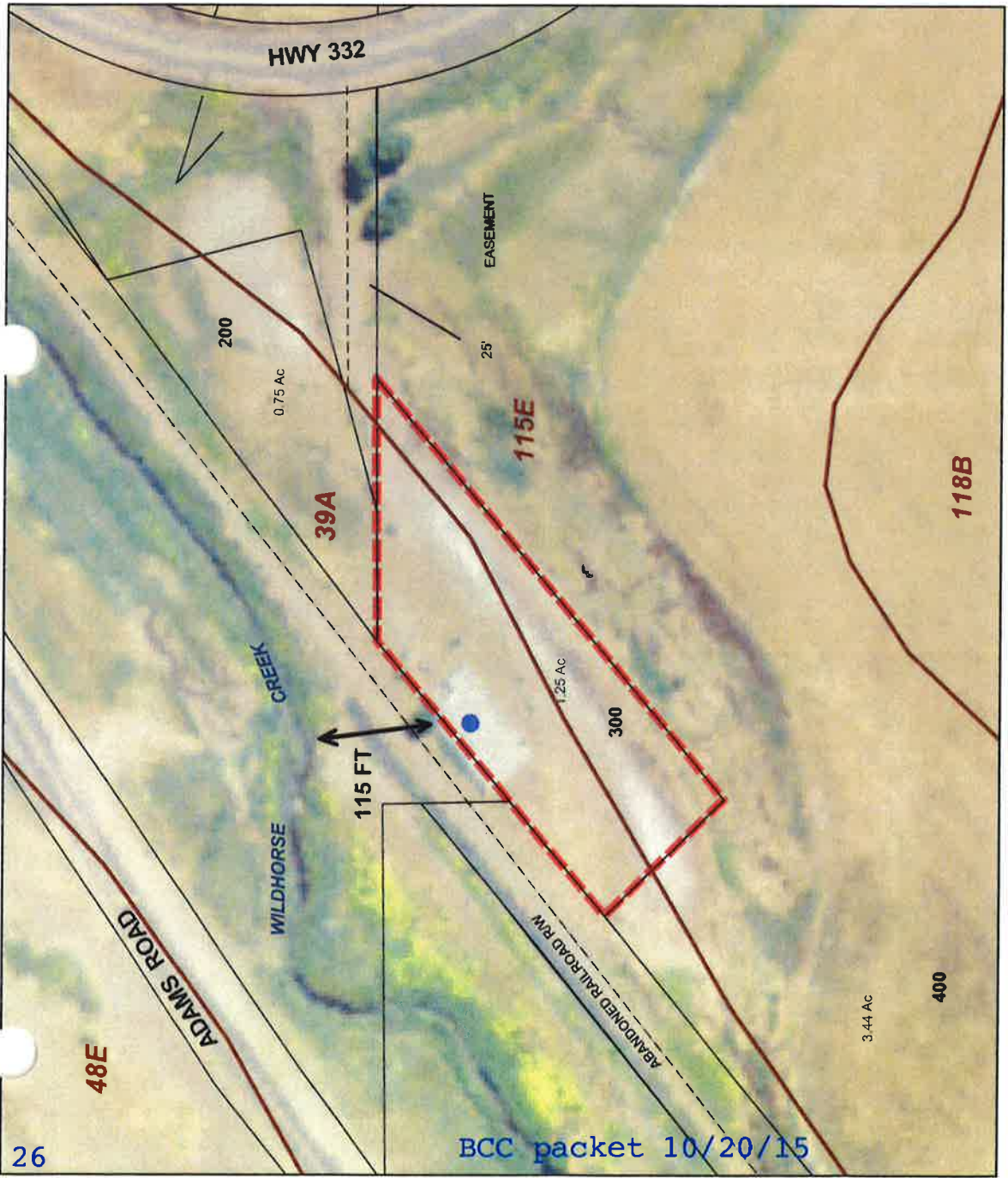


LAND USE DECISION #LUD-175-14, NON-FARM DWELLING APPLICATION
 CASEY SEVERE, APPLICANT/OWNER
 MAP 3N3323, TAX LOT 300



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- Casey Severe Property
- Extent of FEMA Flood Study



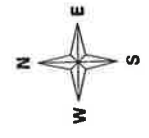
26

BCC packet 10/20/15

LAND USE DECISION #LUD-175-14. NON-FARM DWELLING APPLICATION
 CASEY SEVERE, APPLICANT/OWNER
 MAP 3N3323, TAX LOT 300

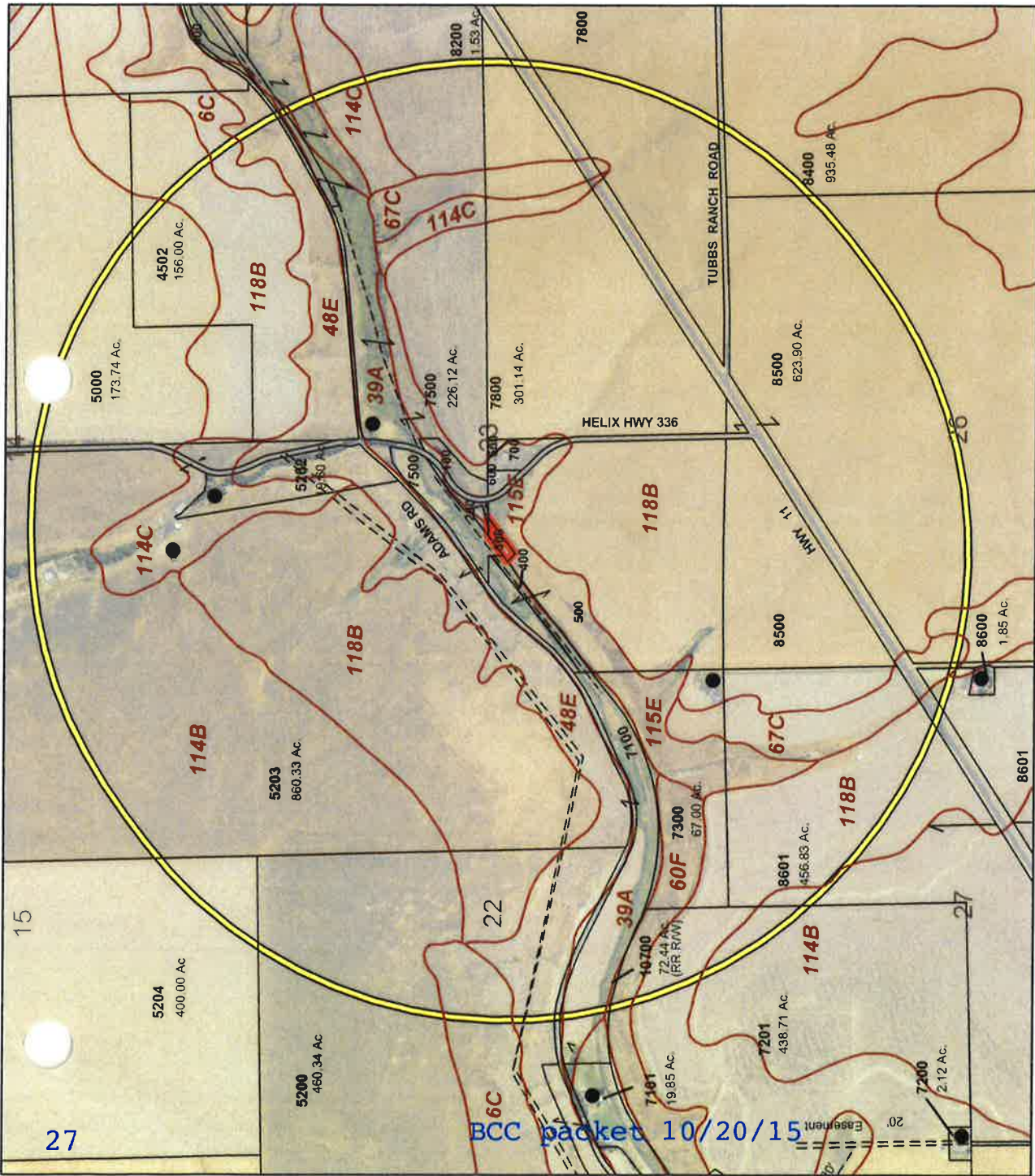
-  SUBJECT PARCEL
-  PROPOSED DWELLING SITE
-  Soil Type Boundary
-  Soil ID

2014 AERIAL PHOTO



DATE: 5/28/15

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by J. Alford, Umatilla County Planning Dept.



2014 AERIAL PHOTO, #LUD-175-14 NON-FARM DWELLING APPLICATION
 CASEY SEVERE, APPLICANT/OWNER
 MAP 3N3323, TAX LOT 300, ACCT#108815

2014 AERIAL PHOTO



DATE: 5/28/15

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2000 ACRE TEMPLATE TEST FOR OWN-FARM DWELLING APPLICATION
 #LUD-175-15, CASEY OWNER, APPLICANT/OWNER

ACCT_ID	TLID	OWNER	IN_CARE_OF	AGENT	M_ADDRESS	M_CITY	ST	ZIP	AC	HSE
100131	3N33000004502	SPRATLING LAND LLC ✓			76725 HELIX HIGHWAY	PENDLETON	OR	97801-9224	156	0
100143	3N33000005000	SPRATLING LAND LLC			76725 HELIX HIGHWAY	PENDLETON	OR	97801-9224	173.74	0
108729	3N33000005200	MCCORMMACH RANCHES INC			PO BOX 8273	EUGENE	OR	97408	460.34	0
146889	3N33000005202	PUGH, JESSE & AMANDA			75780 HELIX HIGHWAY	ADAMS	OR	97810	19.6	X
149971	3N33000005208	MAC-5 INC			75786 HELIX HIGHWAY	ADAMS	OR	97810	860.33	X
157423	3N33000005204	SPRATLING LAND LLC			76725 HELIX HIGHWAY	PENDLETON	OR	97801-9224	400	0
108795	3N33000007100	MCCORMMACH MORRIS O 3/4 ET AL 1/4			47486 ADAMS RD	PENDLETON	OR	97801	130	0
108799	3N33000007201	SMITH-DUFF RANCHES INC ✓	C/O DUFF J		801 N MAIN ST	PENDLETON	OR	97801	438.71	0
108803	3N33000007300	ROSSELLE ROBERT D & TERI L			47639 HIGHWAY 11	ADAMS	OR	97810-3029	67	X
100166	3N33000007500	PAYNE S J & V & STEELE J D (TRS)			24118 E LAKERIDGE DR	LIBERTY LAKE	WA	99019	13.67	X
100168	3N33000007800	BAFUS FREDA M ✓	LHT FARMING CO (AGT)		PO BOX 38	ADAMS	OR	97810	301.14	0
100175	3N33000008400	AQUINO ELISE D (TRS) 56% & AQUINO ELISE D			13535 FOREST PARK CIR	PENN VALLEY	CA	95946	310.87	0
100177	3N33000008500	BAFUS FREDA M ✓	LHT FARMING CO (AGT)		PO BOX 38	ADAMS	OR	97810	309.15	0
108837	3N33000008601	DUFF RANCHES INC ✓			46796 DUFF RD	ADAMS	OR	97810-0321	456.83	0
159772	3N33130000500	UNION PACIFIC RAILROAD CO			1400 DOUGLAS ST #STOP 1640	OMAHA	NE	68179-1001	8.93	0
140258	3N33230000100	STATE OF OREGON	C/O PROPERTY TAX		4040 FAIRVIEW INDUSTRIAL DR SE #MS2	SALEM	OR	97302-1142	4.77	0
108818	3N33230000200	SEVERE CASEY L			PO BOX 608	PENDLETON	OR	97801	0.75	0
108816	3N33230000300	SEVERE CASEY L			PO BOX 608	PENDLETON	OR	97801	1.25	0
159773	3N33230000400	UNION PACIFIC RAILROAD CO	C/O PROPERTY TAX		1400 DOUGLAS ST #STOP 1640	OMAHA	NE	68179-1001	3.44	0
108815	3N33230000500	PAYNE S J & V & STEELE J D (TRS) ✓			24118 E LAKERIDGE DR	LIBERTY LAKE	WA	99019	134.79	0
137007	3N33230000600	STATE OF OREGON	ODOT TECH CNTR PROP MGMT #42500		4040 FAIRVIEW INDUSTRIAL DR SE #MS2	SALEM	OR	97302-1142	1	0
140258	3N33230000700	STATE OF OREGON	ODOT TECH CNTR PROP MGMT #42500		4040 FAIRVIEW INDUSTRIAL DR SE #MS2	SALEM	OR	97302-1142	3.74	0

✓ = cured for liability prior to 1985

Printed 10/20/15

7/11

Casey L. Severe

General Contractor CCB #78700

P.O. Box 608 Pendleton, Or. 97801 Phone 541 969 9404 caseyleons@gmail.com

April 5, 2015

To: Shane Finck,

I am submitting this letter to be included with my Non Farm Dwelling Permit application.

The purpose of this letter is to inform you that I have had a lengthy and thorough conversation with DLCD Certified Soil Scientist Roger Borine concerning the type of soil that this property consist of. After a describing the type and conditions of the soil to Mr. Borine he was of the opinion that it would be unlikely he could reach a conclusion that the soil would be a classified as a Class VII soil therefore stating "I would likely be wasting my money" to employ him for this Soil Survey, therefore I will not be submitting a Soil Survey with my application.

There seems to be some concern on the part of the Umatilla County Planning Dept. as to where I have proposed to locate the house. My assumption is that at the current proposed location of the house, the concern is that it will be removing farmable soil out of production, therefore I am more than willing to move the house location to the existing concrete slab. (48ft. x 96ft.) This will consequently leave any farmable soil available for farming.

The concrete slab is adequate in size for the size of house I would like to put on this concrete slab, and by locating it on the west end of the concrete slab I will be outside of the ODOT Rock Quarry buffer zone.

I am submitting a revised site map, (Exhibit B) for the purpose of relocating the House Site to the existing concrete slab, (48ft. x 96ft.) at 3N3323 Tax Lot 300.

Please submit this with my application for the Non-Farm Dwelling Permit.

Sincerely,
Casey L. Severe

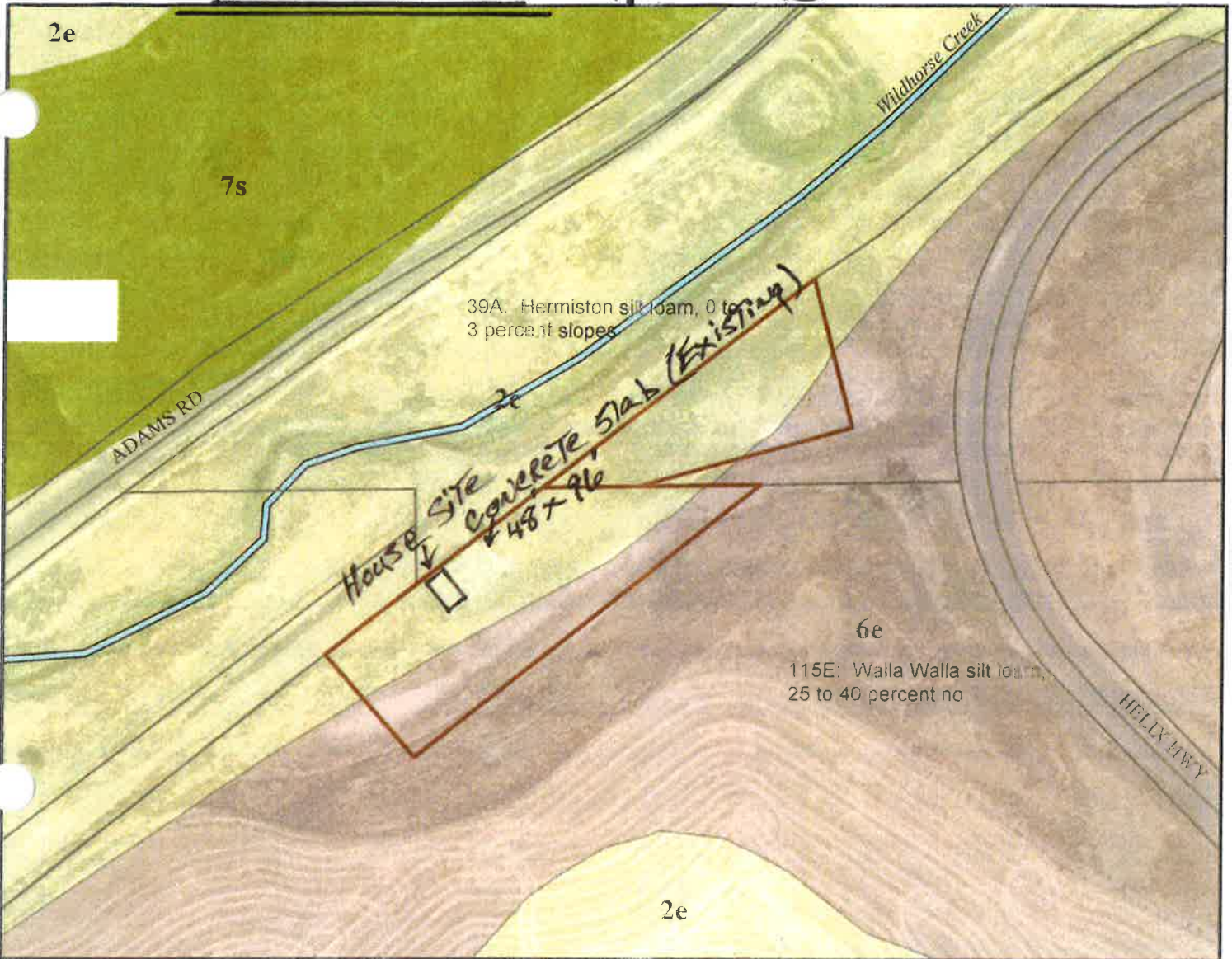


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APR 07 2015

UMATILLA COUNTY
PLANNING DEPARTMENT

Revision Exhibit B

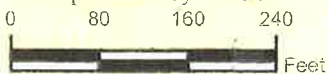


CASEY SEVERE
 PO Box 608
 Pendleton, OR 97801

T3N, R33E, Section 23, TL 300,
 Account #108815
 1.25 acres, EFU Zone

2013 Parcel Boundary

SOILS MAP using GIS
 data provided by NRCS



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CAPABILITY CLASSES, the broadest groups, are designated by Roman numerals I through VIII. The numerals indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows: Class I soils have few limitations that restrict their use. Class II soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices. Class III soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both. Class IV soils have very severe limitations that reduce the choice of plants or that require very careful management, or both. Class V soils are not likely to erode but have other limitations, impractical to remove, that limit their use. Class VI soils have severe limitations that make them generally unsuitable for cultivation. Class VII soils have very severe limitations that make them unsuitable for cultivation. Class VIII soils and miscellaneous areas have limitations that nearly preclude their use for commercial crop production.

Capability subclasses are soil groups within one class. They are designated by adding a small letter, e, w, s, or c, to the class numeral, for example, IIe. The letter "e" shows that the main limitation is risk of erosion unless close-growing plant cover is maintained; "w" shows that water in or on the soil interferes with plant growth or cultivation (in some soils the wetness can be partly corrected by artificial drainage); "s" shows that the soil is limited mainly because it is shallow, droughty, or stony; and "c", used in only some parts of the United States, shows that the chief limitation is climate that is very cold or very dry. (p. 172, 1999 Umatilla County Soil Survey, NRCS)

Legend

- Severe Property
- Roads
- Water Courses - FEMA

SOILS, Land Capability

LCC_DRY

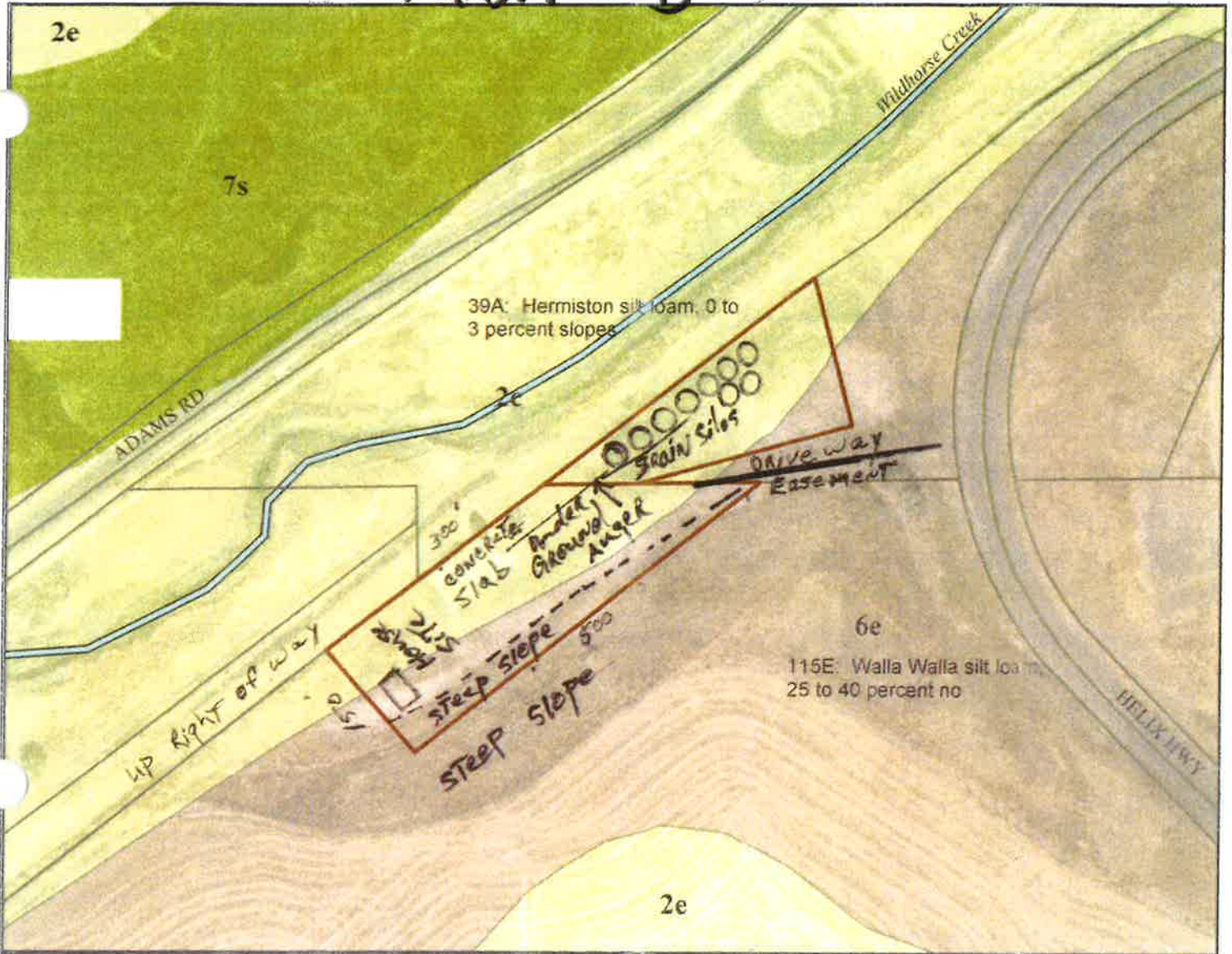
- 2c; 2e; 2s; 2w
- 3c; 3e; 3w
- 4c; 4e; 4s

- 5w
- 6e; 6s; 6w
- 7e; 7s; 7w
- 8



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Exhibit B



CASEY SEVERE
PO Box 608
Pendleton, OR 97801

T3N, R33E, Section 23, TL 300,
Account #108815
1.25 acres, EFU Zone

2013 Parcel Boundary

SOILS MAP using GIS
data provided by NRCS



MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of these data for individual or aggregate use with other data. Original data was compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification. GIS data used by Umatilla County is not survey grade. Coordinate and spatial location parcel data should be used for reference purposes only. Ordinates have an error factor of a minimum of +/- 50 feet. Subsequently there are many error factors that contribute to the inaccuracy. Umatilla County uses the best available data. Overtime the accuracy levels will be improved. Prepared by: Ruchard Jennings

CAPABILITY CLASSES, the broadest groups, are designated by Roman numerals I through VIII. The numerals indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows: Class I soils have few limitations that restrict their use. Class II soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices. Class III soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both. Class IV soils have very severe limitations that reduce the choice of plants or that require very careful management, or both. Class V soils are not likely to erode but have other limitations, impractical to remove, that limit their use. Class VI soils have severe limitations that make them generally unsuitable for cultivation. Class VII soils have very severe limitations that make them unsuitable for cultivation. Class VIII soils and miscellaneous areas have limitations that nearly preclude their use for commercial crop production.

Capability subclasses are soil groups within one class. They are designated by adding a small letter, e, w, s, or c, to the class numeral, for example, 11e. The letter "e" shows that the main limitation is risk of erosion unless close-growing plant cover is maintained; "w" shows that water in or on the soil interferes with plant growth or cultivation (in some soils the wetness can be partly corrected by artificial drainage); "s" shows that the soil is limited mainly because it is shallow, droughty, or stony; and "c", used in only some parts of the United States, shows that the chief limitation is climate that is very cold or very dry. (p. 172, 1999 Umatilla County Soil Survey, NRCS)

Legend

- Severe Property
- Roads
- Water Courses - FEMA

SOILS, Land Capability
LCC_DRY

- 2c; 2e; 2s; 2w
- 3c; 3e; 3w
- 4c; 4e; 4s

- 5w
- 6e; 6s; 6w
- 7e; 7s; 7w
- 8



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CRITERIA OF APPROVAL

Casey Severe, T3N, R33E, Section 23, TL 300
Application for a Non-Farm Dwelling

UCDC 152.059 (K) (8) -

(8) Non-farm dwelling.

A non-farm dwelling permitted in ORS 215.284 and subject to the following criteria:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

The development of this property with a home site will not force a significant change or cost of accepted farming practices on nearby lands devoted to farm use. Tax Lot 300 hereafter "subject property" is literally cut off from all adjacent or nearby farm parcels and would not impact any nearby farm parcels. The large farm parcel, Tax Lot 500 of T3N, R33E, Section 23, that lies to the south of the subject property has long been farmed with wheat and summer fallow rotations. A steep slope or bluff runs along the property boundary of Tax Lot 500 and the subject property, which prevents any meaningful interaction between these properties. The farm practices on Tax Lot 500 will not be changed or altered because of development on the subject property and thus, no increase in the costs of farming will occur with the proposed dwelling on the subject property.

The property to the north is Tax Lot 400, T3N, R33E, Section 23 and is a narrow strip of land owned by the Union Pacific Railroad and is an abandoned railroad right of way. This parcel is composed of compacted rock and gravel and is not farmed. Along the abandoned railroad right of way to the north is Wildhorse Creek and adjacent to Wildhorse Creek is Adams Road. These features all provide several barriers from the subject property to any other nearby farm parcels to the north.

And finally, the property to the east of the subject property Tax Lot 200, T3N, R33E, Section 23 is also owned by Mr. Severe and was the site of several old grain silos. The grain silos have been removed from the property, but remnants remain. An underground auger system runs from the main grain elevator site, which was located on the subject property to Tax Lot 200. The site where the silos were located has had the concrete foundations removed and the soils have been so compacted over the years with gravel and heavy truck traffic that any reclamation efforts would not be worthwhile. Tax Lot 200 is not a farm parcel.

In conclusion, the only nearby land devoted to farm practices (Tax Lot 500, T3N, R33E, Section 23) will not be significantly impacted from the placement of a dwelling on the subject property

because of the separation of the properties by the prominent geographic feature of the steep slope or bluff. The farming practices on Tax Lot 500 will continue as in the past.

Additionally, the long established access road that connects the subject property to OR Highway 335 (Havana-Helix Highway) travels across Tax Lot 100 and so no new access roads will be constructed in relation to the proposed development. There will be no farming practices interrupted, disrupted, displaced or modified because of the activities associated with access to the proposed dwelling on the subject property.

A previous application was filed on this property under Umatilla County Planning Department File #C-934-99, Duff "Lot of Record Dwelling." The Final Findings signed by then County Planning Director, Dennis Olsen, substitutes the current conclusion of no impact:

"The proposed dwelling would not appear to interfere with accepted farming practices on surrounding lands devoted to farm uses. An existing roadway provides access to the subject property. No farm land would be taken out of production or disturbed by the establishment of the proposed dwelling" (Emphasis Added, page 5).

This criterion is met.

(b) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract.

(i) A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

The subject property is unsuitable for farming because of size and location. The subject property is a narrow strip of property that is 1.25 acres in size. The terrain and land form makes the parcel impracticable to farm by itself or with another property. The subject property cannot reasonably be put to farm use with any other property that is devoted to farm use. As explained in paragraph (a) above Tax Lot 500, T3N, R33E, Section 23 that lies to the south of the subject property is cut off from any farm equipment movement onto the subject property because of the steep slope that runs along the boundary between these two parcels. The slope is steep enough to even prevent the movement of livestock from one parcel to the other. The other parcels surrounding the subject property are not farm parcels and, as discussed previously, these parcels have not been nor will be used for farming purposes.

This criterion is met.

(ii) A lot or parcel or portion of a lot or parcel is not generally unsuitable simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not generally unsuitable. A lot or parcel or portion of a lot or parcel is presumed to be suitable if it is composed predominately of Class I - VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

The subject property would not prove profitable if managed in conjunction with a commercial farm or ranch operation. The subject property is narrow and is bordered on the south by a steep slope that cannot be farmed or even pastured. The property to the north is a narrow railroad right of way that has since been abandoned with compacted graveled soil. The subject property itself was the site of a large grain elevator – the Havana Grain Elevator. The grain elevator has been removed and a large concrete pad remains making the property even more limiting to farm equipment and livestock.

As mentioned, a steep slope runs along the southern boundary of the subject property. This unique geologic feature continues onto the subject property with a bench area and other uneven and rough ground. The bench area rises higher than the rest of the small property and then drops off down toward the railroad right of way and Wildhorse Creek. This type of terrain makes farming near impossible for any size of machinery. The value of pasture land is also very limited with much of the parcel being graveled over the years and devoted to building foundations.

There are no water rights assigned to this property making it difficult to raise any type of crop or even to irrigate pasture. The subject property is predominantly composed of Class VI soils, which is very limiting to produce quality forage or farm crops without water. Much of the soil has been compacted by graveled work areas now overgrown with weeds.

The County adopted the following finding in its previous land use application (#C-934-99) in relation to the parcel being generally unsuitable for farm use:

“...The site of the proposed dwelling is located on property that has not been used for fanning and was the site of an old grain elevator. The elevator has been removed from the property for some time and the concrete slab of its foundation is all that remains. ... The remainder of the property contains a steep bluff and road. *The small parcel size, its isolation by the bluff, creek and road, its poor soil qualities and the site having been previously disturbed make this property unsuitable for farming or for use as part of the applicants other farming operations. ...*” (Emphasis Added, pages 3-4).

Again, as previously determined by the County Planning Director in 1999, "the small parcel size, its isolation by the bluff, creek and road, its poor soil qualities and the site having been previously disturbed make this property unsuitable for farming." And we agree that these same conditions exist today for the subject property.

This criterion is met.

(iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not generally unsuitable simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not generally unsuitable. If a lot or parcel is under forest assessment, it is presumed suitable if, in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

This criterion is not applicable, the subject property is zoned farm use and not forest use.

(c) The dwelling will not materially alter the stability of the overall land use pattern of the area;

(i) In determining whether a proposed non-farm dwelling will alter the stability of the overall land use pattern of the area, a county shall consider the cumulative impact of non-farm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in § 152.059 (K) (10) (OAR 660-033-0130 (4)(a)(D).) If the application involves the creation of a new parcel for the non-farm dwelling, a county shall consider whether creation of the parcel will lead to creation of other non-farm parcels, to the detriment of agriculture in the area by applying the standards (impact test) set forth in § 152.059 (K) (10).

It is recognized that the County is responsible to conduct the cumulative impact test of the effect of additional non-farm dwellings in the area. A new parcel is not being proposed in this application and so the County will not need to review the local area in respect to the effect of other non-farm parcels being created.

The previous land use application (#C-934-99) makes the following finding in relation to a proposed dwelling being sited on the subject property and not materially altering the overall land use pattern of this area:

“Properties in the vicinity of the subject property are generally larger in size with few dwellings in the immediate vicinity. The overall land use pattern of the area consists of grazing along Wildhorse Creek and dry land cultivated wheat in the areas above the creek basin. The site of the proposed dwelling is located on property that has not been used for fanning and was the site of an old grain elevator. The elevator has been removed from the property for some time and the concrete slab of its foundation is all that remains. ... The remainder of the property contains a steep bluff and road. ... Since the proposed dwelling would be sited on a portion of the property which has already been disturbed and has not been in farm use, *the siting of a home would not appear to materially alter the stability of the land use pattern of the area*” (Emphasis Added, pages 3-4).

We agree with the statements and findings made by the County Planning Director in 1999. There are “few dwellings in the area” on larger parcels and “the siting of a home would not appear to materially alter the stability of the land use pattern of the area.” Since 1999 the number of dwellings in this area of the County has not increased and the same conditions exist today in the ability of this area to accommodate an additional dwelling without an impact to the overall land use pattern.

(ii) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

No other conditions are known at this time that would apply to this application.

(d) New easements, private roads or public right-of-ways, must meet at a minimum, the Option 1 design standard as depicted in the County Transportation Plan Figure 7-2A and defined in § 152.648 (D) (30 foot right of way with 16 foot travel lane). Whenever possible, new roads should not be placed upon agricultural land as defined by prior policies;

The easement that provides access to the subject property will need to be improved to the standards set forth as a “P-1” County Road Standard (16 foot travel lane). Mr. Severe is willing to provide a written description of the easement and record such description if one has not already been recorded (Condition #C of File #C-934-99).

(e) The parcel upon which a non resource dwelling is located and being valued at true cash value for farm use under ORS 308.370 shall meet the requirements in ORS 215.236, including but not limited to:

(i) The site shall be disqualified for farm deferral; and

(ii) The tax penalty shall be paid prior to final approval;

The subject property is not on Farm Deferral. This criterion is not applicable.

(f) If the non-farm dwelling site is being created by a land division, the parcel shall comply with the access, improvement requirements, and follow the procedures for land divisions set forth in § 152.710 (D), and shall comply with the applicable dimensional standards of § 152.063;

The non-farm parcel is not being created. This criterion is not applicable.

(g) If the request involves the creation of a new parcel containing historic property as defined in ORS 358.480, the original parcel may be reduced below the minimum lot size standard, including an 11% standard deviation;

The non-farm parcel is not being created. This criterion is not applicable.

(h) Sign and record a Covenant Not to Sue as provided in § 152.059 (K) (11).

(i) The dwelling will be sited on a lot or parcel created before January 1, 1993. (This date only applies to the placement of a non-farm dwelling on an existing, lawfully created lot or parcel.)

Mr. Severe is willing to sign and record a Covenant Not to Sue Agreement.

(j) If a single-family dwelling is established on a lot or parcel as set forth in § 152.059 (K) (3) or (4), Lot of Record Dwelling, no additional dwelling may later be sited under the provisions of this sub-section.

The application is for a non-farm dwelling and not lot or record dwelling was ever established on the subject property. This criterion is not applicable.



wild Horse Creek

steep slope bench -- up right of way

← Horse

slab 48' x 96'

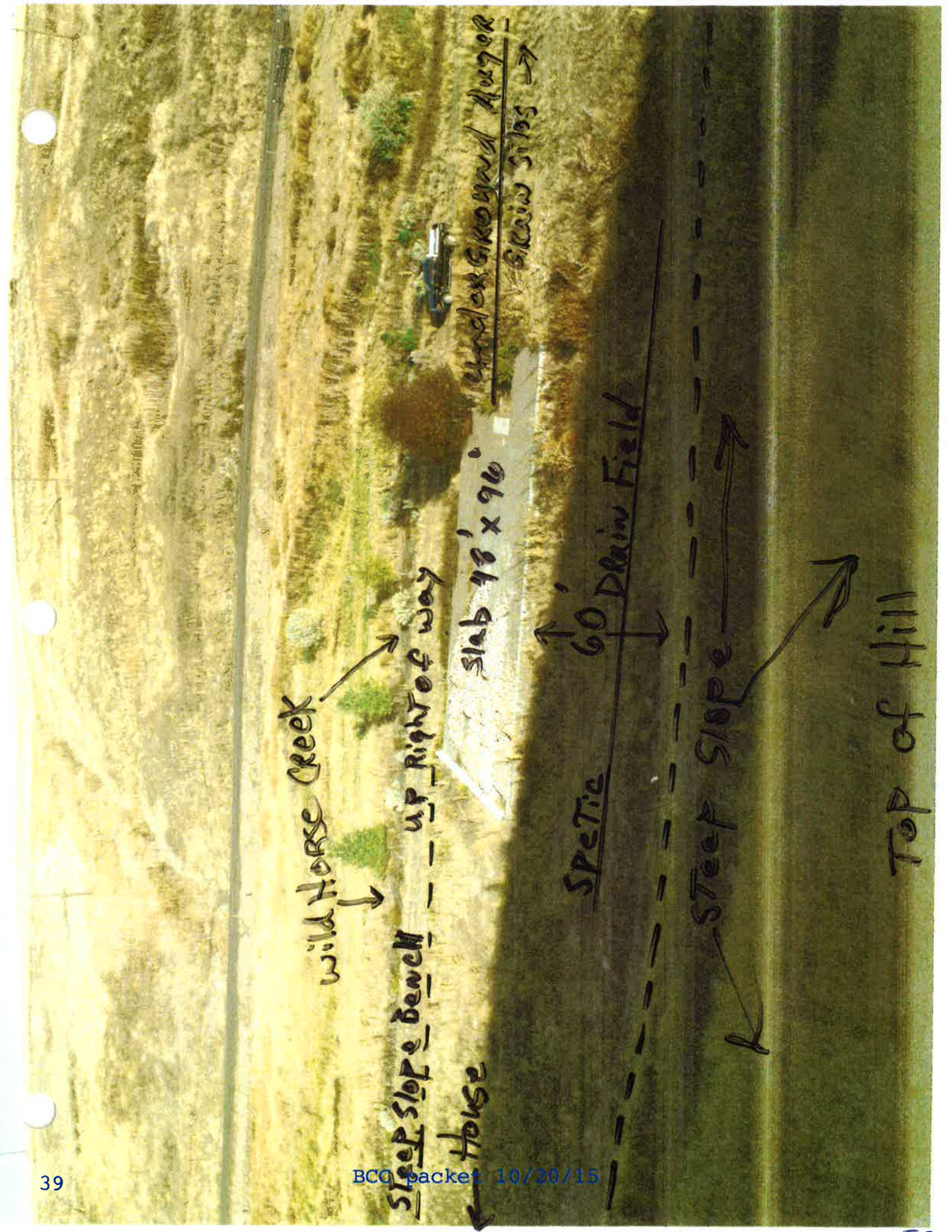
under Ground Auger
drain Slabs →

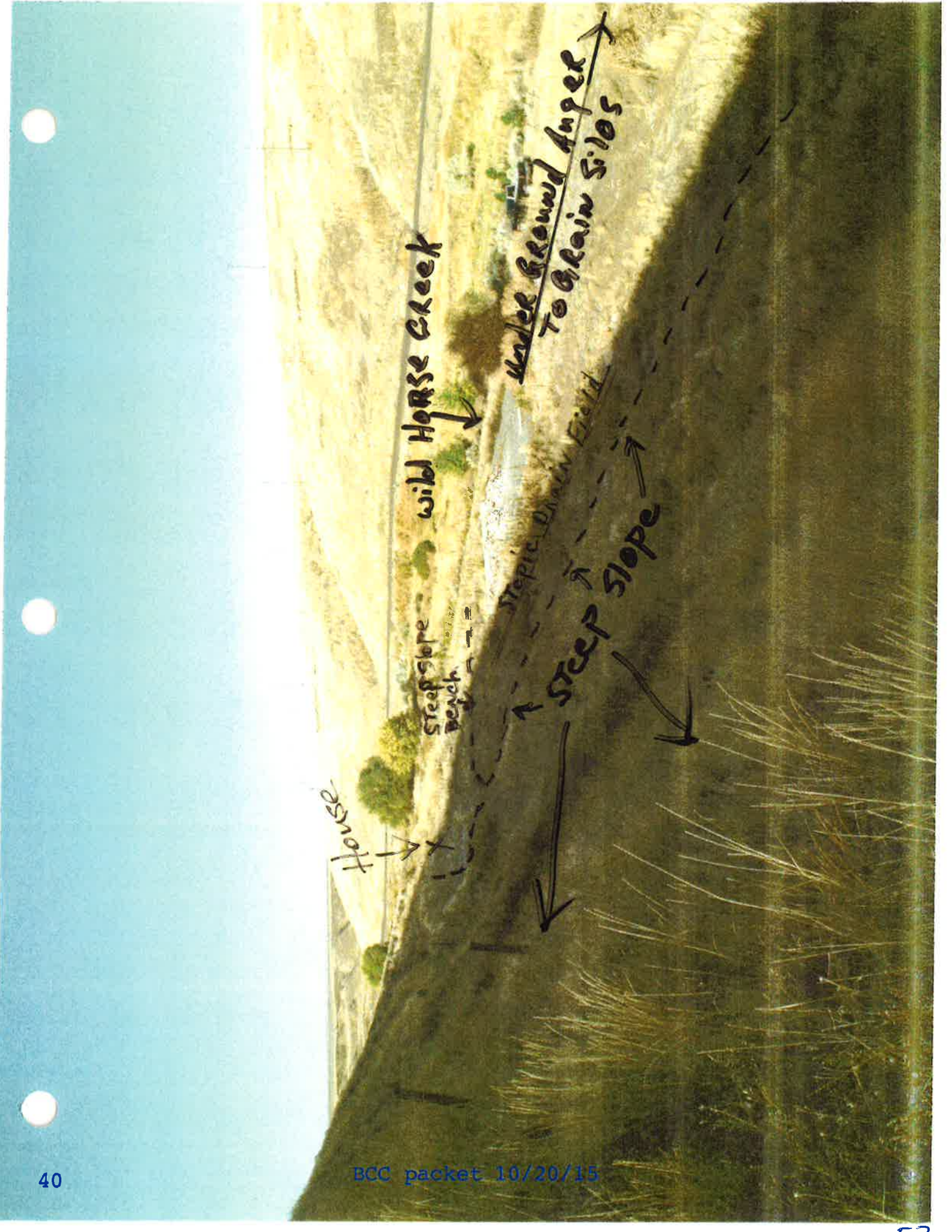
SPeTic

60' Drain Field

steep Slope

Top of Hill





House

steep slope
Bench

wild Horse Creek

under Ground Angel
To Grain Silos

Steep Drain Field

steep slope

50



House

UP RIGHT of way

concrete slab

Wild Horse Creek

54