



# PLANNING DIVISION

216 SE 4<sup>th</sup> ST, Pendleton, OR 97801, (541) 278-6252

Email: [planning@umatillacounty.gov](mailto:planning@umatillacounty.gov)

## AGENDA

**Umatilla County Planning Commission Public Hearing  
Thursday, April 11, 2024, 6:30PM  
Justice Center Media Room, Pendleton, Oregon**

**To participate in the hearing please submit comments before 4PM, April 11th to [planning@umatillacounty.gov](mailto:planning@umatillacounty.gov) or contact the Planning Department at 541-278-6252**

### Planning Commission

Suni Danforth, Chair

Tami Green

Sam Tucker

John Standley

Kim Gillet

Emergy Gentry

Ann Minton

Malcolm Millar

Andrew Morris

### Planning Staff

Bob Waldher, Community Development Director

Megan Davchevski, Planning Division Manager

Carol Johnson, Senior Planner

Tierney Cimmiyotti, Planner / GIS

Charlet Hotchkiss, Planner

Shawna Van Sickle, Administrative Assistant

## 1. Call to Order

## 2. Minutes Approval: October 26, 2023 Meeting & November 9, 2023 Meeting

## 3. NEW HEARING: CO-ADOPTION OF CITY OF HERMISTON COMPREHENSIVE PLAN MAP AMENDMENT #P-136-24: HERMISTON HOME WORKS INC, APPLICANT / OWNER. The applicant requests the County co-adopt City Ordinance 2356 amending the comprehensive plan map from urbanizable to urban status for an 80-acre tract located on the south side of East Highland Ave. The City Council also adopted Ordinance 2357 annexing said property effective upon co-adoption of Ordinance 2356. The criteria of approval are found in Umatilla County Development Code 152.750 - 152.754 and the Joint Management Agreement between the City and County.

## 4. NEW HEARING: TYPE I LAND DIVISION, SUBDIVISION REQUEST #S-063-24: ABRAHAM AND MAGGIE RODRIGUEZ, APPLICANTS /OWNERS. The applicants request approval to subdivide the property located on Assessor's Map 5N2835, Tax Lot 200. The applicant's proposed subdivision

will create eight (8) lots of at least 2 acres in size. The Land Use standards applicable to the applicants' request are found in Umatilla County Development Code 152.665, Type I Land Divisions.

**5. Election of Chair & Vice Chair**

**6. Other Business**

**7. Adjournment**



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COMMUNITY &  
BUSINESS  
DEVELOPMENT

## MEMO

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

**TO:** Umatilla County Planning Commission  
**FROM:** Megan Davchevski, Planning Division Manager  
**DATE:** April 4, 2024

CODE  
ENFORCEMENT

**RE:** **April 11, 2024 Planning Commission Hearing**  
City of Hermiston Plan Map Amendment Co-adoption  
Plan Map Amendment, #P-136-24  
Hermiston Home Works, Inc – Applicant & Owner

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

GIS AND  
MAPPING

### ***Background Information***

RURAL  
ADDRESSING

On March 11, 2024, Hermiston City Council adopted Ordinance 2356, amending the Comprehensive Plan Map from “Urbanizable” to “Urban” for an 80-acre tract located on the south side of East Highland Ave. The City Council also adopted Ordinance 2357 annexing said property effective upon co-adoption of Ordinance 2356.

LIAISON,  
NATURAL  
RESOURCES &  
ENVIRONMENT

### ***Co-Adoption***

PUBLIC TRANSIT

The City of Hermiston Joint Management Agreement (JMA) Section E (10) requires Comprehensive Plan Amendments applicable in the Urban Growth Area to be processed by the City. The JMA requires amendments to be adopted by ordinance, first by the City, then to the County for co-adoption review.

### ***Hearings***

The Hermiston City Council held a public hearing on March 11, 2024 and approved the plan map amendment and subsequently adopted Ordinance 2356 and 2357.

This hearing before the Umatilla County Planning Commission is the County’s first evidentiary hearing for co-adoption. A subsequent Public Hearing before the Umatilla County Board of Commissioners is scheduled for Wednesday, May 1, 2024, at 9:00 AM in Room 130 of the Umatilla County Courthouse, 216 SE 4th Street, Pendleton, OR 97801.

### ***Conclusion***

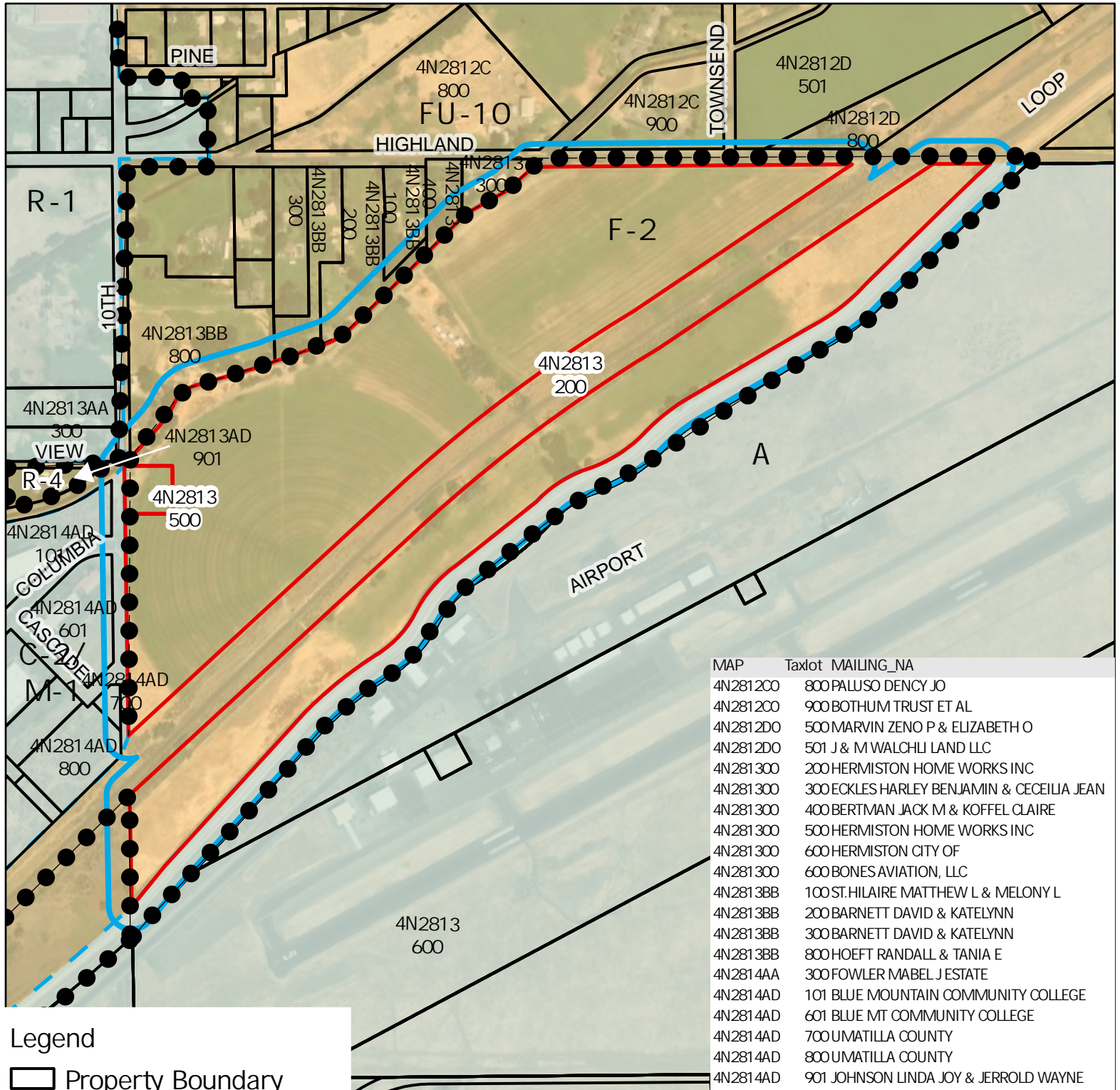
The Umatilla County Planning Commission has an obligation to make a recommendation to the Board of Commissioners for co-adoption of the Comprehensive Plan Map Amendment, changing the designation of the property from “Urbanizable” to “Urban.”

Attachments

- Public Notice Map
- City of Hermiston Ordinance 2356
- City of Hermiston Adoption Findings
- 35 Day Notice to DLCD



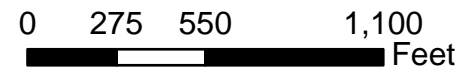
Notified property owners within 100 feet of subject parcel



MAP	Taxlot	MAILING_NA
4N2812C	800	PALUSO DENCY JO
4N2812C	900	BOTHUM TRUST ET AL
4N2812D	501	MARVIN ZENO P & ELIZABETH O
4N2812D	800	J & M WALCHLI LAND LLC
4N2813	200	HERMISTON HOME WORKS INC
4N2813	300	ECKLES HARLEY BENJAMIN & CECEILIA JEAN
4N2813	400	BERTMAN JACK M & KOFFEL CLAIRE
4N2813	500	HERMISTON HOME WORKS INC
4N2813	600	HERMISTON CITY OF
4N2813	600	BONES AVIATION, LLC
4N2813BB	100	ST.HILAIRE MATTHEW L & MELONY L
4N2813BB	200	BARNETT DAVID & KATELYNN
4N2813BB	300	BARNETT DAVID & KATELYNN
4N2813BB	800	HOEFT RANDALL & TANIA E
4N2814AA	300	FOWLER MABEL J ESTATE
4N2814AD	101	BLUE MOUNTAIN COMMUNITY COLLEGE
4N2814AD	601	BLUE MT COMMUNITY COLLEGE
4N2814AD	700	UMATILLA COUNTY
4N2814AD	800	UMATILLA COUNTY
4N2814AD	901	JOHNSON LINDA JOY & JERROLD WAYNE

Legend

- Property Boundary
- Hermiston City Limits
- Hermiston UGB
- Subject Properties
- 100 ft Notice Boundary



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Davchevski, Umatilla County Planning Department 3/19/2024

**RECEIVED**  
**MAR 18 2024**  
UMATILLA COUNTY  
COMMUNITY DEVELOPMENT



**Planning  
Department**

March 12, 2024

Mr. Bob Waldher  
Umatilla County Planning Director  
216 SE 4<sup>th</sup> Street  
Pendleton, OR 97801

Re: Co-Adoption of Hermiston Ordinance No 2356

Dear Mr. Waldher:

On March 11, 2024, the Hermiston City Council adopted Ordinance 2356 amending the comprehensive plan map from urbanizable to urban status for 80 acres on the south side of E Highland Ave. The city council also adopted ordinance 2357 annexing said property effective upon co-adoption of ordinance 2356. Per Section E10 of the Hermiston Planning Area Joint Management Agreement the matter of conversion now comes before Umatilla County for co-adoption. A copy of ordinance 2356 is attached to this letter for the county's use.

The applicant in the matter of conversion and annexation is Hermiston Home Works, Inc. Mr. Tyler Brandt will contact the county to file any necessary applications and fees associated with the co-adoption process.

Sincerely,

A handwritten signature in blue ink, appearing to read "Clinton Spencer".

Clinton Spencer  
Planning Director

C: Tyler Brandt



**ORDINANCE NO. 2356**

AN ORDINANCE AMENDING THE CITY OF HERMISTON COMPREHENSIVE PLAN MAP TO CONVERT CERTAIN LANDS FROM URBANIZABLE STATUS TO URBAN STATUS LOCATED WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF HERMISTON IN ACCORD WITH THE PROVISIONS OF POLICY 6 IN THE CITY'S COMPREHENSIVE PLAN.

THE CITY OF HERMISTON DOES ORDAIN AS FOLLOWS:

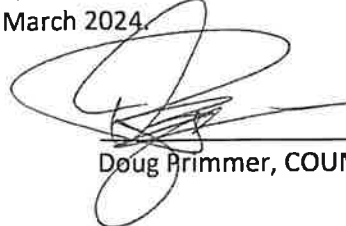
**SECTION 1.** The property described on Exhibit A to this ordinance shall be changed on the city comprehensive plan map from Future Industrial (FI) to Commercial (C), Low Density Residential (L), and Medium Density Residential (M) and on the city zoning map from Future Industrial (FI) to Outlying Commercial (C-2), Medium Density Residential (R-2), and Medium-High Density Residential (R-3). The disposition of C-2, R-2, and R-3 designations is described on Exhibits A & B to this ordinance.

**SECTION 2.** The findings of fact as adopted by the City Council on March 11, 2024, are incorporated herein by reference.

**SECTION 3.** The effective date of this ordinance shall be the thirty days after co-adoption by the Umatilla County Board of Commissioners.

PASSED by the City Council this 11<sup>th</sup> day of March 2024.

SIGNED by the Mayor this 11<sup>th</sup> day of March 2024.

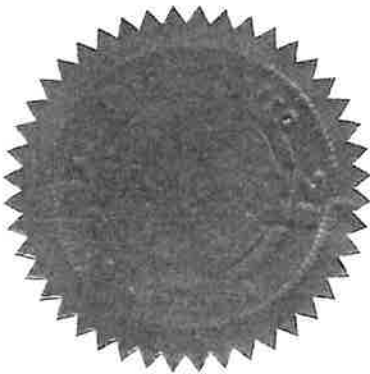


\_\_\_\_\_  
Doug Primmer, COUNCIL PRESIDENT

ATTEST:



\_\_\_\_\_  
Lilly Alarcon-Strong, CMC, CITY RECORDER



### Future Industrial Amended to R-2

A Tract of Land to be Zoned R-2 located in the North Half of Section 13, Township 4 North, Range 28 East of the Willamette Meridian, City of Hermiston, Umatilla County, Oregon, more particularly described as:

Beginning at a point on the Southerly Right-of-Way of East Highland Avenue and the Easterly Right-of-Way of "A Line" Canal for the Hermiston Irrigation District, said point being North 89°43'56" East a distance of 1840.22 feet along said Northerly Section Line from the Northwest Corner of said Section, and Southerly 33.00 feet perpendicular to said Northerly Section Line, being the True Point of Beginning for this description; thence continuing Easterly along said Southerly Right-of-Way and parallel to said Section line North 89°43'56" East a distance of 812.48 feet to a point Southerly and perpendicular to the North Quarter Corner of Said Section 13; thence continuing North 89°41'15" East a distance of 521.87 feet parallel with the North Line of said Section 13 to a point on the Westerly Right-of-Way of the Oregon-Washington Railroad and Navigation Company; then along said Westerly Right-of-Way of the Oregon-Washington Railroad and Navigation Company the following calls: thence South 55°34'43" West a distance of 563.15 feet, more or less; thence South 55°41'11" West a distance of 104.39 feet, more or less; thence South 55°41'18" West a distance of 401.73 feet, more or less; thence South 55°41'35" West a distance of 342.62 feet, more or less; thence South 55°21'53" West a distance of 182.09 feet, more or less; thence South 55°06'07" West a distance of 151.94 feet, more or less; thence South 53°06'02" West, a distance of 275.37 feet, more or less; thence South 50°38'46" West a distance of 203.02 feet, more or less; thence South 49°25'09" West a distance of 62.78 feet, more or less; thence South 48°06'21" West a distance of 124.48 feet, more or less; then leaving the Westerly Right-of-Way of the Oregon-Washington Railroad and Navigation Company North 41°53'39" West a distance of 198.94 feet; thence North 29°24'49" West a distance of 306.98 feet; thence North 22°37'12" West a distance of 28.00 feet; thence South 67°22'48" West a distance of 349.39 feet to a tangential curve left; thence along said tangential curve left Radius = 500.00 feet, Long Chord = 59.25 feet, Bearing South 63°58'59" West, Delta = 6°47'37", Arc Length = 59.28 feet; thence South 60°35'11" West a distance of 92.82 feet; thence South 58°06'54" West a distance of 10.78 feet; thence North 34°21'22" West a distance of 28.00 feet; thence North 29°24'49" West a distance of 201.37 feet, more or less, to a point on the Southerly Right-of-Way of the said "A Line" Canal; thence along the Southerly Right-of-Way of the said "A Line" Canal the following calls: North 45°39'11" East a distance of 3.35 feet, more or less; thence North 62°33'47" East a distance of 31.74 feet, more or less; thence North 72°29'45" East a distance of 358.03 feet, more or less; thence North 73°07'32" East a distance of 167.22 feet, more or less; thence North 65°49'32" East a distance of 94.01 feet, more or less; thence North 55°32'12" East a distance of 123.34 feet, more or less; thence North 48°16'31" East a distance of 68.84 feet, more or less; thence North 44°58'08" East a distance of 584.00 feet, more or less; thence North 49°21'08" East a distance of 83.56 feet, more or less; thence North 59°12'49" East a distance of 76.38 feet, more or less; thence North 66°34'09" East a distance of 66.19 feet, more or less; thence North 62°45'32" East a distance of 19.55 feet, more or less; thence North 52°16'11" a distance of 37.84 feet, more or less; thence North 48°20'20" East a distance of 164.16 feet, more or less, to the Point of Beginning.

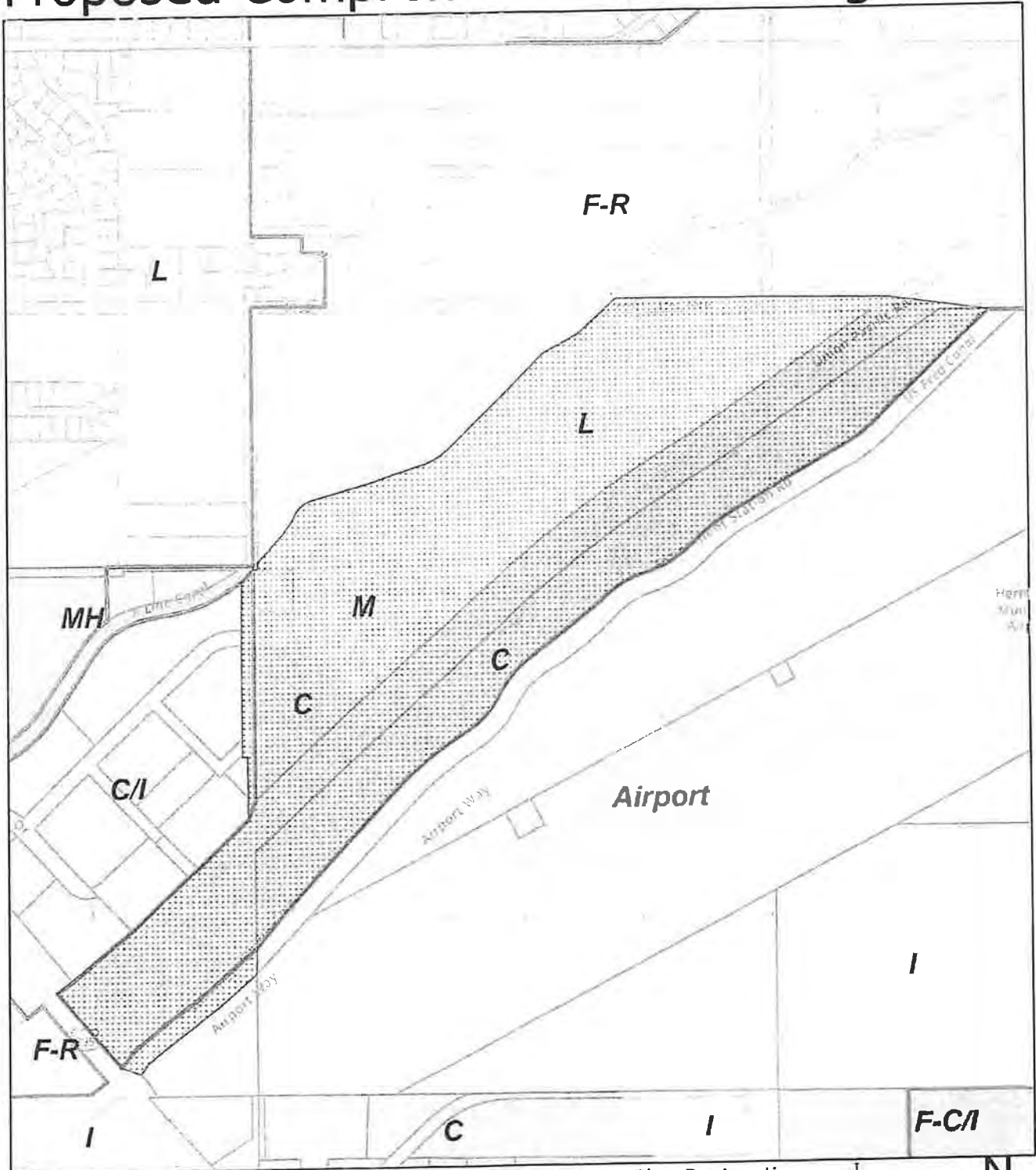
Said Tract contains 33.64 acres, more or less.

Also including the section of E Highland Ave directly north of said tract.

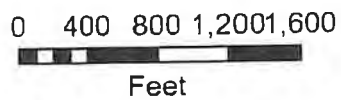
All being in the North Half of Section 13, Township 4 North, Range 28 East of the Willamette Meridian, City of Hermiston, Umatilla County, Oregon.



# Proposed Comprehensive Plan Designation



Proposed Comprehensive Plan Designation



- Airport
- C
- C/I
- F-C/I
- F-R

- I
- L
- M
- MH
- City Limits
- Subject Area



**RECEIVED**

**MAR 15 2024**

**UMATILLA COUNTY  
COMMUNITY DEVELOPMENT**

**Exhibit A**  
**Findings of Fact**  
**Hermiston Home Works Inc**  
**Comprehensive Plan Map Amendment and Annexation**  
**1295 SE 10<sup>th</sup> Street**  
**March 11, 2024**

*Findings of Fact on Comprehensive Plan Map Amendment*

**Goal 1 (Citizen Involvement) and Policy 1 (Citizen Involvement)**

1. Notice of hearing on the proposed annexation and amendment before the planning commission was published in the local newspaper on December 20 and 27, 2023 soliciting comments on the proposed annexation and amendment in conformance with 157.229(A) of the Hermiston Code of Ordinances.
2. Notice of the proposed land use action was physically posted on the property on December 20, 2023, in conformance with 157.229(B) of the Hermiston Code of Ordinances.
3. Notice of the proposed land use action was provided by direct mail to all property owners within 300 feet on December 20, 2023, in conformance with 157.229(C) of the Hermiston Code of Ordinances.
4. Notice of hearing on the proposed annexation and amendment before the city council was published in the local newspaper on February 7 and 14, 2024, soliciting comments on the proposed annexation and amendment in conformance with 157.229(A) of the Hermiston Code of Ordinances.
5. The notices listed in findings 1, 2, and 3 above listed January 10, 2024, as the date of hearing. At the January 10 meeting the planning commission chair verbally announced to those in attendance that the hearing was rescheduled to February 14, 2024.
6. The notice listed in finding 4 above listed February 26, 2024, as the date of hearing. At the February 26 meeting the mayor verbally announced to those in attendance that the hearing was rescheduled to March 11, 2024.
7. Comments received as a result of all required publications are incorporated into the record of proceedings.

**Goal 2 (Land Use Planning) and Policies 2 (Planning Process) and 3 (Intergovernmental Coordination)**

8. The city is required to review its land use designations and supply adequate amounts of all zoning types.
9. The proposed map amendments are citizen initiated to fulfill perceived market demand rather than city initiated. The city applies all applicable comprehensive plan policies and statewide planning goals to determine the appropriateness of the proposed amendments to land supply.
10. Notice of the proposed amendment was provided to Umatilla County, DLCD, ODOT, the Hermiston Irrigation District, and the Confederated Tribes of the Umatilla Indian Reservation on December 20, 2023.

11. The subject property of approximately 80.46 acres of land is within the urban growth boundary and has the “urbanizable” plan designation and the F2 General Rural zoning. The parcel also has a Future Industrial Overlay designation on the comprehensive plan map. The owner has evaluated the market demands as well as analyzed appropriate and compatible uses in the neighborhood surrounding the subject property and proposes a combination of residential and commercial zoning.
12. The proposed zoning includes 54.79 acres between the A Line Canal and the railroad tracks and 25.67 acres located between the railroad tracks and the Feed Canal. The 54.79 acres comprises 48.7 acres to be zoned R-2 and R-3 residential and 5.9 acres to be zoned C-2 commercial. The 25.67 acres is to be zoned C-2 commercial. Proposed map designations are attached as a map to this report.

**Policies 4 (Orderly Urban Growth), 5 (Annexation), and 6 (Conversion)**

13. The change will promote compact urban development to ensure efficient utilization of land resources and facilitate economic provision of urban facilities and services adding commercial space adjacent to an existing professional commercial node containing higher education and government buildings (SE Columbia Dr). It will also convert land that is not considered high value farmland to residential development.
14. Commercial space is needed in this area for future expansion of higher education facilities, businesses which will serve the nearby commercial node, and for businesses that do not rely on heavy traffic volume, but which prefer a presence in the southeast part of Hermiston.
15. Residential development is needed in this area and will provide a mix of a variety of residential and commercial uses which are compatible with existing adjacent and neighboring properties.
16. Future plans for the Gettman Rd extension will add a convenient transportation route to and from the subject property.
17. The property is within the urbanizable portion of the UGB and has a county F2 (General Rural) designation. The property is contiguous with the city limits and annexation is consistent with Policy 5. Following amendment of the plan map designation from General Rural to a mix of medium density residential and commercial, the property will become part of the urban portion of the UGB.
18. The applicant is proposing amendment of the comprehensive plan map designation of the subject property from its current urbanizable industrial status to an urban commercial and urban residential status, implementing Policy 6 prior to annexation.

**Goal 3 (Agricultural Lands) and Policy 17 (Agriculture and Agriculture Related Economy)**

19. The Subject property has been utilized for pasture and hay production for years, however it is located within the city’s acknowledged urban growth boundary and is designated as urbanizable land for non-farm development. The land is not considered high value farmland and is not protected as Goal 3 farmland and therefore an exception to Statewide Planning Goal 3 is not required.

**Goal 4 (Forest Lands) and Policy 7 (Natural Resources)**

20. There are no forest lands identified within the Hermiston UGB. Goal 4 is not applicable.

**Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) and Policies 8 (Surface and Groundwater Resources), 9 (Mineral and Aggregate Resources), and 10 (Historic Resources)**

21. The property is identified on the Hermiston comprehensive plan as having 1.44 acres of wetland. The applicant intends to review options for developing the area identified as wetland. Options include obtaining an updated wetland delineation, following all pertinent regulations to legally develop the area, or leaving the area undisturbed. A map showing the existing city wetland inventory for this site is attached to this report.

**Goal 6 (Air, Water and Land Resources Quality and Policies 11 (Air Quality), 12 (Noise), and 13 (Water Quality)**

22. The city is required to comply with state and federal regulations regarding air and water quality in all development permitting per 157.004 of the Hermiston Code of Ordinances. Development is required to preserve natural resource quality as part of the development review and construction process.

**Goal 7 (Areas Subject to Natural Hazards) and Policy 14 (Natural Hazards and Development Limitations)**

23. In Figure 12 of the Hermiston Comprehensive Plan (1984) two natural hazards and development limitations on a portion of the subject property are identified. These include excessively well drained soils and restrictive foundation soils.
24. The city will require compliance with §157.101 of the Hermiston Code of Ordinances. This section requires mitigation measures to protect groundwater resources and structural safety.
25. In the case of an existing or potential groundwater pollution threat, the city shall prohibit the outdoor storage of hazardous chemicals and underground storage of gasoline and diesel fuels.
26. Where restrictive foundation soils are evident, the city shall require a registered engineer's assessment of the design and structural techniques needed to mitigate potential hazards. In the event there are inadequate mitigation measures, the city shall prohibit development.

**Goal 8 (Recreational Needs) and Policy 16 (Parks, Recreation and Open Space)**

27. The Hermiston comprehensive plan map and parks master plan each identify areas for future park locations and future park upgrades. This property is not included on either inventory. This policy is not applicable.

**Goal 9 (Economic Development) and Policies 18 (General Industrial Development), 19 (Commercial Development), and 20 (General Economic Development)**

28. Goal 9 requires an adequate supply of employment lands, both commercial and industrial. Although the subject property is zoned F2, General Rural, it also has a future industrial overlay zone. This application considers the impact of removing approximately 60% of this land from the employment land inventory for residential development while maintaining 40% for commercial development.
29. The proposed change includes a zoning of 31.57 acres of C-2 (commercial).



30. According to the 2017 Economic Opportunities Analysis update by Johnson Economics, LLC there were 605.4 acres of Goal 9 industrial buildable land inventory within the Hermiston UGB. At the time, this equated to 447 years of supply. Since then, Amazon's data centers and other industrial construction has consumed over 100 acres. The proposed change would also remove 80.46 acres of buildable industrial lands leaving 385 acres in the industrial inventory. The 385 industrial acres are adequate to meet the city's industrial land needs through the planning horizon. The projected industrial demand through 2037 requires 145 acres.

**Goal 10 (Housing) and Policies 21 (Housing Availability and Affordability) and 22 (Neighborhood Quality)**

31. Changing a portion of the subject property from county F2 General Rural to city R-2 and R-3 Medium-Density helps satisfy the city's projected housing need.
- The 2021 City of Hermiston Housing Capacity Analysis shows the existing housing supply of 8,051 housing units.
  - The forecast from PSU Population Forecast Program (2019) estimates the population will grow at a rate of 1% between 2020 and 2040 resulting in a 2040 population of 26,045. To accommodate the growth in population, the city's projected need within the city's housing needs analysis will require a total of 10,081 housing units in 2040.,
  - To accommodate a total population of 26,045 distributed over 10,081 housing units, an additional 2,030 housing units are required.
  - The subject property's current zoning allows for a density of one housing unit per 19-acre lot.
  - The proposed amendment will designate 15.06 acres as R-3 Medium-High Density Residential. Fifteen acres of R-3 land can accommodate up to 86 single or two-family lots as a low-density development, or up to 300 multi-family dwelling units. Thirty-three acres of R-2 Low Density Residential can accommodate up to 145 single or two-family lots.
32. Figure 6.2 *Summary of Forecasted Future Unit Need (2040)* on the City of Hermiston Housing Capacity Analysis identified 1,164 new single family detached units are needed by 2040. There is an identified demand of 512 new units within the Medium-Density zoning by 2040 thus the proposed zone change further satisfies this projected need adding the capacity to meet up to half the multi-family demand through 2040 and satisfying up to 12% of the single and two-family demand. It is anticipated that the development will encompass a mixture of low-density detached and multi-family attached dwellings.
33. While recent residential development has been focused in the northeast quadrant of the city, there remains a demand and need for housing in the Southeast quadrant of the city which is close to public services, educational facilities, and retail services, as well as public transit.
34. Applicant has expressed plans to develop lots primarily for single-family detached homes that would range in sales price from low to mid \$300s. Additionally, the applicant has expressed plans to develop a minority portion of the land into duplexes, and/or single-family homes with accessory dwelling units.
35. The creation of new 48-acre mixed zoning housing development will have a meaningful impact on housing availability and affordability, in alignment with Policies 21 and 22.



Specifically, increasing the available housing supply contributes to maintaining an affordable supply of housing units at a range of prices.

**Goal 11 (Public Facilities and Services) and Policies 23 (Provision of Public Services and Facilities), 24 (Water, Sewer, and Storm Drainage), 25 (Solid Waste), 26 (Schools), 27 (Police Protection), 28 (Fire Protection), 29 (Local Government Services and Facilities), and 30 (Private Utilities)**

36. Water is currently adjacent to the property in SE 10<sup>th</sup> Street. An 8" and 10" water main is available to service the property and may be extended into the development site. Water sizing will be determined at the time of development.
37. Sanitary sewer is currently available near the intersection of E Highland Ave and SE 10<sup>th</sup> Street and at the intersection of SE 10<sup>th</sup> Street and the Union Pacific Railroad. A 10" line crosses under the railroad at the southwest corner of the property and an 8" line is available near E Pine Ave.
38. Applicant is willing to extend both sewer and water to the subject property.
39. SE Columbia Drive is an urban minor collector and fully improved city street that will be extended into the property once it develops.
40. SE 10<sup>th</sup> Street is an urban minor collector that crosses the A Line Canal and borders the west property line, with a single lane bridge just north of the property border. The section of SE 10<sup>th</sup> Street between the A Line Canal and E Highland Ave is a county road improved with minimum width paving only. It is not improved to urban minor collector status. The section of SE 10 Street between the A Line Canal and the southwest corner of the development site is unimproved.
41. The A Line Canal crossing is a single-lane, paved bridge. According to the included traffic impact analysis, the crossing is functional but will not accommodate traffic at an acceptable level of service at full buildout. Improvements to the bridge will be required, likely requiring replacement of the bridge with a new full-width culvert crossing.
42. Improvements to SE 10<sup>th</sup> Street and the A Line Canal crossing will be installed by the city prior to or at such time that the peak hour trips generated by the development reach a recommended cap of 657 peak hour trips. A proportional fee shall be added to each building permit issued on the property to help with the financial requirements for any improvement. The city will also use system development charges dedicated for transportation improvements to fund improvements.
43. The specific transportation impact fee cannot be established as part of the comprehensive plan map amendment under consideration by the city at this time. A full land use application for either subdivision, multi-family development, commercial development, or other permitted uses will be necessary to calculate both the total trip generation and the proportional impact of each dwelling unit or commercial structure constructed.
44. East Highland Ave is an urban major collector that runs along the northeast border of the property. All streets abutting the property will be improved to comply with the city's transportation plan at such time as development of abutting phases occurs.
45. All stormwater will be retained within the boundaries of the future development. There is no city-wide storm water retention and disposal system.
46. Future development will utilize Sanitary Disposal for solid waste services as encouraged by the city.

47. Future development will not provide recycling services as the City of Hermiston has already provided recycling collections points in two locations of the city.
48. The Hermiston Police Department will provide public safety services to the area under consideration. The police department has adequate capacity to patrol and protect the area with no additional actions required by the developer.
49. Umatilla County Fire District #1 provides fire and life safety services to the area under consideration. The UCFD#1 has adequate capacity to service the area with no additional actions required by the developer.
50. Applicant will extend power and telecommunications services to the property after adoption of annexation and zone changes.

**Goal 12 (Transportation) and Policies 31 (Integrated Transportation System), 32 (Rail/Air Transportation), 33 (Alternative Transportation), and 34 (Transportation System Plan)**

51. Applicant has provided a transportation study and transportation impact analysis. A copy of the study is attached to this report and is also in the project file.
52. The following summary and recommendations have been extracted from the transportation study performed by Clemow Associates LLC.
  - All study intersections are anticipated to operate within agency mobility standards in the 2043 Current and Proposed Zone Designation scenarios. As such, no improvements are specifically necessary to mitigate the Proposed Zone Designation transportation impacts.
  - All study intersections have adequate storage available on all approach movements to accommodate the 95th percentile vehicle queues.
  - A trip cap of 657 peak hour trips is recommended to mitigate potential impacts to transportation facilities, especially the intersections of SE Columbia Drive/US 395 and Highland Ave/395.
    - A residential trip cap is established at 325 peak hour trips.
    - A commercial trip cap is established at 110 peak hour trips for the commercial land south of the railroad tracks.
    - The remaining 222 peak hour trips are reserved for the commercial area abutting SE 10<sup>th</sup> Street.
  - As part of the development plan and land use approval process, the developer will be required to provide trip generation assumptions for commercial development and residential dwelling units. These generation assumptions will be tracked by the city for compliance with the trip cap and in the event trip generation exceeds the cap of 657 peak hour trips, amendments to the TIA shall be required by the city and additional mitigation measures may be required.

**Goal 13 (Energy Conservation)**

53. This goal requires land to be developed in a manner that maximizes energy conservation based upon sound economic principles through efficient use of density and mixing of uses. The proposed zoning of the subject property will promote mid-scale density residential

development in close proximity to existing and future commercial neighborhoods thereby minimizing travel needs.

**Goal 15 (Willamette River Greenway), Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes), and Goal 19 (Ocean Resources)**

54. Goals 15, 16, 17, 18, and 19 are geographically based statewide planning goals intended to protect specific, identified natural resources. None of the resources under these goals are within the Hermiston planning area. Goals 15, 16, 17, 18, and 19 are not applicable.

*Findings of Fact on Annexation*

1. The City has received consent to annexation from the property owner for approximately 80 acres of land.
2. Notice of public hearing was published in the local newspaper for two consecutive weeks prior to the planning commission hearing on December 20 and 27, 2023. Notices were also posted in four public places in the city for a like period. Comments or remonstrances received have been incorporated into the record.
3. Notice of public hearing was physically posted on the property on December 20, 2023.
4. Affected agencies were notified.
5. A public hearing of the planning commission was held on February 14, 2024. Comments received at the hearing are incorporated into the planning commission record.
6. Notice of public hearing of the city council was published in the local newspaper for two consecutive weeks prior to the city council hearing on February 7 and 14, 2024. Notices were also posted in four public places in the city for a like period. Comments or remonstrances received have been incorporated into the record.
7. A public hearing of the city council was held on March 11, 2024. Comments received at the hearing are incorporated into the record.
8. The proposal is consistent with all applicable state annexation requirements in ORS 222.
  - a. The city has received consent from the property owners within the affected area.
  - b. An election has been deemed not necessary since consent from more than half the owners has been received.
  - c. The property is contiguous with the existing city limits.
  - d. All statutorily required notices have been published and posted.
9. Since the property is contiguous to the existing city limits, the annexation is in accord with Comprehensive Plan Policy 4 which promotes compact urban development within and adjacent to existing urban areas to ensure efficient utilization of land resources and facilitates economic provision of urban facilities and services.
10. The annexation is consistent with the requirements of Comprehensive Plan Policy 5 relating to annexation.
11. Following adoption of conversion from urbanizable to urban status by the City of Hermiston and Umatilla County, the property will be located within the urban portion of the urban growth boundary (UGB) as identified on the comprehensive plan map.
12. Water is currently adjacent to the property in SE 10<sup>th</sup> Street. An 8" and 10" water main is available to service the property and may be extended into the development site. Water sizing will be determined at the time of development.
13. Sanitary sewer is currently available near the intersection of Highland Ave and 10<sup>th</sup> Street and at the intersection of SE 10<sup>th</sup> Street and the Union Pacific Railroad. A 10" line crosses

under the railroad at the southwest corner of the property and an 8" line is available near E Pine Ave.

14. Applicant is willing to extend both sewer and water to the subject property.

*Findings of Fact on Zoning Designation*

1. Following amendment by the city and adoption by Umatilla County, the comprehensive plan map will designate the area as Low Density Residential, Medium Density Residential and Commercial. Proposed map designations are attached as a map to this report.
2. The proposed Medium Density Residential, Medium-High Density Residential and Outlying Commercial zoning designations appropriately implement the Low Density Residential, Medium Density Residential and Commercial comprehensive plan map designations adopted for the property.



**Home**  
**(/PAPA\_Online/)**

**Reports**  
**([https://db.lcd.state.or.us/papa\\_online\\_reports](https://db.lcd.state.or.us/papa_online_reports))**

**Report A Problem**  
**([mailto:plan.amendments@dlcd.oregon.gov?](mailto:plan.amendments@dlcd.oregon.gov?subject=PAPA_PR)**  
**subject=PAPA\_PR**  
**Report a Problem)**



Hermiston (/PAPA\_Online/Jurisdictions/Jurisdiction/Get/109) -> Amendment 001-23 (Read Only)

DLCD File #: 001-23

Status: Adoption Notice Issued

Revision Type: Department Review

Local File #:

Hermiston Home Works/SE 10th St

Grant # (if applicable):

Date of 1st Hearing:

01/10/2024



41 Days difference

Date of Final Hearing

01/22/2024



53 Days difference

Type:

- Comprehensive Plan Map Change
- Zoning Map Change
- Comprehensive Plan Map & Zoning Map Change
- Comprehensive Plan Text Change
- Land Use Regulation Change
- UGB using Simplified Method (div 38)
- UGB amendment by city with population less than 2,500 within UGB (div 24)
- UGB amendment of 50 acres or less by a city with population 2,500 or more within UGB (div 24)
- UGB amendment adding more than 50 acres by city with population 2,500 or more within UGB (div 24)
- UGB amendment that adds more than 100 acres by Metro (div 24)
- Urban Reserve designation by Metro or a city with population 2,500 or more within UGB
- Urban Reserve amendment to add over 50 acres by a city with population 2,500 or more within UGB
- Urban Reserve designation or amendment by a city with population less than 2,500 within UGB
- Urban Reserve amendment by Metro
- Urban Reserve Other
- Annexation
- Other
- Periodic Review Task

- Housing Capacity Analysis
- Transportation System Plan
- Economic Opportunities Analysis
- None of these apply

Topic:



Summary

Amend the Comprehensive Plan Map designation of ~80 acres of land located in southeast Hermiston from Future Industrial to Medium Density Residential for ~49 acres and Commercial for ~31 acres with a corresponding change to the zoning map from F-2 to Medium-High Density Residential (R-3) and Outlying Commercial (C-2). Annexation of the property is proposed.

An exception to a statewide planning goal is proposed:

Amended Text:

The approximately 49 acres of residential land was changed to approximately 15.06 acres zoned Medium Density Residential (M) and approximately 33.6 acres zoned Low Density Residential (L) with a corresponding zoning map change to (R-3) and (R-2).

Total Acres:

116.00

**Locations** (If there's a large number of tax lots associated with this amendment, please contact DLCD for assistance. [plan\\_amendments@dclcd.oregon.gov](mailto:plan_amendments@dclcd.oregon.gov) ([mailto:plan\\_amendments@dclcd.oregon.gov?subject=PAPA%20on-line%20location%20entry%20assistance](mailto:plan_amendments@dclcd.oregon.gov?subject=PAPA%20on-line%20location%20entry%20assistance)))

Type
Tax Lot
From
To
Acres
Comprehensive Plan Map & Zoning Map Change
00200
Plan Map: Rural Industrial
Zone: Rural Industrial
Plan Map: Urban Residential
Zone: Urban Residential
48.00
<input type="checkbox"/>
Comprehensive Plan Map & Zoning Map Change
00500
Plan Map: Rural Industrial
Zone: Urban Residential
Plan Map: Urban Residential
Zone: Urban Residential
1.00
<input type="checkbox"/>

**Contacts**

Contacts

Clint Spencer Planning Director (Local)

**Documents**

Upload supporting documentation. Administrative rule requires that you include all of the following materials that may apply:

- The text of the amendment (e.g., plan or code text changes, exception findings, justification for change)
- Any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained
- A map of the affected area showing existing and proposed plan and zone designations
- A copy of the notice or a draft of the notice regarding a quasi-judicial land use hearing, if applicable
- Any other information necessary to advise DLCD of the effect of the proposal

Uploaded

Name

User

11/30/2023

Revision\_Existing Comprehensive Plan Designation\_2023-11-30\_10-49-51.pdf (/PAPA\_Online/Document/Get?documentID=261215)

11/30/2023

Revision\_Proposed Comprehensive Plan Designation\_2023-11-30\_10-50-01.pdf (/PAPA\_Online/Document/Get?documentID=261216)

11/30/2023

Revision\_Notice of Proposed Land Use Action Map\_2023-11-30\_10-50-51.pdf (/PAPA\_Online/Document/Get?documentID=261217)

11/30/2023

Revision\_CC Staff Report initiate 11-27-23\_2023-11-30\_11-02-21.pdf (/PAPA\_Online/Document/Get?documentID=261218)

11/30/2023

Revision\_annexation application\_2023-11-30\_11-02-27.pdf (/PAPA\_Online/Document/Get?documentID=261219)

11/30/2023

Revision\_Comp plan amendment application\_2023-11-30\_11-02-40.pdf (/PAPA\_Online/Document/Get?documentID=261220)

11/30/2023

Revision\_Transportation Impact Analysis - Hermiston Home Works\_2023-11-30\_11-03-26.pdf (/PAPA\_Online/Document/Get?documentID=261221)

2/2/2024

Revision\_Notice of Public Hearing CC\_2024-02-02\_08-30-19.doc (/PAPA\_Online/Document/Get?documentID=261812)

2/2/2024

Revision\_TIA Brandt PA-ZC - Revised 01.24.2024 - final w attachments - signed\_2024-02-02\_08-31-46.pdf (/PAPA\_Online/Document/Get?documentID=261813)

2/7/2024

Revision\_PC Staff Report 02-14-2024\_2024-02-07\_03-32-50.pdf (/PAPA\_Online/Document/Get?documentID=261867)

3/12/2024

Adopted\_CC 03-11-2024 Staff Report\_2024-03-12\_10-36-23.pdf (/PAPA\_Online/Document/Get?documentID=262221)

3/12/2024

Adopted\_ORDINANCE NO. 2356 signed\_2024-03-12\_10-36-35.pdf (/PAPA\_Online/Document/Get?documentID=262222)

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COMMUNITY &  
BUSINESS  
DEVELOPMENT

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

CODE  
ENFORCEMENT

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

GIS AND MAPPING

RURAL ADDRESSING

LIAISON, NATURAL  
RESOURCES &  
ENVIRONMENT

PUBLIC TRANSIT

## MEMO

**TO:** Umatilla County Planning Commission

**FROM:** Charlet Hotchkiss, Planner I

**DATE:** April 3, 2024

**RE:** April 11, 2024 Planning Commission Hearing  
Type I (Subdivision) Land Division, S-063-24  
Map 5N 28 35, Tax Lot #200

### ***Request***

The applicant requests approval of a rural residential subdivision. The proposed subdivision establishes eight lots.

According to the applicant, each undeveloped lot will have its own water source either from an individual domestic well or through the sharing of a domestic well. Individual septic systems are proposed for each lot. The applicant has not indicated if Covenants, Conditions and Restrictions will be recorded.

### ***Location***

The property is located north of Punkin Center on the southeast corner of Joy Lane and Alpine Drive, about a half mile north of Hermiston City Limits.

### ***Standards***

The Standards of Approval are found in the Umatilla County Development Code Section 152.665, Type I Land Divisions and Umatilla County Development Code Section 152.648 Creation of Roads, Easements and Right-of-Way; Minimum Standards (16) Subdivisions. Standards for reviewing a Subdivision generally consist of complying with development code standards, Traffic Impact Analysis standards and subdivision plat requirements.

Staff have identified one standard that the Planning Commission may find is not satisfied: buildable space. The applicant's Tentative Plan demonstrates that the Proposed Lot 2 (3.43 acres) will have only 18% (0.55 acres) buildable space inside the 20-foot zoning setback requirements, which is not satisfying UCDC 152.648(16)(a)(1). Proposed Lot 2 is severely impacted by existing easements and development on this lot will be extremely limited. This is due to the 250-foot-wide BPA easement that covers a majority of the lot that cannot be built within. Additionally, there is a 75-foot-wide natural gas line easement that stretches across the northern side of the lot, this area is also not buildable. This does not leave much room for many amenities that are desirable on rural lots, such as; large dwelling, barn and shop structures. The Umatilla County Development Code Section 152.134 Dimensional Standards (C)(1) allows for a maximum of 30% building coverage on a lot zoned RR-2.

Planning Staff did on multiple occasions both in person and via email communicate to the applicant concerns over the lack of buildable space on Lot 2. Suggestions of combining proposed Lot 2 with Lot 1 or Lot 3 were made but ultimately the applicant made no changes to their preliminary plat before submitting the application.



## **Memo**

Planning Commission Public Hearing – April 11, 2024

Land Division Request S-063-24

Proposing a 3.43-acre lot with only 0.55 acres of buildable space creates the potential for future landowners to request a variance to the RR-2 zone's building setback requirements. Umatilla County Development Code Section 152.627 Circumstances for Granting a Variance (A) states "Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of the property since enactment of this chapter have had no control." Umatilla County Planning Division finds a variance to the zone's setback requirements for proposed Lot 2 could likely not be approved as the circumstance that created the need for the variance was created post the enactment of UCDC Section 152.627, knowingly by the current property owner.

The Planning Commission may find that the proposed subdivision will make compliance with setbacks difficult for structures typical in a residential zone such as a dwelling, shop building and animal barn. Therefore, the Planning Commission may find that the proposed subdivision must be reconfigured to create more buildable space and so that lots are not created which require variances to setback requirements.

Alternatively, the Planning Commission may make new findings and approve the tentative plan as presented.

### ***Notice***

Notice of the applicant's request and the public hearing was mailed on March 22, 2024 to the owners of properties located within 250-feet of the perimeter of Tax Lot 200. Notice was also published in the East Oregonian on March 30, 2024 notifying the public of the applicant's request before the Planning Commission on April 11, 2024.

### ***Conclusion***

If approved, the proposed Conditions of Approval address road improvement and access standards, including road naming and Irrevocable Consent Agreements, site suitability for septic systems, and the survey and recording requirements with final approval accomplished through the recording of the final subdivision plat.

### ***Decision***

The decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners.

Staff have provided decision options (pages 8 and 9 in the findings) and sample motions for consideration below.

**Memo**

Planning Commission Public Hearing – April 11, 2024

Land Division Request S-063-24

**PLANNING COMMISSION MOTION OPTIONS**

**Motion to Approve Based on Evidence in the Record**

I, Commissioner \_\_\_\_\_, make a motion to approve the Rodriguez Estates Subdivision, with imposition of the provided conditions of approval based on foregoing Findings of Fact and Conclusions of Law.

**Motion to Approve with Additional Findings and Conditions of Approval**

I, Commissioner \_\_\_\_\_, make a motion to approve the Rodriguez Estates Subdivision, with the following additional Findings of Fact: \_\_\_\_\_. Further, I move that the following additional conditions of approval be imposed: \_\_\_\_\_.

**Motion to Deny Based on Evidence in the Record**

I, Commissioner \_\_\_\_\_, make a motion to deny the Rodriguez Estates Subdivision based on evidence in the record and with the following additional Findings of Fact: \_\_\_\_\_.



**UMATILLA COUNTY  
PLANNING COMMISSION HEARING – APRIL 11, 2024  
LAND DIVISION REQUEST #S-063-24  
ABRAHAM & MAGGIE RODRIGUEZ, APPLICANTS / OWNERS  
PACKET CONTENT LIST**

1.	Staff Memo to Planning Commission	Pages 1-3
2.	Table of Contents	Page 4
3.	Vicinity and Notice Map	Page 5
4.	Buildable Space Map	Page 6
5.	Tentative Subdivision Plan	Page 7-10
6.	Staff Report & Preliminary Findings	Pages 11-21
7.	County Road “S-1” Standard	Page 22
8.	Comment Letter from Hermiston Irrigation District <i>Received via email March 26, 2024</i>	Page 23-24

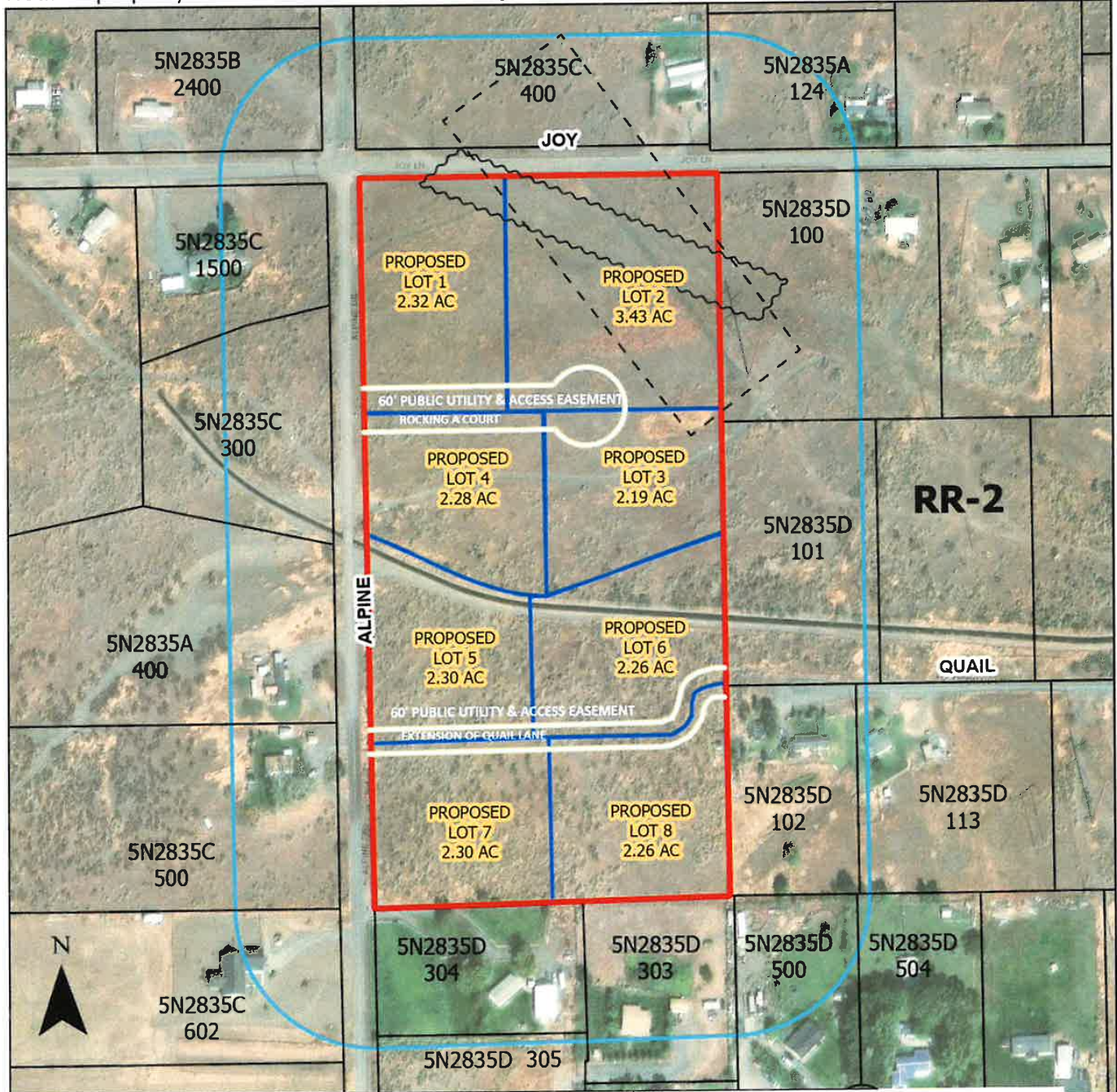
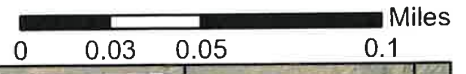




# ABRAHAM & MARGARET RODRIGUEZ, APPLICANTS/OWNERS; SUBDIVISION #S-063-24 MAP: 5N 28 35 TAX LOT: 200

Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by T. Cimmiyotti, Umatilla County Planning Department Date: 2/9/2024

Notified property owners within 250 feet of Subject Parcel

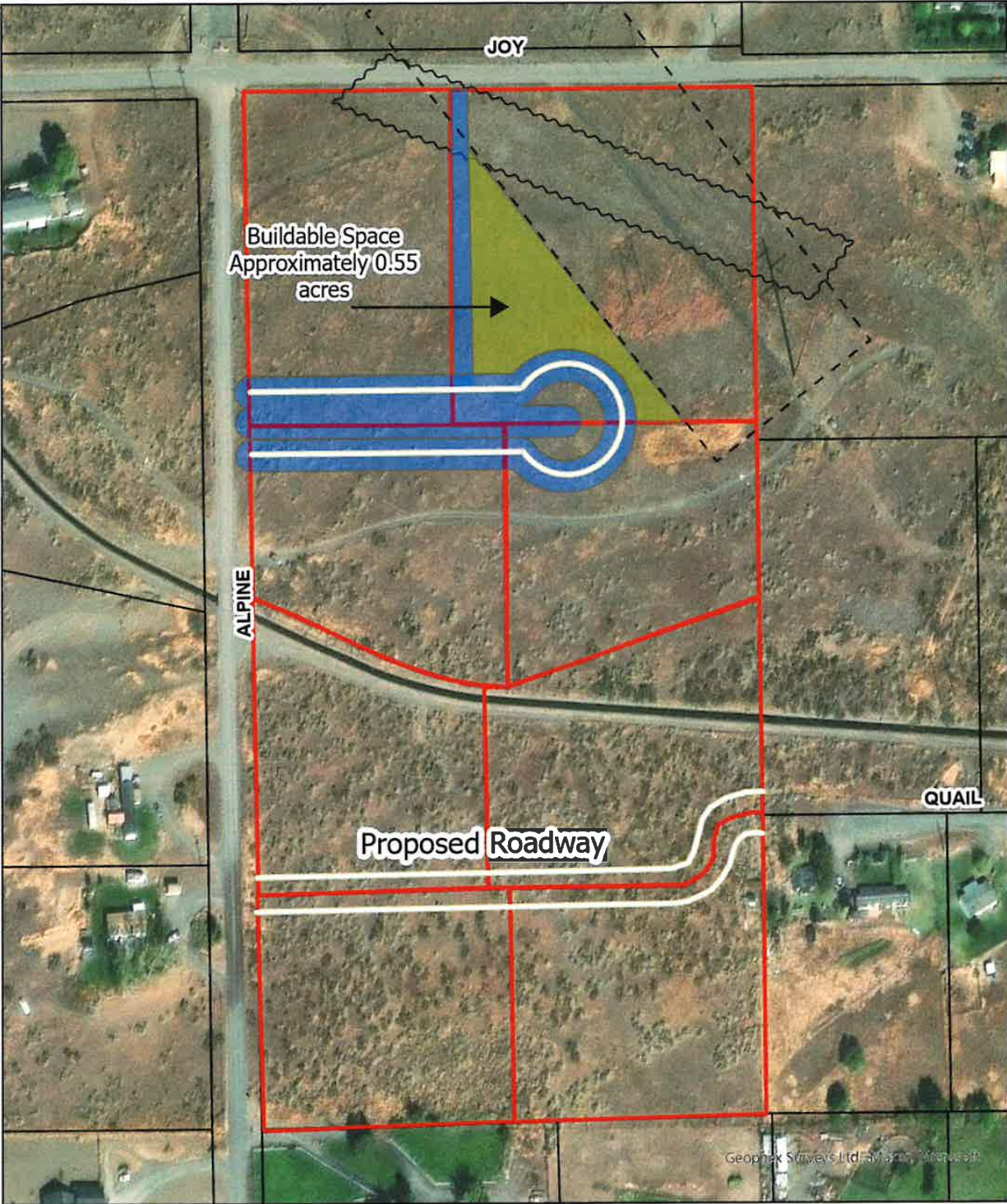


MAP_TAX LOT	OWNERS	MAP_TAX LOT	OWNERS
5N2835A000124	FLORENCE ELLIS	5N2835D0000101	FLORENCE ELLIS
5N2835A000400	FLORENCE ELLIS	5N2835D0000102	FLORENCE ELLIS
5N2835B002400	FLORENCE ELLIS	5N2835D0000113	FLORENCE ELLIS
5N2835C000300	USA c/o BUREAU OF LAND MGT	<b>5N2835D0000200</b>	<b>RODRIGUEZ ABRAHAM &amp; MARGARET</b>
5N2835C000400	FLORENCE ELLIS	5N2835D0000303	NAVARRO JOSE V & ELENA M
5N2835C000500	FLORENCE ELLIS	5N2835D0000304	BITHER HARRY E 4TH & REBECCA
5N2835C000602	MCGRAW PATRICK E & CLOSE-MCGRAW LISA K	5N2835D0000305	MINTON BUD & CORRINE
5N2835C001500	FLORENCE ELLIS	5N2835D0000500	WYMAN HARRY J
5N2835D000100	FLORENCE ELLIS	5N2835D0000504	MEDRANO MAGDALENO & MARIA









**Legend**

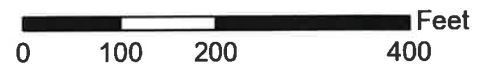
- Subject Property
- 250ft Notice Boundary
- Property Boundary
- Zone Boundary
- Proposed Lots
- BPA Easement
- Gas Easement
- Public Road





**Legend**

-  Public Road
-  Lot 2 Buildable Space; 0.55 AC
-  20 ft Lot Line setback
-  Public Road 20ft Setback
-  Gas Easement
-  BPA Easement
-  Proposed Lots
-  Property Boundary



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created M. Davchevski, Umatilla County Planning Department Date: 2/9/2024



# PRELIMINARY PLAT OF RODRIGUEZ ESTATES

OF THE WEST HALF OF THE  
NW 1/4 OF THE SE 1/4 OF  
SECTION 35, T 5 N, R 28 E  
WILLAMETTE MERIDIAN  
UMATILLA COUNTY

JOB NO.: 23-112  
DRAWING DATE: 02-01-2024  
SHEET 1 OF 4

### SHEET INDEX

- 1) SECTION AND SITE TIES, NARRATIVE, NOTES
- 2) NORTHERN LOTS, SITE LAYOUT
- 3) SOUTHERN LOTS, SITE LAYOUT
- 4) APPROVAL SIGNATURES, VICINITY MAP, LEGAL DESCRIPTION

THE PURPOSE OF THIS SUBDIVISION PLAT IS TO CREATE 8 PARCELS FROM ORIGINAL PARCEL 200.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
JANUARY 9, 2001  
KEVIN L. BETHJE  
55437

Expires 12-31-2025

02-01-2024

### SURVEYOR'S CERTIFICATE

I KEVIN L. BETHJE, BEING FIRST DULY SWORN, DEPOSE AND SAY THAT I AM A PROFESSIONAL LAND SURVEYOR OF THE STATE OF OREGON, AND THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH LEGAL MONUMENTS THE LAND REPRESENTED ON THIS SURVEY.

KEVIN L. BETHJE PROFESSIONAL LAND SURVEYOR CERTIFICATE NUMBER 55437.

DATED 02-01-2024

### SURVEY REFERENCES:

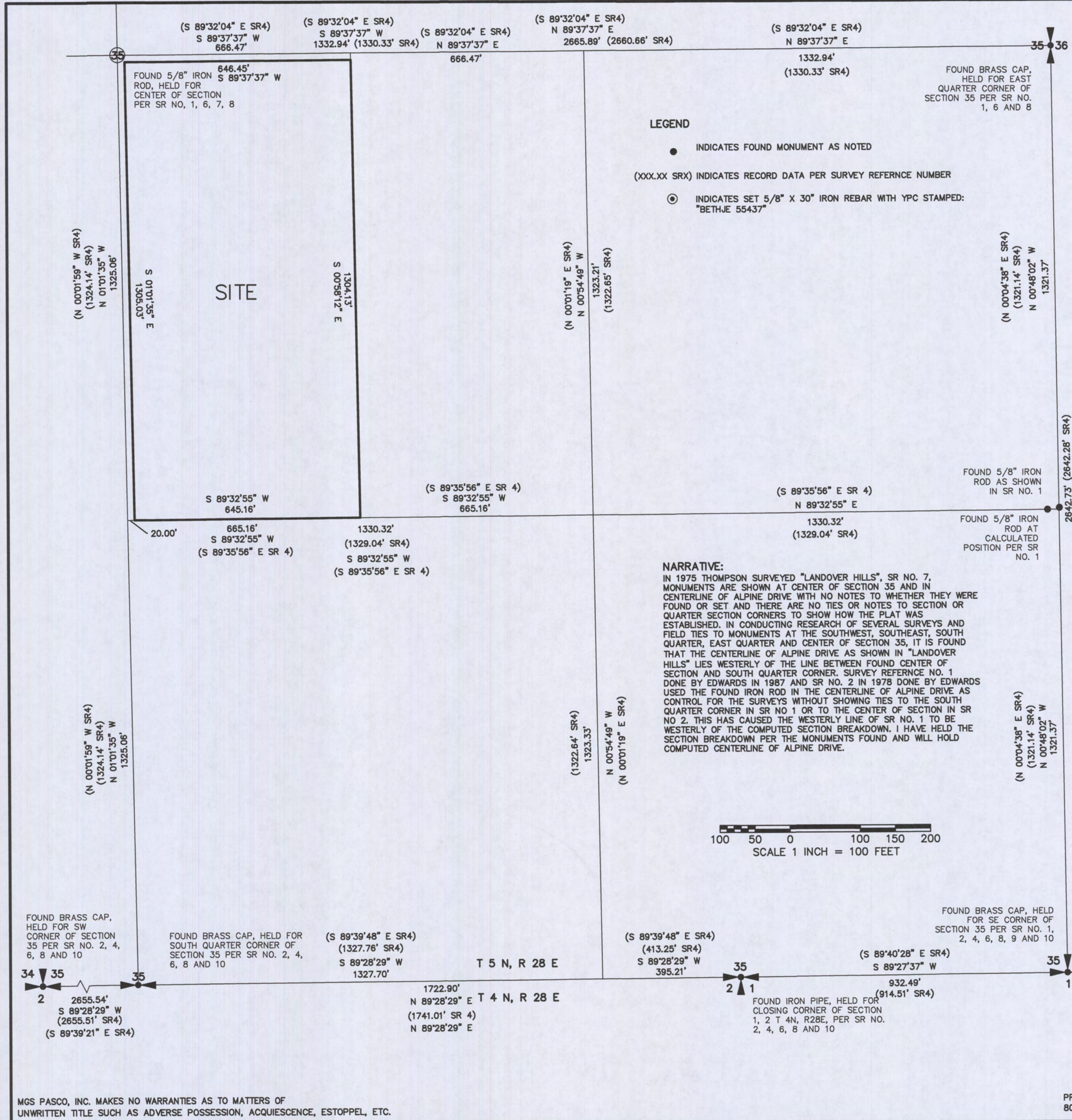
- 1) EDWARDS SURVEY, 87-35-D
- 2) EDWARDS SURVEY, Q-1165-B
- 3) EDWARDS SURVEY, 86-125-A
- 4) KRUMBEIN SURVEY, 82-35-A
- 5) "BODE SUBDIVISION", 97-148-B
- 6) KRUMBEIN SURVEY, 88-27-B
- 7) "LANDOVER HILLS", BOOK 10, PAGE 18
- 8) THOMPSON SURVEY, H-256
- 9) MAIN SURVEY, 92-145-B
- 10) KRUMBEIN SURVEY, S-156-C

### DEED REFERENCE:

GRANTOR: JOYCE J. FOLLIS, RONALD A. WILLIAMS AND JAMES R. BLOODSWORTH, CO-TRUSTEES OF THE BLOODSWORTH FAMILY TRUST, DATED NOVEMBER 2, 2012 AND JOYCE J. FOLLIS, RONALD A. WILLIAMS AND JAMES R. BLOODSWORTH, CO-TRUSTEES OF THE CHARLES A. BLOODSWORTH CREDIT SHELTER TRUST CREATED UNDER BLOODSWORTH FAMILY TRUST, DATED NOVEMBER 2, 2012  
GRANTEE: ABRAHAM RODRIGUEZ AND MARGARET RODRIGUEZ, HUSBAND AND WIFE  
INSTRUMENT NUMBER: 2023-00463  
DATED: 01-25-2023

### OFFICE OF COUNTY RECORDS

PREPARED BY: MGS PASCO, INC.  
809 S AUBURN ST, KENNEWICK, WA 99336, (509) 491-1071



MGS PASCO, INC. MAKES NO WARRANTIES AS TO MATTERS OF UNWRITTEN TITLE SUCH AS ADVERSE POSSESSION, ACQUIESCENCE, ESTOPPEL, ETC.



# PRELIMINARY PLAT OF RODRIGUEZ ESTATES

OF THE WEST HALF OF THE NW 1/4 OF THE SE 1/4 OF SECTION 35, T 5 N, R 28 E WILLAMETTE MERIDIAN UMATILLA COUNTY

JOB NO.: 23-112  
DRAWING DATE: 02-01-2024

SHEET 2 OF 4

## TOPO LEGEND:

- INDICATES TELEPHONE PEDESTAL
- INDICATES POWER POLE WITH DIRECTION OF OVERHEAD LINES
- INDICATES GUY ANCHOR
- INDICATES BOUNDARY
- INDICATES EDGE OF ASPHALT
- INDICATES EDGE OF CONCRETE
- INDICATES EDGE OF GRAVEL
- INDICATES 5 FOOT INTERVAL CONTOUR
- INDICATES 1 FOOT INTERVAL CONTOUR
- INDICATES FENCE LINE
- INDICATES CHAINLINK FENCE LINE
- INDICATES WOOD FENCE LINE
- INDICATES GAS RISER
- INDICATES SIGN
- INDICATES MAIL BOX
- INDICATES ELECTRIC LINE PER GEOPHYSICAL SURVEY
- INDICATES GAS PIPELINE PER GEOPHYSICAL SURVEY
- INDICATES TELECOM LINE PER GEOPHYSICAL SURVEY
- INDICATES COUNTERPOISE LINE PER GEOPHYSICAL SURVEY
- INDICATES AREA OF SLOPES GREATER THAN 25%

HORIZONTAL AND VERTICAL DATUM:  
OREGON NORTH STATE PLANE COORDINATE SYSTEM NAD 83/2011 DATUM  
INTERNATIONAL FEET PER OPLUS SOLUTION ON MGS CONTROL POINT NUMBER  
20 AS SHOWN HEREON, NEAR CENTER OF SITE. COMBINED SCALE FACTOR  
0.99994685 WAS APPLIED AT COORDINATE O.D. ALL DISTANCES SHOWN ARE  
GROUND DISTANCES. ELEVATION IS 548.19, NAVD88 DATUM.

## PLAT LEGEND

- INDICATES FOUND MONUMENT AS NOTED
- (XXX.XX SRX) INDICATES RECORD DATA PER SURVEY REFERENCE NUMBER
- INDICATES SET 5/8" X 30" IRON REBAR WITH YPC STAMPED: "BETHJE 55437"

## SURVEYOR'S CERTIFICATE

I KEVIN L. BETHJE, BEING FIRST DULY SWORN, DEPOSE AND SAY THAT I AM A PROFESSIONAL LAND SURVEYOR OF THE STATE OF OREGON, AND THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH LEGAL MONUMENTS THE LAND REPRESENTED ON THIS SURVEY.

*Kevin L. Bethje*

KEVIN L. BETHJE PROFESSIONAL LAND SURVEYOR CERTIFICATE NUMBER 55437.

DATED 02-01-2024

THE PURPOSE OF THIS SUBDIVISION PLAT IS TO CREATE 8 PARCELS FROM ORIGINAL PARCEL 200.

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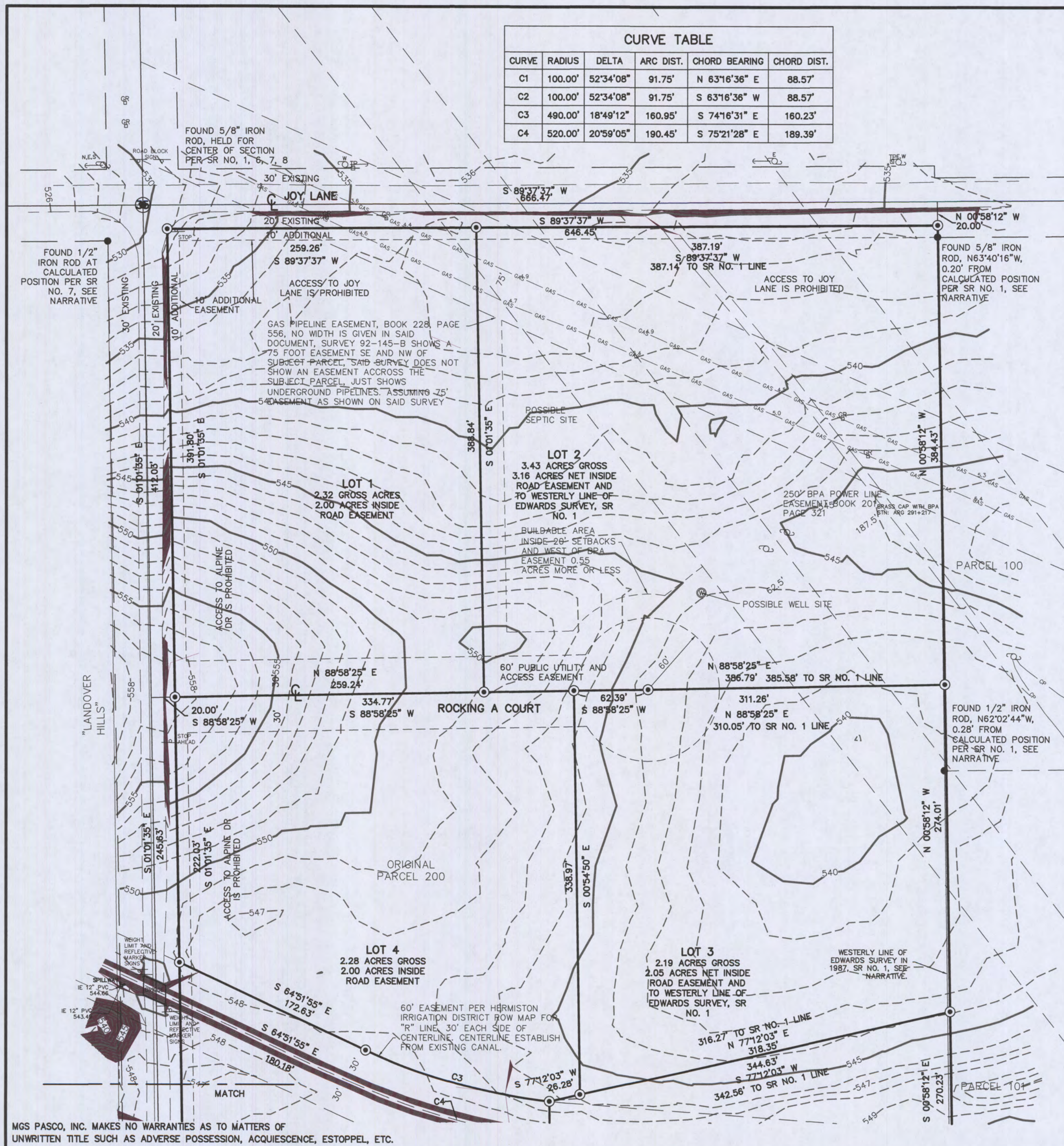
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INSTRUMENT NUMBER: 2023-00463  
DATED: 01-25-2023

PREPARED BY: MGS PASCO, INC.  
809 S AUBURN ST, KENNEWICK, WA 99336, (509) 491-1071

## CURVE TABLE

CURVE	RADIUS	DELTA	ARC DIST.	CHORD BEARING	CHORD DIST.
C1	100.00'	52°34'08"	91.75'	N 63°16'36" E	88.57'
C2	100.00'	52°34'08"	91.75'	S 63°16'36" W	88.57'
C3	490.00'	18°49'12"	160.95'	S 74°16'31" E	160.23'
C4	520.00'	20°59'05"	190.45'	S 75°21'28" E	189.39'



MGS PASCO, INC. MAKES NO WARRANTIES AS TO MATTERS OF UNWRITTEN TITLE SUCH AS ADVERSE POSSESSION, ACQUIESCENCE, ESTOPPEL, ETC.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON  
JANUARY 9, 2001  
KEVIN L. BETHJE  
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Expires 12-31-2025

02-01-2024

OFFICE OF COUNTY RECORDS



CURVE TABLE					
CURVE	RADIUS	DELTA	ARC DIST.	CHORD BEARING	CHORD DIST.
C1	100.00'	52°34'08"	91.75'	N 63°16'36" E	88.57'
C2	100.00'	52°34'08"	91.75'	S 63°16'36" W	88.57'
C3	490.00'	18°49'12"	160.95'	S 74°16'31" E	160.23'
C4	520.00'	20°59'05"	190.45'	S 75°21'28" E	189.39'

**PLAT LEGEND**

- INDICATES FOUND MONUMENT AS NOTED
- (XXX.XX SRX) INDICATES RECORD DATA PER SURVEY REFERENCE NUMBER
- ⊙ INDICATES SET 5/8" X 30" IRON REBAR WITH YPC STAMPED: "BETHJE 55437"

THE PURPOSE OF THIS SUBDIVISION PLAT IS TO CREATE 8 PARCELS FROM ORIGINAL PARCEL 200.

# PRELIMINARY PLAT OF RODRIGUEZ ESTATES

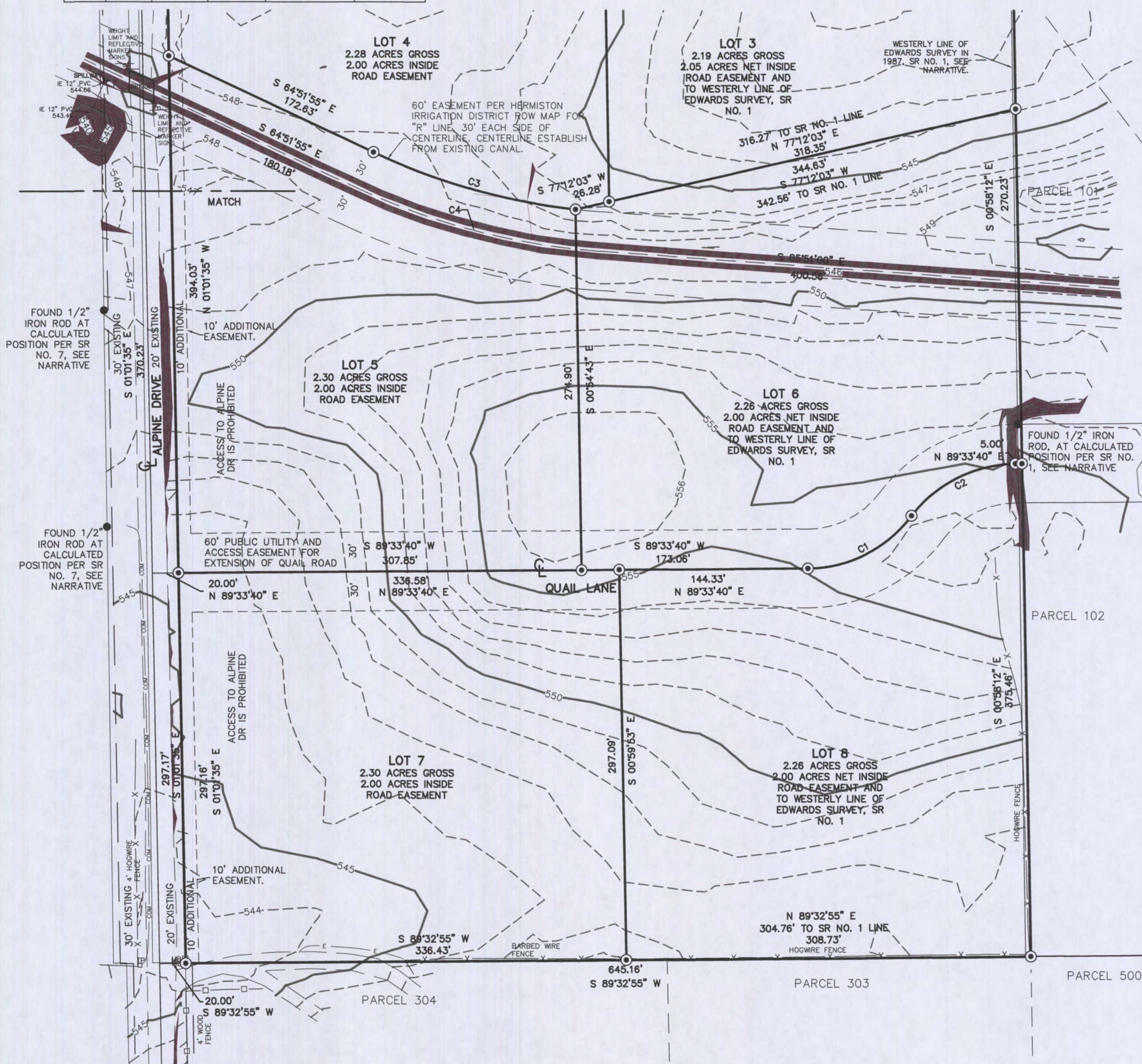
OF THE WEST HALF OF THE NW 1/4 OF THE SE 1/4 OF SECTION 35, T 5 N, R 28 E WILLAMETTE MERIDIAN UMATILLA COUNTY

JOB NO.: 23-112  
DRAWING DATE: 02-01-2024  
SHEET 3 OF 4

**TOPO LEGEND:**

- ⊕ INDICATES TELEPHONE PEDESTAL
- INDICATES POWER POLE WITH DIRECTION OF OVERHEAD LINES
- INDICATES GUY ANCHOR
- INDICATES BOUNDARY
- INDICATES EDGE OF ASPHALT
- INDICATES EDGE OF CONCRETE
- INDICATES EDGE OF GRAVEL
- INDICATES 5 FOOT INTERVAL CONTOUR
- INDICATES 1 FOOT INTERVAL CONTOUR
- X—X— INDICATES FENCE LINE
- INDICATES CHAINLINK FENCE LINE
- INDICATES WOOD FENCE LINE
- ⊕ INDICATES GAS RISER
- INDICATES SIGN
- MB□ INDICATES MAIL BOX
- E— INDICATES ELECTRIC LINE PER GEOPHYSICAL SURVEY
- GAS— INDICATES GAS PIPELINE PER GEOPHYSICAL SURVEY
- COM— INDICATES TELECOM LINE PER GEOPHYSICAL SURVEY
- CP—CP— INDICATES COUNTERPOISE LINE PER GEOPHYSICAL SURVEY
- INDICATES AREA OF SLOPES GREATER THAN 25%

HORIZONTAL AND VERTICAL DATUM:  
OREGON NORTH STATE PLANE COORDINATE SYSTEM, NAD 83/2011 DATUM,  
INTERNATIONAL FEET PER OPUS SOLUTION ON MGS CONTROL POINT NUMBER  
20 AS SHOWN HEREON, NEAR CENTER OF SITE. COMBINED SCALE FACTOR  
0.99994685 WAS APPLIED AT COORDINATE 0.0. ALL DISTANCES SHOWN ARE  
GROUND DISTANCES. ELEVATION IS 548.19, NAVD83 DATUM.



**SURVEYOR'S CERTIFICATE**

I KEVIN L. BETHJE, BEING FIRST DULY SWORN, DEPOSE AND SAY THAT I AM A PROFESSIONAL LAND SURVEYOR OF THE STATE OF OREGON, AND THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH LEGAL MONUMENTS THE LAND REPRESENTED ON THIS SURVEY.

*Kevin L. Bethje*  
KEVIN L. BETHJE PROFESSIONAL LAND SURVEYOR CERTIFICATE NUMBER 55437.

DATED 02-01-2024

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON  
JANUARY 9, 2001  
KEVIN L. BETHJE  
55437

Expires 12-31-2025  
02-01-2024

**SURVEY REFERENCES:**

- 1) EDWARDS SURVEY, 87-35-D
- 2) EDWARDS SURVEY, Q-1165-B
- 3) EDWARDS SURVEY, 86-125-A
- 4) KRUMBEIN SURVEY, 82-35-A
- 5) "BODE SUBDIVISION", 97-148-B
- 6) KRUMBEIN SURVEY, 88-27-B
- 7) "LANDOVER HILLS", BOOK 10, PAGE 18
- 8) THOMPSON SURVEY, H-256
- 9) MAIN SURVEY, 92-145-B
- 10) KRUMBEIN SURVEY, S-156-C

**DEED REFERENCE:**

GRANTOR: JOYCE J. FOLLIS, RONALD A. WILLIAMS AND JAMES R. BLOODSWORTH, CO-TRUSTEES OF THE BLOODSWORTH FAMILY TRUST, DATED NOVEMBER 2, 2012 AND JOYCE J. FOLLIS, RONALD A. WILLIAMS AND JAMES R. BLOODSWORTH, CO-TRUSTEES OF THE CHARLES A. BLOODSWORTH CREDIT SHELTER TRUST CREATED UNDER BLOODSWORTH FAMILY TRUST, DATED NOVEMBER 2, 2012  
GRANTEE: ABRAHAM RODRIGUEZ AND MARGARET RODRIGUEZ, HUSBAND AND WIFE  
INSTRUMENT NUMBER: 2023-00463  
DATED: 01-25-2023

PREPARED BY: MGS PASCO, INC.  
809 S AUBURN ST, KENNEWICK, WA 99336, (509) 491-1071

MGS PASCO, INC. MAKES NO WARRANTIES AS TO MATTERS OF UNWRITTEN TITLE SUCH AS ADVERSE POSSESSION, ACQUIESCENCE, ESTOPPEL, ETC.



ORIGINAL DESCRIPTION PER WARRANTY DEED STATUTORY FORM 2023-00463

THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, SECTION 35, TOWNSHIP 5 NORTH, RANGE 28 EAST, WILLAMETTE MERIDIAN UMATILLA COUNTY, OREGON. EXCEPTING THEREFROM ANY PORTION LYING WITHIN COUNTY ROAD RIGHT-OF-WAY.

CERTIFICATE OF OWNERSHIP AND DEDICATION:

WE, MARGARET RODRIGUEZ AND ABRAHAM RODRIGUEZ ARE THE OWNERS OF THE TRACT OF LAND DESCRIBED ON THE ACCOMPANYING PLAT, DO HEREBY ACKNOWLEDGE THAT WE HAVE CAUSED THIS SUBDIVISION PLAT TO BE PREPARED AND HEREBY DEDICATE THE STREETS AND EASEMENTS AS SHOWN FOR PUBLIC USE.

MARGARET RODRIGUEZ \_\_\_\_\_ DATE \_\_\_\_\_

ABRAHAM RODRIGUEZ \_\_\_\_\_ DATE \_\_\_\_\_

ACKNOWLEDGEMENT:

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

THIS IS TO CERTIFY THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2023, \_\_\_\_\_ PERSONALLY APPEARED BEFORE ME, AND BEING DULY SWORN ACKNOWLEDGED TO ME THAT HE SIGNED THIS INSTRUMENT AS HIS VOLUNTARY ACT AND DEED IN WITNESS THEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.

SIGNATURE NOTARY PUBLIC-OREGON \_\_\_\_\_ DATE \_\_\_\_\_

PRINTED NAME \_\_\_\_\_

COMMISSION NO: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

ACKNOWLEDGEMENT:

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

THIS IS TO CERTIFY THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2023, \_\_\_\_\_ PERSONALLY APPEARED BEFORE ME, AND BEING DULY SWORN ACKNOWLEDGED TO ME THAT HE SIGNED THIS INSTRUMENT AS HIS VOLUNTARY ACT AND DEED IN WITNESS THEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.

SIGNATURE NOTARY PUBLIC-OREGON \_\_\_\_\_ DATE \_\_\_\_\_

PRINTED NAME \_\_\_\_\_

COMMISSION NO: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

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SURVEYOR'S CERTIFICATE I KEVIN L. BETHJE, BEING FIRST DULY SWORN, DEPOSE AND SAY THAT I AM A PROFESSIONAL LAND SURVEYOR OF THE STATE OF OREGON, AND THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH LEGAL MONUMENTS THE LAND REPRESENTED ON THIS SURVEY.

Kevin L. Bethje signature
KEVIN L. BETHJE PROFESSIONAL LAND SURVEYOR CERTIFICATE NUMBER 55437.

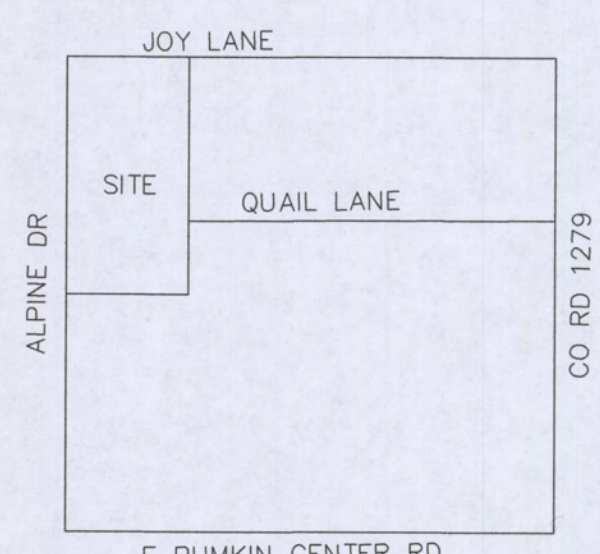
DATED 02-01-2024



PRELIMINARY PLAT OF RODRIGUEZ ESTATES

OF THE WEST HALF OF THE NW 1/4 OF THE SE 1/4 OF SECTION 35, T 5 N, R 28 E WILLAMETTE MERIDIAN UMATILLA COUNTY

JOB NO.: 23-112 DRAWING DATE: 02-01-2024 SHEET 4 OF 4



VICINITY MAP NOT TO SCALE

UMATILLA COUNTY SURVEYOR: I, DAVID H. KRUMBEIN, UMATILLA CO. SURVEYOR, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE ACCOMPANYING PLAT, THAT IT COMPLIES WITH THE LAWS OF THE STATE OF OREGON WITH REFERENCE TO THE FILING AND RECORDING OF SUCH PLATS, AND I THEREFORE APPROVE SAID PLAT FOR THE APPROVAL OF THE COUNTY COMMISSIONERS OF UMATILLA COUNTY, OREGON, DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2024.

UMATILLA COUNTY SURVEYOR \_\_\_\_\_

UMATILLA COUNTY COMMISSIONERS: THIS IS TO CERTIFY THAT THE ACCOMPANYING PLAT IS APPROVED FOR FILING AND RECORDING IN THE "RECORD OF TOWN PLATS" OF UMATILLA COUNTY, OREGON, BY THE UNDERSIGNED BY ITS ORDER. DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2024.

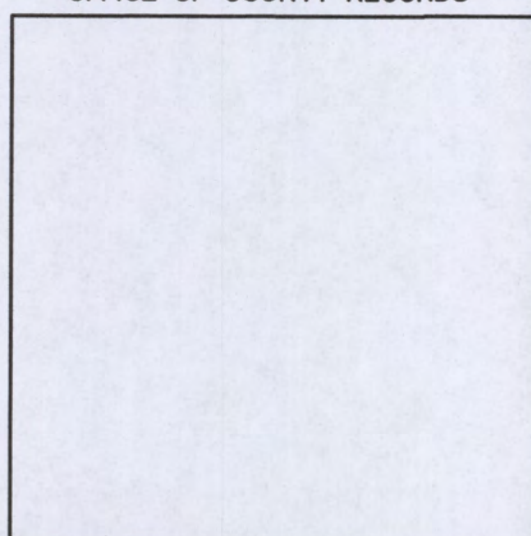
CHAIRMAN \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

COMMISSIONER \_\_\_\_\_

ASSESSOR AND TAX COLLECTOR: WE, THE ASSESSOR AND TAX COLLECTOR OF UMATILLA COUNTY, OREGON, DO HEREBY CERTIFY THAT WE HAVE EXAMINED THE TAX RECORDS RELATIVE TO THE LAND COVERED BY THE ACCOMPANYING PLAT AND THAT ALL MONIES DUE FOR STATE AND COUNTY TAXES AND ASSESSMENTS THAT COULD CONSTITUTE A LIEN ON SAID LAND HAVE BEEN PAID ANDN WE HEREBY APPROVE SAID PLAT. DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2024.

COUNTY ASSESSOR \_\_\_\_\_ COUNTY TAX COLLECTOR \_\_\_\_\_

OFFICE OF COUNTY RECORDS





**UMATILLA COUNTY PLANNING COMMISSION  
STAFF REPORT AND PRELIMINARY FINDINGS  
RODRIGUEZ SUBDIVISION REQUEST, #S-063-24  
Map #5N 28 35, Tax Lot #200, Account #130012**

1. APPLICANT: Abraham and Maggie Rodriguez, 405 N. 1<sup>st</sup> Street, Hermiston, Oregon 97838
2. PROPERTY OWNERS: Abraham and Maggie Rodriguez, 405 N. 1<sup>st</sup> Street, Hermiston, Oregon 97838
3. LOCATION: The property is located north of Punkin Center on the southeast corner of Joy Lane and Alpine Drive, about a half mile north of Hermiston City Limits.
4. PARCEL ACREAGE: Tax Lot 200 = 19.10 acres
5. REQUEST: The applicant requests approval of a rural residential subdivision. The proposed subdivision establishes eight lots, which is the maximum number of lots under current zoning density regulations. Tax Lot 200 is currently undeveloped. (See the applicant’s tentative plan map for lot configuration, plan details and proposed access.)

According to the applicant, each undeveloped lot will have its own water source either from an individual domestic well or through the sharing of a domestic well. Individual septic systems are proposed for each lot. However, the applicant has not submitted site suitability reports indicating if the lots can be approved for individual septic systems from County Environmental Health.

Conventional site-built dwellings are planned for each proposed lot. The applicant has not submitted a draft of the proposed Covenants, Conditions and Restrictions.

6. PROPOSED LOT ACREAGE: (Gross)

Lot 1=2.32 ac	Lot 3=2.19 ac	Lot 5=2.29 ac	Lot 7=2.29 ac
Lot 2=3.43 ac	Lot 4=2.27 ac	Lot 6=2.26 ac	Lot 8=2.25 ac

7. COMPREHENSIVE PLAN MAP DESIGNATION: Rural Residential

8. ZONING: RR-2 Zone (Rural Residential two-acre minimum parcel/lot size)

9. ACCESS: Lots 1, 2, 3 and 4 are proposed to be served by a dedicated 60-foot public utility and access easement with a circle turnaround to be named “Rocking A Court” from Alpine Drive, County Road 1263. Lots 5, 6, 7 and 8 will be served by a dedicated 60-foot public utility and access easement extending from Quail Lane, a private lane. The easement will continue through from the existing portion of Quail Lane to Alpine Drive. This public extension of Quail Lane will provide access to the four lots mentioned above as part of the proposed Rodriguez Estates Subdivision as well as lots already served by Quail Lane; Tax Lots 101, 112, 111, 106, 121, 120, 105, 119, 118, 102, 113, 107, 122, 108, 124 and 123 of Map 5N 28 35D, and Tax Lots 400, 503, 302, 600, 500 and 501 of Map 5N 28 36C.

10. **ROAD TYPE:** Alpine Drive, County Road 1263, has a 60-foot-wide right-of-way and a 30-foot-wide gravel roadway. The existing portion of Quail Lane is a 60-foot-wide private access easement with a 30-foot-wide gravel roadway. Both the proposed Rocking A Court public utility and access easement and the public utility and access easement extension of Quail Lane will be two lane, 60-foot gravel easements built to the County S-1 Road Standard. The County Planning Commission may also find that instead of dedicating public utility and access easements to serve the 8 proposed lots, Rodriguez Estates subdivision should instead dedicate two public roads.

11. **EASEMENTS:** Hermiston Irrigation District has a 60-foot wide irrigation easement named the “R” pipeline, this easement crosses Proposed Lots 5 and 6. (Areas within the utility easements are not available for development of structures and buildings.)

Proposed Lots 1, 2 and 3 are impacted by a 250-foot-wide Bonneville Power Administration utility easement as there are overhead transmission lines. Building of any kind would be prohibited under said BPA transmission lines. Only a small portion of the BPA utility easement crosses the upper northeast corners of proposed Lot 1 and 3. Proposed Lot 2 would be the most impacted by the BPA utility easement with only 0.55 acres of buildable space remaining outside of the BPA easement and within the 20 ft. required setbacks from property lines for building.

Proposed Lots 1 and 2 are impacted by a 75-foot-wide gas pipeline utility easement. (Areas within the utility easement are not available for development of structures and buildings.) This easement crosses only a small portion of the upper northeast corner of Lot 1, and crosses from the upper northeast corner of Lot 2 to the middle of the eastern property line.

Proposed Lots 1 and 2 are proposed to have a 10-foot-wide additional public access easement that runs west to east along the northern property line parallel to Joy Lane.

Proposed Lots 1, 4, 5 and 7 are proposed to have a 10-foot-wide additional public access easement that runs north to south along the western property line parallel to Alpine Drive.

Proposed Lot 2 is the most impacted by existing easements and development on this lot will be extremely limited due to the large utility easements.

12. **LAND USE:** The property is planned and zoned for rural residential use as rural home sites and to provide space for rural services, gardens, a limited number of farm animals and pasture.

13. **ADJACENT LAND USE:** The property is zoned rural residential, RR-2. Likewise, the properties to the north, east and west of the property are zoned RR-2. Properties to the south are within Hermiston’s Urban Growth Boundary and appear to be primarily single family residences and irrigated farm land.

14. **SOILS:** The properties consist of the following soil:

Unit Number, Soil Name, Description & Slope	Land Capability Class	
	Dry	Irrigated



122B: Winchester sand, 0 - 5 percent slopes	7e	4e
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15. BUILDINGS: There are no buildings on the property.
16. UTILITIES: Electricity is provided by Umatilla Electric and land line phone service to the area is provided by CenturyLink.
17. WATER AND SANITATION: The applicant provides that future purchasers will be responsible for installing wells and septic systems on the proposed lots.
18. IRRIGATION: The property is located within Hermiston Irrigation District (HID). The applicant provides that the property does not have irrigation water rights. The applicant supplied a letter from Hermiston Irrigation District in support of the application. HID provided an informational comment, confirming that the subject properties do not have irrigation water rights but are located within HID's jurisdictional boundary.
20. PROPERTY OWNERS & AGENCIES NOTIFIED: March 22, 2024
21. PUBLIC HEARING DATE: April 11, 2024
22. AGENCIES NOTIFIED: County Public Works, County Surveyor, County Environmental Health, Umatilla County Fire District #1, County Assessor, County GIS/Mapping Department, Oregon State Water Resources, City of Hermiston, Hermiston Irrigation District, Umatilla Electric, Pacific Northwest Pipeline Corporation, Bonneville Power Administration and Century Link.
23. COMMENTS RECEIVED: Planning received one comment from Karra Van Fossen, Water Rights Specialist, on behalf of the Hermiston Irrigation District (HID) stating the property is within the HID and has no water rights. HID indicated that the irrigation district would allow for water rights to be purchased and placed on this property.
- The letter from HID also states there is a federal right-of-way easement through the middle of the subdivision for the R Line Canal. The total easement for this property is 60 feet, which is 30 ft. to the north from the center of the canal and 30 ft. to the south from the center of the canal.
- HID stated they have no objections to the subdivision, however they do have policies and stipulations when granting consent to a subdivision along our canals and Rights-of-Way. The district is also recommending moving the property line to the center of the of the canal ditch where possible. Included with the letter from HID is their District Policy.
24. CRITERIA FOR APPROVAL, TYPE I LAND DIVISION "SUBDIVISION", contained in Section 152.666(6) of the Development Code.

Following are a list of the standards of approval applied to a rural residential subdivision<sup>1</sup>. Included is information gathered from the tentative plan and the review of the proposed access, road improvements, traffic potential, and rural facilities to serve rural residential development. The standards are provided in underlined text and responses are provided in standard text.

(a) Complies with applicable elements of the Comprehensive Plan, including, but not limited to, policies listed in the public facilities and services and transportation elements of the Comprehensive Plan.

Sewage Disposal: The property owner understands individual septic systems are necessary to serve each undeveloped lot. The proposed lots are smaller than four acres, and therefore, require site evaluations. A precedent condition of approval is imposed that Lots 1 through 8 receive a favorable site evaluation from County Environmental Health.

Domestic Water: Domestic water wells are under the authority of Oregon State Water Resources. Domestic wells are exempt wells and do not require a water right. Each exempt well allows 15,000 gallons per day of household usage including irrigation of up to one half acre of lawn and landscaping per well. The applicant provides that the future purchaser of each subdivision lot will be responsible for receiving exempt well approval and are responsible for the costs of drilling a well.

Irrigation Water: The property is within the Hermiston Irrigation District, however the property does not have water rights, as confirmed by Hermiston Irrigation District.

Fire Protection: The subject property is within Umatilla County Fire District #1. The district provides fire protection services to the area and received notification of the applicant's subdivision proposal. The two new roads are each planned with a 50-foot radius turn-around area providing space for emergency vehicles to ingress and egress. The proposed turn-around area also is required to be improved to the S-1 County Road Standard to accommodate large firefighting equipment by the fire protection service provider. The applicant is required, as a condition of approval, to provide confirmation from Umatilla County Fire District #1 that both access easements and turn-around areas are adequate for emergency vehicles.

Access and Road Improvements: Access approach permits from Alpine Drive for the two proposed public access/utility easements must be confirmed by County Public Works. Obtaining each access permit is imposed as a precedent condition of approval.

The County's Transportation Plan (TSP) requires rights-of-way within subdivisions to have a width of 60-feet, with a minimum of two, 11-foot travel lanes. The County Road Department standard is a Subdivision "S-1" standard. The S-1 standard consists of a crushed gravel surface compacted to a thickness of 8 inches. The applicant's plan proposes two (2) 60-foot access/utility public right of way easements.

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<sup>1</sup> ORS 92.010 (16) "Subdivide land" means to divide land to create four or more lots within a calendar year.'  
UCDC 152.003 "Subdivide Land. To divide land into four or more lots within a calendar year."

A precedent condition of approval is imposed to improve the proposed “Rocking A Court” to the Subdivision 1 “S-1” road standard including the proposed turn around area. A diagram of the County Subdivision “S-1” road standard is attached.

A precedent condition of approval is imposed to improve the proposed extension of “Quail Lane” to the Subdivision 1 “S-1” road standard including the proposed turn around area.

Road Signs and Addresses: The applicant proposes that one public access/utility easement serve Lots 1, 2, 3 and 4 to be named Rocking A Court, and a second public access/utility easement serve Lots 5, 6, 7 and 8, would be named Quail Lane as it will be an extension of the already existing private Quail Lane. Both roads are required to be named and road signs installed as a condition of approval.

The applicant has proposed road names for both access easements and they are shown on the preliminary plat. A precedent condition of approval is imposed that the applicant submit two (2) road name applications to County Planning, one for each proposed road way.

A precedent condition requiring the installation of the road signs is imposed. The applicant is responsible for paying for the signs and the County Road Department is the agency that will install the signs. The sign may be installed either on the applicant’s property near the County right of way, or within the County right of way, where determined by County Public Works.

There are no dwellings on the property, therefore, no addresses will need to change due to the creation of the two roads.

Road Improvement Agreements: Over time additional road impacts occur and future upgrading and realignment of roads become necessary. An Irrevocable Consent Agreement (ICA) is required when there are new parcels or lots added along county roads, public roads and private lanes. The ICA is for participation in future road upgrading. The Irrevocable Consent Agreement runs with the property and is binding on the heirs, assigns and all other successors in interest to the owner of the property, according to the interest of the property, and does not operate as a personal contract of the owner.

Several Irrevocable Consent Agreements (ICAs) are required for the subdivision approval. An agreement for future participation in improvements to County Road Alpine Drive is required as both roads serving Lots 1 through 8, connect to Alpine Drive. In addition, an ICA is required for Rocking A Court, the roadway proposed to serve Lots 1, 2, 3 and 4. A third ICA is required for the extension of Quail Lane, the roadway proposed to serve Lots 5, 6, 7 and 8.

The Planning Commission finds the property owner signing and recording the three ICA agreements fulfills the road improvement agreement requirement.

A precedent condition of approval is imposed that the property owner sign and record an Irrevocable Consent Agreement for future participation in road improvements to the 60-foot County Road, Alpine Drive, serving Lots 1 through 8.

A precedent condition of approval is imposed that the property owner sign and record an Irrevocable Consent Agreement for future participation in road improvements to the 60-foot public access/utility easement Rocking A Court, serving Lots 1, 2, 3 and 4.

A precedent condition of approval is imposed that the property owner sign and record an Irrevocable Consent Agreement for future participation in road improvements to the 60-foot public access/utility easement, and extension of Quail Lane, serving Lots 5, 6, 7 and 8.

(b) Complies with the Statewide Planning Goals adopted by the Land Conservation and Development Commission (LCDC), until the comprehensive Plan is “acknowledged.” The Umatilla County Comprehensive Plan was acknowledged October 24, 1985, by the State Land Conservation & Development Commission (LCDC). The Plan designates the subject property and surrounding properties for rural residential use. The applicant’s proposal will create a total of eight rural residential lots. This property and properties in the vicinity are designated rural residential as part of the County adopted and State acknowledged Comprehensive Plan.

(c) Complies with provision of 152.019, Traffic Impact Analysis, as applicable. A Traffic Impact Analysis (TIA) is required to be submitted with a land use application when the proposal is projected to cause an increase in traffic volume by 250 or more Average Daily Trips (ADT). A single-family dwelling generates approximately 9.52 ADT on week days. The applicant’s proposal will add eight developable lots with one dwelling per lot, for a total of 76.16 ADT, 76 is much less than 250 ADT. Therefore, the TIA is not applied to the applicant’s request.

(d) Complies with applicable provisions listed in the zoning regulations of this chapter; The subject property is zoned Rural Residential – two acre minimum (RR-2).

Lot Size: All proposed lots will conform to or exceed the 2-acre minimum parcel size for the RR-2 zone.

Setbacks: Seven of the eight proposed lots show adequate area available for dwellings, accessory structures, septic systems and a water source within the zoning setback requirements. Setback standards will be enforced at the time development is proposed.

Proposed Lot 2 is severely impacted by existing easements and development on this lot will be extremely limited. This is due to the 250-foot-wide BPA easement that covers a majority of the lot that cannot be built within. Additionally, there is a 75-foot-wide natural gas line easement that stretches across the northern side of the lot, this area is also not buildable. Proposed Lot 2 would have only 0.55 acres of buildable space inside the 20-foot zoning setback requirements and outside of the existing easements. This does not leave much room for many amenities that are desirable on rural lots, such as; large dwelling, barn and shop structures. Only 18% of Proposed Lot 2 is buildable space which is less than the allowed 30% of building coverage of a lot zoned RR-2 as stated in UCDC 152.134 Dimensional Standards (C)(1) The main building and accessory buildings located on any building site or lot shall not cover more than 30% of the total lot area.

Planning Staff did on multiple occasions both in person and via email communicate to the applicant

our concerns over the lack of buildable space on Lot 2. Suggestions of combining proposed Lot 2 with Lot 1 or Lot 3 were made but ultimately the applicant made no changes to their preliminary plat before submitting the application. UCDC Section 152.648 (16) Subdivisions (a)(1) reads "Each proposed lot must be buildable in conformance with the requirements of this ordinance and all other applicable regulations."

Proposing a 3.43-acre lot with only 0.55 acres of buildable space creates the potential for future landowners to request a variance to the RR-2 zone's building setback requirements. UCDC Section 152.627 Circumstances For Granting a Variance (A) states "Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances **over which the owners of property since enactment of this chapter have had no control,**" (Emphasis added.)

The Umatilla County Planning Division finds and concludes a variance to the zone's setback requirements for proposed Lot 2 could likely not be approved as the circumstance that created the need for the variance was created post the enactment of UCDC Section 152.627, knowingly by the current property owner.

Flood Hazard Areas: The subject parcel is not located within a Special Flood Hazard Area.

(e) Complies with the applicable provisions, including the intent and purpose of the Type I regulations listed in this chapter

Subdivision Name: The applicant has selected Rodriguez Estates as the subdivision name. The County Surveyor or the County GIS Manager must approve new subdivision names to avoid duplicate names. The applicant's subdivision name, Rodriguez Estates, has been confirmed by the County GIS Manager as an acceptable subdivision name.

(f) The Tentative Plan conforms and fits into the existing development scheme in the area, including the logical extension of existing streets [roads] and public facilities through the tentative plan; The subject property and the surrounding properties are plan designated and zoned for rural residential development. The existing development scheme is rural residential parcels with some pasture land used as rural home sites. Two access and utility easements are proposed, which will be dedicated as a public easement on the final Subdivision Plat and named, Rocking A Court. There are no public facilities such as public water and sewer systems that may be extended into the rural area. There is one abutting roadway, Quail Lane, (a private lane) that would be logically extended through the subject property to Alpine Drive via a 60-foot-wide public access and utility easement, which will be dedicated as a public easement on the final Subdivision Plat and named Quail Lane.

(g) Complies with other specific requirements listed in Section 152.667 for approval of subdivisions within multiple use areas. The subdivision is not proposed within an adopted Comprehensive Plan multiple use designated area. Therefore, specific requirements in Section 152.667 are not applied.

25. UCDC 152.648 CREATION OF ROADS, EASEMENTS AND RIGHTS-OF-WAY;  
MINIMUM STANDARDS (16) SUBDIVISIONS:

(a) A subdivision shall conform to the following standards:

(1) Each proposed lot must be buildable in conformance with the requirements of this ordinance and all other applicable regulations.

The Umatilla County Development Code defines “Buildable Area” as the space remaining on a zoning lot after the minimum open space requirements (coverage, yards, setbacks) have been met. Proposed lots 1, 3, 4, 5, 6, 7 and 8 would have adequate building space. Only 18% of Proposed Lot 2 is buildable space (0.55 acres) which is less than the allowed 30% of building coverage of a lot zoned RR-2 as stated in UCDC 152.134 Dimensional Standards (C)(1) The main building and accessory buildings located on any building site or lot shall not cover more than 30% of the total lot area. The Umatilla County Planning Commission may find that the creation of Lot 2, with only 18% buildable space is not buildable in conformance with the requirements of the Umatilla County Development Code.

(2) Each lot shall abut a public or private road for the required minimum lot frontage for the zoning district where the lots are located.

The Umatilla County Development Code does not define minimum lot frontage for the RR-2 zone. All eight proposed lots have over 120 feet in minimum lot frontage on a public roadway. The Umatilla County Planning Commission finds this criterion is not applicable.

(3) If any lot abuts a street right-of-way that does not conform to the design specifications of this code, the owner may be required to dedicate up to one-half of the total right-of-way width required by this ordinance.

Lots 1, 2, 3 and 4 are proposed to be served by a dedicated 60-foot public utility and access easement with a circle turnaround to be named “Rocking A Court” from Alpine Drive, County Road 1263. Lots 5, 6, 7 and 8 will be served by a dedicated 60-foot public utility and access easement extending from Quail Lane, a private lane. Both public easements are to be built to the County S-1 Road Standard. The Umatilla County Planning Commission finds this criterion is not applicable.

(b) Further subdivision of the property shall be prohibited unless the applicant submits a plat or development plan in accordance with requirements in this ordinance.

The Umatilla County Planning Commission finds that if the Rodriguez Estates subdivision is approved, further subdivision of the property shall be prohibited. As the proposed lot sizes just meet or barely exceed the lot size requirement for the RR-2 zone in accordance with UCDC 152.666(6)(d), it would not be possible to further subdivide the lot under the current zoning regulations.

## UMATILLA COUNTY PLANNING COMMISSION DECISION OPTIONS

### **DECISION: DENIAL.**

**THE RODRIGUEZ ESTATES SUBDIVISION, #S-063-24, REQUEST DOES NOT COMPLY WITH THE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE. BASED ON THE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE REQUEST TO APPROVE A RURAL RESIDENTIAL SUBDIVISION IS DENIED.**

The Umatilla County Planning Commission may find the subdivision is denied due to Proposed Lot 2 not satisfying UCDC 152.648 (16)(a)(1) Each proposed lot must be buildable in conformance with the requirements of this ordinance and all other applicable regulations. The Umatilla County Planning Commission may find that Lot 2 only has 18% of the total lot area available as buildable space, therefore it would be difficult to site the many desired rural residential amenities within the confined lot while satisfying setback requirements.

### **DECISION: APPROVAL.**

**THE RODRIGUEZ ESTATES SUBDIVISION, #S-063-24, REQUEST COMPLIES WITH THE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE, SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:**

The following "Precedent Conditions" shall be completed prior to issuance of final approval signified by recording of the final subdivision plat.

1. Receive favorable site evaluations for Lots 1 through 8 from County Environmental Health and submit the evaluations to County Planning.
2. Obtain a County Road Approach Permit from Alpine Drive to the 60-foot access easement serving Lots 1, 2, 3 and 4.
3. Obtain a County Road Approach Permit from Alpine Drive to the 60-foot access



- easement serving Lots 5, 6, 7 and 8.
4. Submit and receive approval for the Road Naming Application of the public access/utility easement serving Lots 1, 2, 3 and 4.
  5. Submit and receive approval for the Road Naming Application of the public access/utility easement serving Lots 5, 6, 7 and 8.
  6. Sign and record an Irrevocable Consent Agreement for Lots 1, 2, 3 and 4, for participation in future road improvements to the 60-foot access easement and turn around. (Document provided by the Planning Department.)
  7. Sign and record an Irrevocable Consent Agreement for Lots 5, 6, 7 and 8, for participation in future road improvements to the 60-ft access easement extending from Quail Lane. (Document provided by the Planning Department.)
  8. Sign and record an Irrevocable Consent Agreement for Lots 1 through 8, for participation in future road improvements to Alpine Drive, 60-foot-wide County Road #1263. (Document provided by the Planning Department.)
  9. Improve the proposed 60-ft access easement serving Lots 1, 2, 3 and 4, and the proposed 50-ft radius turn-around to the County Subdivision "S-1" road standard. The S-1 road standard consists of a 22-ft wide, nominal compacted 8-inch crushed gravel surface road. [Verification roadway improvements have been completed to County Subdivision (S-1) standards may be provided by a combination of photos of the road improvements and receipt copies for gravel and services by the road contractor, or by written verification from a licensed Civil (road) Engineer that County Subdivision (S-1) standards have been met.]
  10. Improve the proposed 60-ft access easement serving Lots 5, 6, 7 and 8 to the County Subdivision "S-1" road standard. The S-1 road standard consists of a 22-ft wide, nominal compacted 8-inch crushed gravel surface road.  
  
[Verification roadway improvements have been completed to County Subdivision (S-1) standards may be provided by a combination of photos of the road improvements and receipt copies for gravel and services by the road contractor, or by written verification from a licensed Civil (road) Engineer that County Subdivision (S-1) standards have been met.]
  11. Provide confirmation from Umatilla County Fire District #1 that both the easement access road and turn-around area consist of adequate area for emergency vehicles to ingress and egress for the road serving Lots 1, 2, 3 and 4.
  12. Provide confirmation from Umatilla County Fire District #1 that the easement access road consists of adequate area for emergency vehicles to ingress and egress for the road



serving Lots 5, 6, 7 and 8.

13. Pay and/or pre-pay property taxes prior to recording the final subdivision plat map.
14. Provide a draft copy of the Subdivision Covenants, Conditions and Restrictions to County Planning.
15. Submit a preliminary subdivision plat that meets county and state plat requirements to County Planning, County GIS, and the County Surveyor. The plat shall contain the approved road names and on the face of the plat and include the approved subdivision name, Rodriguez Estates Subdivision. The plat shall be updated to show that the private lane, Quail Lane, continues and provides legal access to Tax Lots 101, 112, 111, 106, 121, 120, 105, 119, 118, 102, 113, 107, 122, 108, 124 and 123 of Map 5N 28 35D, and Tax Lots 400, 503, 302, 600, 500 and 501 of Map 5N 28 36C, all to the east.

The following "Subsequent Conditions" may consist of on-going requirements and conditions to be fulfilled following approval of the Tentative Subdivision Plan Plat:

1. Within two years, record the final subdivision plat that meets county and state plat requirements. The subdivision name, Rodriguez Estates, must be placed on the subdivision plat. The plat shall show the two 60-foot access/utility easements, including the turnaround and names, as well as all utility easements as represented on the tentative plan survey map. The plat shall contain Hermiston Irrigation District's signature.

UMATILLA COUNTY PLANNING COMMISSION

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

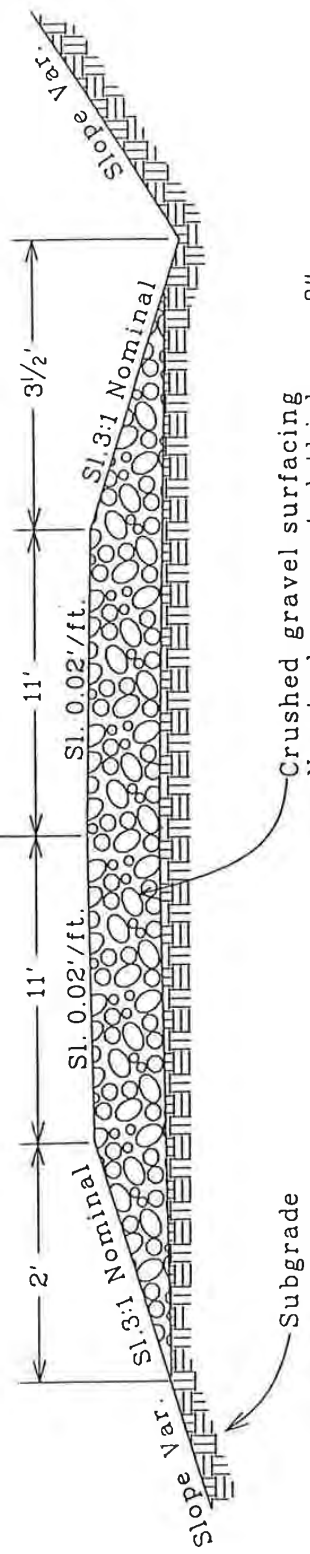
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Suni Danforth, Chair  
Umatilla County Planning Commission

# "S-1" (Subdivision)

To be used in cases where access is  
to 4 or more parcels.

\*Note: If subdivision is within a City Urban Growth Boundary, City Standards should apply.



- \* Culvert pipes to be installed in locations determined by the Director of Public Works. Materials & workmanship shall conform to current ODOT Standard Specifications
- \* All other construction details and specifications to conform to current ODOT Standard Specifications and to be approved by the Director of Public Works.
- \* Any changes to surfacing width or depths or variance from current Oregon Department of Transportation Standard Specifications must be approved by the Director of Public Works.

Crushed gravel surfacing  
Nominal compacted thickness 8"  
(size and grading requirements  
to conform to current Oregon  
Department of Transportation  
Specifications).

Umatilla Co. Rd. Dept.	
"S-1"	
Drawn By: JG	Checked By: GR
Date: July 1997	Road Standard

# ***HERMISTON IRRIGATION DISTRICT***



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366 East Hurlburt Avenue  
Hermiston, OR 97838-2445  
Office: 541-567-3024  
Mobile: 541-571-7698  
E-mail: [Manager@HermistonID.org](mailto:Manager@HermistonID.org)

March 25, 2024

Umatilla County  
Community Development Department  
Charlet Hotchkiss, Planner  
216 SE 4<sup>th</sup> St  
Pendleton, OR 97801

**RE: Subdivision Request #S-063-24  
5N2835 200**

Ms. Hotchkiss,

HID has reviewed the information regarding the application for subdivision submitted by Abraham and Maggie Rodriguez. This property is located within the Hermiston Irrigation District boundaries and has no water rights. HID would allow water rights to be purchased and placed on this property.

There is a federal right-of-way easement through the middle of the subdivision for the R Line Canal. The total easement for this property is 60', which is 30' to the north from the center of the canal and 30' south from the center of the canal.

HID has no objections to the subdivision, however, HID has policies and stipulations when granting consent to a subdivision along our canals and Rights-of-Way. The District would also recommend moving the property line to the center of the ditch where possible. Attached is our District policy for review. The landowner should contact the District and the Bureau of Reclamation for a list of fees and restrictions if they plan to build on these lots in the future. Thank you for the opportunity to review and comment on this application.

Respectfully,

*Karra*

Karra Van Fossen  
Water Right Specialist

Encl:/ District Policy for Land Divisions

# **Hermiston Irrigation District**

## **Policy for Land Owners Divisions, Partitions and Subdivisions**

1. Owner(s) must pipe to meet Hermiston Irrigation District's (District) specification from the District's point of delivery to each parcel or lot created, to include an outlet on each parcel or lot.
2. Owner(s) must provide and record an easement of at least 10-feet on each side of the pipe, 20-foot overall minimum. No easements may be split by parcel property lines.
3. Owner(s) must pay material and installation costs for installation or modification of a diversion box or pipeline to accommodate the new pipeline.
4. For land with full water rights, the owner(s) must sign a Consent of Transfer to allow for a minimum of ½ acre less water right than the acreage in each parcel or lot of 1 acre or more. For lots of less than 1 acre ½ or less or the area may retain a water right.
5. For land with a partial water right, owner(s) must designate irrigated acreage to be placed on each parcel or lot and sign a Consent of Transfer and a Request for Transfer to allow the transfer to be completed.
6. All associated fees must be paid including the mandatory state filing fee, the District's transfer fees, the review fee and the current irrigation assessments.
7. Owner(s) of land with private ditches or pipeline, which serves others down stream of the property, must record a minimum of a 20-foot easement to protect down stream water users.
8. One of the following options to provide protection of easements must be selected and carried out:
  - A) Installation of a 6' chain link fence or other fencing approved by the District, on the edge of the easement on all property being divided or built upon within the Hermiston urban growth boundary. No PVC fencing will be allowed. Lands outside of the urban growth boundary will be required to fence at the edge of the easement with appropriate fencing to keep livestock out of canals and ditches.
  - B) Lots one acre or less in sized where a buried pipeline exists may have fencing on the easement provided that no post is closer than 8 feet from the centerline of the pipe and a minimum of a 16 foot opening which is 90° perpendicular to the pipe is available when a swinging or rolling gate or gates are open. No locking devices which prevent free access by district personnel may be used on gates.
  - C) Sign and record an easement agreement for areas where a buried pipeline exists and landowners do not wish to fence the easement through their property. Complete copies of the agreement are available at the District office.

The foregoing policy was adopted by the Board of Directors on September 14, 2006 as part of the Rules & Regulations Handbook and replaces the September 8, 2005 version of this policy.

# **DRAFT MINUTES #1**

**LAND DIVISION  
REQUEST #LD-6N-441-23  
VARIANCE REQUEST #V-366-23**

**JOHN & AMY WELLS,  
APPLICANTS/ OWNERS**

The applicants are requesting land division approval to divide the property located on Map 6N 35 23A, Tax Lot #502 into two parcels for future residential development. Each parcel would be two acres in size, in conformance with the Rural Residential 2-acre minimum zoning. The applicants are also requesting a variance to the road improvement standards, due to existing right-of-way of Mauer Lane being less than 60-feet wide. The land use standards applicable to the applicants' request are found in Umatilla County Development Code Sections 152.684, Type II Land Divisions and 152.627, Circumstances for Granting a Variance.

**UMATILLA COUNTY  
PLANNING COMMISSION HEARING  
October 26, 2023**

**DRAFT MINUTES**  
**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, October 26, 2023, 6:30pm**

\*\*\*\*\*

**COMMISSIONERS**

**PRESENT:** Suni Danforth, Chair, Don Wysocki, Vice Chair, Tammie Williams, Tami Green, Sam Tucker, John Standley, Emery Gentry, and Ann Minton

**COMMISSIONERS**

**ABSENT:** Kim Gillet

**PLANNING STAFF:**

Megan Davchevski, Planning Manager, Tierney Cimmityotti, Planner, Charlet Hotchkiss, Planner, and Shawna Van Sickle, Administrative Assistant

\*\*\*\*\*

*NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. RECORDING IS AVAILABLE AT THE PLANNING OFFICE.*

**CALL TO ORDER**

Chair Danforth called the meeting to order at 6:30PM.

**MINUTES**

Chair Danforth called for any corrections or additions to the July 27, 2023 meeting minutes. No additions nor corrections were noted.

Commissioner Tucker moved to approve the draft minutes from the July 27, 2023 meeting minutes, as presented. Commissioner Standley seconded the motion. Motion carried by consensus.

Chair Danforth read the opening statement.

**NEW HEARING**

**LAND DIVISION & VARIANCE REQUEST, #LD-6N-441-23 & #V-366-23: JOHN AND AMY WELLS, APPLICANTS/OWNERS:** The applicants are requesting land division approval to divide the property located on Map 6N 35 23A, Tax Lot #502 into two parcels for future residential development. Each parcel would be two acres in size, in conformance with the Rural Residential 2-acre minimum zoning. The applicants are also requesting a variance to the road improvement standards, due to existing right-of-way of Mauer Lane being less than 60-feet wide. The land use standards applicable to the applicants' request are found in Umatilla County Development Code Sections 152.684, Type II Land Divisions and 152.627, Circumstances for Granting a Variance.

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. Commissioner Tucker reported he has a conflict of interest due to knowing parties on both sides of proponents and opposition as current friends or past clientele and asked to be excused from this decision. No other reports were made.

She called for the Staff Report.

## **STAFF REPORT**

Megan Davchevski, Planning Division Manager, stated the Planning Division received a request for Public Hearing filed September 7, 2023 in opposition of the proposed Type II Land Division and Variance request. The applicants request is processed under administrative review and the request was received during the 21-day comment period. The applicant's requested to divide Tax Lot 502 on Map 6N3524A into two parcels, each two acres in size. The property is located north of Mauer Lane and of Tum a Lum Rd outside Milton Freewater, Oregon. It is zoned Rural Residential, two-acre minimum. The applicant is also requesting a Variance to the County's P-2 road improvement standard due to the location and dedicated width of Mauer Lane, an existing 25-foot private access easement.

Mrs. Davchevski stated the current P-2 Road Improvement standard is 60-foot wide right-of-way with an improved surface width of 22-feet. Opponents provided photos with existing conditions of Mauer Lane, which can be found on pages 43-46 of the Planning Commission packet. Photos provided demonstrate the existing road at least meets the County's P-1 Road Standard, and in some areas may meet the P-2 Road Standard. She stated the applicant has provided additional information in response, page 53 in the packet. The criteria of approval in Umatilla County Development Code Section 152.684, Type II Land Divisions and Section 152.627, Circumstances for granting a Variance.

Mrs. Davchevski stated various notified property owners provided written comments during the comment period and in request for a Public Hearing. Staff provided a detailed response to every concern in the preliminary findings. Concerns raised included loss of nearby property views, traffic, potential effects of an additional septic system and well, reduction in nearby property value, easement and contamination issues. She stated the presence of Special Flood Hazard Area, and a surveying firm were procured by the applicant. Additional nearby property owners requested to have special restrictions placed on the new parcel regarding size and height of a new dwelling.

Mrs. Davchevski explained traffic and floodplain development concerns do correlate to applicable standards for approval, specifically UCDC 152.684(D); Complies with provisions of 152.019, Traffic Impact Analysis, as applicable and UCDC 152.684(K); Adequately addresses any known development limitations within the proposed Type II Land Division, outlining appropriate measures to mitigate the limitation. She explained both of which are addressed in detail in the preliminary findings.

Mrs. Davchevski stated the notice of the applicant's request and the public hearing were mailed on October 6, 2023 to the owners of properties located within 250-feet of the perimeter of Tax Lot 502. She stated a notice was additionally published in the East Oregonian on October 14, 2023 notifying the public of the applicants' request before the Planning Commission on October 26,



2023. She noted several comments were received from agencies and notified property owners and were included in the hearing packets. At this time, she did not receive any further comments.

Mrs. Davchevski noted that at the top of the Public Notice Map, the Assessor Map and Tax Lot numbers were incorrectly identified on the map's header as 5N2835C, Tax Lot 600. The subject property's correct identifier is on the map itself as 6N3524A, Tax Lot 502.

Mrs. Davchevski concluded her Staff Report by explaining that the process of approval by the County involves review by the County Planning Commission for a final decision, unless timely appealed to the Board of County Commissioners.

Commissioner Standley asked when the property was zoned Rural Residential-2, RR-2. Mrs. Davchevski stated research was not performed regarding when exact enactment of the RR-2 zoning was implemented but that likely was around the time the Zoning was first applied in 1972.

Commissioner Williams asked if there were any CCR's with the properties in this area. Mrs. Davchevski replied that generally CCNR's are only with subdivision's and that Umatilla County doesn't enforce these, as they would be manned by an HOA.

Commissioner Standley stated additional information referencing some prior year documents on page 31, and how it tied to the zoning regarding a right-of-way easement. Mrs. Davchevski responded that the County didn't apply zoning until 1972. She also stated the easement was dedicated first, before zoning was applied and that both parcels were substandard in size.

Chair Danforth called Mr. Wells to allow for applicant testimony.

**Applicant Testimony:** John Wells, 54015 Mauer Ln, Milton Freewater, OR. Mr. Wells stated he and his wife, Amy, purchased the property in 2006 and raised their family there. He works for Anderson Perry Associates as a Civil Engineer. He voiced that several complaints are tied to his workplace, and his primary expertise is water related fields of study (i.e. flood systems, water systems, and sewer or septic systems).

Mr. Wells stated his application is for a partition of the current parcel into two 2-acre parcels. He demonstrated the conditions of Mauer Lane, page 5 in the packet, and where areas of concern are, due to topography on either side of the road. He noted that the geography around the road seems to deter motorists from speeding down the road. Mr. Wells also added that this is a private access road. The current private access is 25-feet and they are proposing to add an additional 5-feet to allow for a 30-foot access to serve Parcel Number One as well as the parcel they'd like to create, Parcel Number Two, relating to the Variance request.

Mr. Wells stated all property pins were located during the survey. He demonstrated that the requested division creating Parcel Number Two would allow for this 30-foot easement to serve Parcel Number One. He mentioned they recently held a private family event with twenty cars, about 70 total people, and stated there was no difficulty with parking, entering or exiting the



property. Mr. Wells stated that many drivers could stage on the side of the road when opposing traffic is exiting the road to allow for passing. He explained that over the years, deterioration of the road has occurred and noted Mr. Mauer had stocked gravel to allow repairs due to motorists and general wear and tear on the road.

Mr. Wells talked about the flood plain along the southeast side of his property. He stated they had flooding in 2020, which created a lot of run off. He further added that the difference in topography in this area varies about 25-feet from the east to west side of the south portion of the current property (referring to what would be the newly created Parcel Number 2). He explained how septic, well systems or even development would be placed on the higher northwest part of this parcel and not where the floodplain exists. He added that testing would need to be completed and obtain County Public Health review, with soil typing. Mr. Wells stated the current well he shares with Mr. Mauer is also outside the floodplain.

Mr. Wells mentioned a comment from Oregon Water Resources Department (OWRD) regarding the irrigation easement. He added there is an existing pipeline serving the floodplain area for the Wells and Mauer properties and allows for surface water diversion and is operated as a single pipeline; which was installed by Mr. Mauer. Mr. Wells demonstrates where the pipeline pumps water out from the surface and into the river for the purpose of irrigation. There is no existing easement for access to the point of diversion. He added, Mr. Mauer has continued to operate this pump system. He also stated the north part of the parcel dries out faster than the lower south side and becomes less green earlier in the summer months than the lower region and Mr. Mauer's property.

Mr. Wells explained he would like to have an easement added onto the proposed new parcel, so they would still have access to the water pipeline. Commissioner Standley asked about Mr. Wells domestic water well and who he shares that well with. Mr. Wells answered the well belongs to Mr. Mauer and they have shared water rights to the well. Commissioner Standley asked about whether a concern or issue had been brought up regarding another service to that shared well. Mr. Wells answered they would not utilize the same shared well and propose a new well.

**Opponents:** Derek Wood, 85207 Tum A Lum Rd, Milton Freewater, OR. Mr. Derek Wood stated he lives on the larger 12-acre parcel north of the Wells property, tax lot 400. He stated his family has owned the home and property for many years. The property line has always been divided by the fence line. Mr. Wood mentioned the lines listed on the map would cross into other neighbors' lots and buildings they have established. Mrs. Davchevski asked to make a disclaimer regarding the interactive map. She stated it is not surveying quality and the aerial view often shifts with the tax lot line. Mr. Woods stated he was aware it may not be accurate and mentioned the fence line has been used as an established property line since 1956. Chair Danforth mentioned that fence lines do not make property lines.

Discussions went on further regarding the lines represented on the map, which again was clarified by Chair Danforth that it is not an accurate representation of accurate lot lines. He stated he called and spoke with Dave Krumbein, Umatilla County Surveyor, who he claimed had not seen a survey come across his desk to implement these changes. Chair Danforth stated she understood his concerns and mentioned surveyors find those pins. Mr. Wood finished by stating his family has adverse possession and they have owned the property, fence established, since 1956.

Commissioner Gentry asked when the last time this property has been legally surveyed. Mr. Wood stated he was unsure.

**Opponents:** Charles Lawrence, 85115 Tum A Lum Rd, Milton Freewater, OR. Mr. Charles Lawrence started by describing his property, located west of Mr. Wells. He stated the lines on the map in the packet, page 4, are incorrect. He stated Mr. Wells spoke about the road down to the corner of Mauer Lane, by his property, does not extend 25-feet wide for two-way traffic. He referenced the next map, on page 5, which indicated the survey completed by Anderson Perry. Mr. Lawrence stated he paved the very end of the lane closest to Tum a Lum Road. He stated he was told by his realtor that this portion of Mauer Lane was their property and maintained it as such. He mentioned Mr. Wells gave him \$500 to help with the cost of the paving material. Mr. Lawrence further stated with the addition of a house, foliage and such it would take away the view from his home and believed would decrease the value of his property.

**Opponents:** John Mauer, 54059 Mauer Ln, Milton Freewater, OR. Mr. John Mauer stated he lives in the parcel to the east of Mr. Wells. He stated the neighbors and himself were under the assumption the road in front of those respective properties were owned and maintained by their owners. He explained they all maintained the roads adjacent to their land. Mr. Mauer added it wasn't until more recent, after the survey was complete, that Mr. Wells was the actual owner of the road. Additionally, he stated the tree line on the northeast side of the property was agreed upon was his. He stated over the last forty-two years he has maintained that property.

He mentioned an ORS 105.620, effective 1990, stating common law if you maintain it for over ten years and never said anything it is deeded to you. Chair Danforth stated if he wanted to submit it as an exhibit, but it was not relevant to the hearing today. She stated it would be more of a civil issue.

Mr. Mauer stated the lower proposed parcel floods. He explained the University of Oregon did a five-year study for the underground aquifer in this area. He stated water is flowing underground constantly. He mentioned the aquifer creates a pond, which he has helped divert by adding an underground culvert to pump the water back to the river. Mr. Mauer stated he was concerned with the recent flooding and future installation of a septic system that it might leach down into the aquifer.

Discussions went on about the amount of water in the aquifer and the fields Mr. Mauer has. He ended by stating his biggest concern was the aquifer and if a proposed septic would be within the area that does flood and possibility of leaching back into the aquifer.

**Public Agencies:** None

**Applicant Rebuttal:** John Wells, 54015 Mauer Ln, Milton Freewater, OR. Mr. John Wells spoke about opposing comment from Mr. Wood regarding the County Surveyor. He stated his surveyor spoke with Mr. Krumbein about the tentative plat partition and it is correct per requirements with the state of Oregon. Mr. Wells added that his surveyor was able to find all the survey pins and their locations were accurate. He mentioned, per his surveyor, since their property was subdivided first theirs takes precedence to those created after.

Mr. Wells spoke in length regarding the representation of the map, on page 4, and that GIS is only used for geographical representation of data and not of survey quality, as previously mentioned by Staff. He stated property lines are recorded by a surveyor and not by fence lines, but by the legal description of your property. He stated his legal description states his parcel is 4-acres.

Commissioner Standley asked if Mr. Wells had looked into septic systems that avoid contamination of groundwater. Mr. Wells stated he had not looked into options yet, but he intends to. Commission Standley mentioned there are options out there, but they can be costly and gaining a system or avoiding the area is best to help resolve or mitigate those concerns.

Commissioner Williams asked if this was the first survey completed in most recent years. Mr. Wells stated he believed that was correct. He stated his surveyor did a title search which located the property boundaries, and the original survey which subdivided this 4-acre parcel from the larger parent parcel from Mr. Mauer's property. Mr. Wells added that all the pins surrounding his parcel were located and they were accurate per the legal description.

Commissioner Gentry asked how Mr. Wells could mitigate issues with the road maintenance benefitting all in the area, that is not publicly maintained. He added by asking how could they eliminate the problem of one person bearing the expense to repair and maintain, while others are reaping the benefits of the access. Mr. Wells stated he has good neighbors, Mr. Mauer and Mr. Lawrence have helped with the road maintenance. He added Staff found information regarding private roads and it being a civil issue. Mr. Wells stated there was mention of coming to an agreement amongst neighbors that are all benefitting from the road in the Staff Report.

Commissioner Standley asked a question directed to Mrs. Davchevski regarding P1 and P2 road improvements and the amount of traffic in the area. Ms. Tierney Cimmiyotti directed Commissioner Standley to page 22 in the packet. Mrs. Davchevski stated part of the application was a requested Variance from the P-2 road standard, because they don't own the property on either side of the existing easement on Mauer Lane. The P-2 road standard requires a 60-foot-wide right-of-way with a 22-foot improved surface. She stated Mr. Wells application requests a variance

to the P-1 standard. Commissioner Standley asked if that was to stay with the 16-foot improved surface width. Mrs. Davchevski confirmed.

Commissioner Standley asked if the 16-foot width road exists now. Mr. Wells stated there is a current 16-foot width road. He stated he spoke with Tom Fellows, County Roadmaster, about specifics regarding adequate gravel coverage. He added according to the P-1 standard, "Any changes to surfacing width or depth or variance from current Oregon Transportation Standards must be approved by the Director of Public Works". He explained Mr. Fellows was familiar with Mauer Lane, its condition, and mentioned he had no concern about adding another residence. This email is in the record, page 53 in the packet.

Chair Danforth called for any requests for the hearing to be continued, or for the record to remain open. There were none.

Chair Danforth closed the hearing.

### **DELIBERATION & DECISION**

Chair Danforth stated someone who has purchased many properties it is upon the buyer to do their due diligence; whereas realtors will say anything and not all is completely true. She mentioned many comments tonight centralized on the map from page 4, and this can be confusing. She reiterated that she believed many concerns will have been met, with the potential approval of this application with the precedent conditions set forth by Staff.

Commissioner Williams echoed on Chair Danforth's comment, stating she had a prior incident where a flood wall was built on their property, or what they thought was theirs. She stated they were sued because it was proven to be the neighbor's property. Commissioner Williams spoke in length about other previous property purchases and abiding by zoning. She added that on their particular property the pins were found in the survey and is confident going with the legal survey is going to be best for everyone.

Commissioner Standley stated he doesn't like to deal with neighborly tensions, but part of their duties as Planning Commissioners is to take the evidence and make a decision. He stated this was plotted in 1972 as RR-2. Commissioner Minton stated the survey was taken with the original pins and it appears clear and concise.

Commissioner Williams made a motion to approve the Wells Land Division and Variance Request, #LD-6N-441-23 and #V-366-23, based on the foregoing Findings of Fact and Conclusions of Law.

Commissioner Standley seconded the motion. Motion carried with a vote of 7:0.

### **OTHER BUSINESS**

Mrs. Megan Davchevski introduced our new Administrative Assistant, Shawna Van Sickle, and new Planner, Charlet Hotchkiss. She added the Community Development Department is working

on the Umatilla River Trail Project from Echo to Umatilla. She stated our department received funding from Oregon Department of Transportation (ODOT) and are working with them to develop the scope of work. The hope is for project work to begin within the next year.

Mrs. Davchevski added they have another big project with the transportation system plan update; which hasn't been updated in more than 21 years. They received a grant, have selected a consultant and meetings will begin early 2024. She requested having a few planning commissioners on the advisory committee for this project. She added the plan will go before the Planning Commission as a recommendation to amend the Comprehensive Plan to show areas of County roads that need improvement, bridge replacements, changes to road standards, etc.

Mrs. Davchevski explained that her and Mr. Robert Waldher have been centered with the planning at the Umatilla Chemical Depot, which was officially transferred over to the Columbia Development Authority (CDA). The CDA is a board with various County Commissioners from Umatilla and Morrow Counties and additional entities. They will have the master plan to demonstrate how development will grow. She stated all development permits will come through the Community Development, Planning Division, for final approval.

Mrs. Davchevski stated Umatilla County has appealed the Energy Facility Site Evaluation Council (EFSEC) decision on the Nolin Hills Project for not abiding by the Umatilla County 10-mile setback to the wind turbines. She stated it is going to the Oregon Supreme Court and received information regarding that today. She added the Community Development Department received a decision from Land Use Board of Appeals (LUBA) regarding the Girth Dog/ Craig Coleman Aggregate Pit that went before the Planning Commissioners earlier this year. She stated it was remanded back to Umatilla County on five assignments of error out of six. Chair Danforth asked if the packet that was received today. Mrs. Davchevski stated no, that was a different application. Commissioner Tucker asked what the remand will entail. Mrs. Davchevski stated the applicant will have to supply additional information and would then come before the Planning Commission, once again if they choose to reapply.

Mrs. Davchevski stated the new packets sent out the day prior are about a new proposed Goal-5 Aggregate site. Commissioner Standley mentioned it was near Hat Rock. Mrs. Davchevski agreed. She added the applicant is another developer. Commissioner Williams mentioned she was excited the grants came through on the Chemical Depot. Mrs. Davchevski agreed and stated she believes there are approximately 800-acres under Industrial zone on Umatilla County land, and that CTUIR will receive approximately 4,000-acres. She stated the remaining land, that is not Industrial zoned and under the Military side, is going to become a refuge; which was decided around 2012 or 2013 when zoning was applied to the area.

Commissioner Williams asked about the location of that land. Mrs. Davchevski added it was around the Interstate-82 and Interstate-84 interchange. Discussions continue a bit about businesses in the area between Chair Danforth and Commissioner Tucker.

**ADJOURNMENT**

Chair Danforth adjourned the meeting at 7:47PM.

Respectfully submitted,

Shawna Van Sickle,

Administrative Assistant

DRAFT

# **DRAFT MINUTES #2**

**COMPREHENSIVE PLAN TEXT  
AMENDMENT #T-093-23  
ZONE MAP AMENDMENT #Z-323-23**

**DOUG COX, APPLICANT  
RANDY RUPP, OWNER**

The applicant requests to establish a new aggregate site, add the site to the Umatilla County Comprehensive Plan list of Goal 5 protected Large Significant Sites, and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site. The proposed site is located south of Highway 730 and east of Highway 207, south of the Hat Rock community. The site is identified on assessor's map as Township 5 North, Range 29 East, Section 22, Tax Lot 400. The site is approximately 46.7 acres and is zoned Exclusive Farm Use (EFU). The criteria of approval are found in Oregon Administrative Rule 660-023-0040 – 0050, 660-023-0180 (3), (5) and (7), and Umatilla County Development Code (UCDC) Section 152.487 – 488.

**UMATILLA COUNTY  
PLANNING COMMISSION HEARING  
November 9, 2023**



**DRAFT MINUTES**  
**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, November 9, 2023, 6:30pm**

\*\*\*\*\*

**COMMISSIONERS**

**PRESENT:** Suni Danforth, Chair, Don Wysocki, Vice Chair, John Standley, Emery Gentry and Ann Minton

**COMMISSIONER**

**PRESENT VIA ZOOM:** Kim Gillet

**COMMISSIONERS**

**ABSENT:** Tammie Williams, Tami Green, and Sam Tucker

**PLANNING STAFF:**

Robert Waldher, Community Development Director, Megan Davchevski, Planning Manager, Tierney Cimmiyotti, Planner, and Shawna Van Sickle, Administrative Assistant

\*\*\*\*\*

*NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. RECORDING IS AVAILABLE AT THE PLANNING OFFICE.*

**CALL TO ORDER**

Chair Danforth called the meeting to order at 6:34PM and read the Opening Statement.

**NEW HEARING**

**COMPREHENSIVE PLAN TEXT AMENDMENT #T-093-23, and ZONE MAP AMENDMENT #Z-323-23: DOUG COX, APPLICANT / RANDY RUPP, OWNER.** The applicant requests to establish a new aggregate site, add the site to the Umatilla County Comprehensive Plan list of Goal 5 protected Large Significant Sites, and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site. The proposed site is located south of Highway 730 and east of Highway 207, south of the Hat Rock community. The site is identified on assessor's map as Township 5 North, Range 29 East, Section 22, Tax Lot 400. The site is approximately 46.7 acres and is zoned Exclusive Farm Use (EFU). The criteria of approval are found in Oregon Administrative Rule 660-023-0040 – 0050, 660-023-0180 (3), (5) and (7), and Umatilla County Development Code (UCDC) Section 152.487 – 488.

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. No reports were made.

Chair Danforth called for the Staff Report.

**STAFF REPORT**

Mrs. Megan Davchevski, Umatilla County Planning Division Manager, stated the applicant is requesting to add a portion of Tax Lot 400 on Assessor's Map 5N 29 22 to the Umatilla County

list of Large Significant Sites, providing necessary protections under Goal 5 including limiting conflicting uses within the impact area, and applying the Aggregate Resource Overlay Zone to the proposed site. The applicant is requesting approval for occasional blasting, extraction, operation of a rock crusher, scale, office, stockpile areas and an asphalt batch plant. The proposed Goal 5 site is a 46.7-acre portion of TL 400, which is 109.65-acres.

Mrs. Davchevski stated the proposal, if approved, would add this site as a large significant site onto the County's Goal 5 inventory of significant sites. The applicant desires to establish the 46.7-acre Large Significant Site with protections under Goal 5 and to allow mining (including blasting), processing, stockpiling and operation of an asphalt batch plant.

Mrs. Davchevski wanted to note that aggregate may be mined in limited quantities with a conditional use permit in the EFU zone. The Umatilla Ready Mix site to the east of this proposed site was approved with a conditional use permit. However, when an applicant requests protection under Statewide Planning Goal 5 it is because the applicant desires to extract more materials than allowed under a conditional use permit, because they recognize that the site has a significant inventory of both quality and quantity of aggregate materials and because they desire protections from conflicting uses. Therefore, the bar for approval of Goal 5 sites versus sites under a conditional use permit are much higher.

Mrs. Davchevski said notice of the applicant's request was mailed on October 20, 2023 to nearby property owners and agencies. The applicant requests all conflicting uses to be limited to outside the 1,500-foot impact area. Staff determined this would limit allowed uses for nearby properties. For this reason, the notice boundary was extended from the required 750-feet to also include properties within the 1,500-foot impact area. Notice of the Planning Commission and Board of Commissioner hearings was published in the East Oregonian on October 28, 2023.

Mrs. Davchevski stated that the criteria of approval can be found in Oregon Administrative Rule 660-023-0040 – 0050, 660-023-0180 (3), (5) and (7), and Umatilla County Development Code (UCDC) Section 152.487 – 488.

Mrs. Davchevski explained staff were unable to determine that several criteria of approval were satisfied based on the information supplied by the applicant. Additionally, the applicant contradicts themselves in numerous statements regarding conflicts. She states it is the applicant's burden to justify measures to protect existing uses. It is then the County decision maker's responsibility to determine whether the proposed protection measures are adequate, fair and objective. The applicant also does not provide the analysis required to inform a decision to allow, limit, or prohibit future new uses within the impact area.

Mrs. Davchevski shared that the applicant would have the opportunity to address the criteria and supply additional information to the Planning Commission. Staff had previously requested this information from the applicant, however it was not provided. The questionable criteria of approval include the following.

OAR 660-023-0182 (3), states an aggregate resource site shall be considered significant if adequate information regarding the quantity, quality and location of the resource... The applicant provided two lab reports and identified one aggregate sample location. Based on the information provided, staff could not conclude that a representative set of aggregate samples were provided.

OAR 660-023-0182 (5)(b)(A), [Conflicts created by the site] Determine conflicts from proposed mining of a significant aggregate site... due to noise, dust or other discharges... Applicant provides blasting of the basalt rock will be required and will occur occasionally, and noise impacts from blasting will be mitigated with the existing basalt outcropping. The Applicant provided an analysis of anticipated impacts from blasting from Fulcrum Geo Resources (Exhibit E). The Fulcrum report includes one detailed map (Figure 2) to support the findings, however, the map does not specifically identify the area subject to blasting. Based on the applicant's information, basalt is on the entire site, covered by sand and gravels thus the entire site would be potentially subject to blasting, although this is unclear. Fulcrum's Figure 2 map, received by Planning on September 13, 2023, identifies several basalt outcrops. The applicant provides that the basalt outcrops will serve as a natural barrier to protect existing uses from the mining activities. However, if the applicant also intends to mine these basalt outcrops, the natural barrier will eventually diminish. Because the areas subject to blasting are unclear, impacts caused by blasting cannot be determined.

OAR 660-023-0182 (5)(c), [If conflicts exist, measures to minimize] The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. The applicant consulted with Fulcrum GeoResources LLC to develop an Anticipated Impacts from Blasting report (Exhibit E) the Figure 2 map submitted with this report identifies a basalt extraction area subject to blasting, however the map was provided to Planning staff as a grayscale. It is difficult to determine where the proposed blasting area is located. Figure 2 of Exhibit A identifies the basalt extraction area as the southeast corner of the proposed site. The applicant will have the opportunity to clarify the proposed blasting area.

Mrs. Davchevski explained the Planning Commission may find the applicant's supplied Fulcrum Anticipated Impacts from Blasting report adequately addresses blasting concerns and provides guidelines for mitigating potential blasting impacts by properly planning controlled blasts, implementing blast procedures and time-delays to prevent excessive vibrations, other emissions, and by monitoring blasting to collect vibration data. A subsequent condition of approval requiring these procedures and practices could be imposed to mitigate conflicts. Subsequent Condition #2 has been added to the preliminary findings for consideration.

UCDC 152.487 (A) (4) Adequate screening, either natural or man-made, is available for protecting the site from surrounding land uses. As stated above, the applicant relies on the existing basalt outcrops to provide screening of the site. However, the applicant does not address whether they intend to extract these outcrops. Additionally, the applicant does not offer an

additional screening should the basalt outcrops be mined. The Planning Commission may find that additional screening is required along the site boundaries and may impose an additional condition of approval.

Mrs. Davchevski explained additionally that the Planning Commission may find the request satisfies these criteria. These findings must be based on facts in the record. There have been two recent LUBA decisions providing clear expectations of applicants requesting Goal 5 protections for a Large Significant Aggregate Resource Site: LUBA No. 2022-060 (Beath & Koopowitz vs. Douglas County) and LUBA No. 2023-033 (Rock Solid Sand & Gravel & Aylett vs. Umatilla County). In the Douglas County case, LUBA found that describing the entire Mining Site is not adequate for identifying the location of the aggregate resources. LUBA also concluded a single sample of gravel is not “representative” of the proposed site, and is not adequate for finding compliance of the rule. LUBA determined the Administrative rule requires “a set of samples, meaning multiple samples” and that sample locations must be identified to be found representative.

Mrs. Davchevski stated in the Umatilla County case, LUBA found the levels of noise, dust or other discharges generated by the aggregate mining and processing activities must be identified and analyzed. The analysis should detail discharges by separate activities at different locations and explain how the activities will affect conflicting uses within the impact area. Until this analysis is completed, measures for minimizing conflicts cannot be identified.

Mrs. Davchevski explained the process of approval by the County involves review by the County Planning Commission with a recommendation to the Board of County Commissioners (BCC). The decision includes a set of Precedent and Subsequent Conditions of approval. The Planning Commission is tasked with determining if the application satisfies the criteria of approval, based on the facts in the record. Staff have provided Preliminary Findings of Fact and Conclusions of Law based on the applicant’s supplied information. The criteria that could not be conclusory determined as satisfied include statements about potential Planning Commission findings and state “the Planning Commission may find”. These statements will be amended to reflect the findings made by the Planning Commission this evening.

Mrs. Davchevski concluded by stating following the Planning Commission’s recommendation, the Board of County Commissioner’s must also hold a public hearing(s) and decide whether or not to adopt the proposed amendments. A public hearing before the Board of County Commissioner’s is scheduled for December 6, 2023.

Mrs. Davchevski noted staff had received several written comments today from notified property owners. These comments have been emailed to the Planning Commissioners and applicant, hard copies are also available. She requested they be entered into the record as Exhibits K through S.

Chair Danforth had a question for staff regarding what was listed in the application on page 192 in the packet. Farm was not selected as a listed structure of facility that might be disturbed within 1500 feet of the permit area.

Mrs. Davchevski explained this was the applicant's DOGAMI application and the applicant would be the best to answer questions regarding this application since it was a supplemental form added to the packet.

Chair Danforth called Mr. Cox and his representatives to allow for applicant testimony.

**Applicant Testimony:** Mr. Doug Cox, 78376 Lincton Mountain Rd, Weston, OR 97886; Ms. Jennifer Currin, PO Box 218, Pendleton, OR 97838; Mr. Erick Staley, 17600 Pacific Hwy, Marylhurst, OR 97036

Ms. Currin opened her testimony by introducing herself as an attorney with Corey, Byler and Rew in Pendleton, Oregon. She introduces her support of the applicant, Mr. Doug Cox, and asked for the Planning Commission to approve the application as submitted. She additionally notes a supplement letter addressing some of the concerns brought forth by staff tonight. She provided additional background information for all to hopefully help supplement the record. This letter was entered into the record as Exhibit S.

Ms. Currin stated she believes after hearing all the testimony and material tonight the Planning Commissioners will decide this isn't a close case and to approve because of the quality of the application. She stated this site is in a particularly good location. Being close to a highway, but not near a lot of residences, and it will not have an impact on transportation. Mr. Cox had a transportation study completed to show no adverse impacts to neighbors. Along with the quality of resources, so much so that another quarry in the same area is operated by ODOT, and there is a need for aggregate.

Ms. Currin explained Mr. Cox is a business owner that's been working tirelessly now for a year to meet the criteria and the Planning Commission will see he meets or exceeds the criteria at every level. She stated most of the complaints filed today do not address complaints made regarding the criteria. Mr. Cox must meet certain criteria. She stated complaints are not based on criteria not met, but about concerns they were not happy about. She asked the Planning Commission to remember the criteria when reviewing the complaints.

Ms. Currin states the applicant's goal is to minimize the impact to the environment and all of Mr. Cox's proposal today will do that along with providing a great service to the community. Mr. Cox is a hometown guy and grew up in Hermiston. He began by digging ditches and continues to make a living digging ditches. He wants what is best for this community, and he is doing this by working in construction for 30-40 years. She added we need aggregate. This is a service for our communities. She states the applicant will meet the criteria as described by staff.

Mr. Cox stated he owns and operates CRP & Hauling and is co-owner of Sign-Co Construction, both companies are based out of Hermiston, Oregon. He adds he has been in the construction business for almost 35 years. Recently it has continued to be tough on contractors around the Hermiston to get aggregate. The town is growing rapidly and through experience in this industry he has seen those changes, especially getting materials to build sites. He states himself, along with his business partner, drive for their company and the amount of time spent to get product is overwhelming.

Mr. Cox emphasized the needs of the community and this particular aggregate source is excellent and in a great location. He also brought up his communications with local county officials and their needs for sources and this parcel is ideal for their needs as well.

Ms. Currin also wanted to highlight Randy Rupp is the landowner of this tax lot and he is here in support today. She introduced Erick Staley, a licensed certified engineering geologist, whom Mr. Cox hired. He has evaluated this aggregate site and is using his education and expertise to help the Planning Commission understand why this is an ideal location. She added Mr. Staley will share information about this site and address concerns from staff. She stated he will use Google Maps to share his perspective on this quarry and the steep bluff providing a buffer with horizontal and vertical barriers.

Mr. Erick Staley began by introducing himself. He is a Certified Engineering Geologist in Oregon and he's consulted on mining sites for 23 years, across more than 20 states. His experience lends to understanding resources, doing the geologic research, on-site reconnaissance, evaluating resources, and doing a drill program where appropriate. Mr. Staley stated Mr. Cox hired him to look at the site, evaluate it for volume estimation, and create a mining plan that meets state and/or local regulations. As well as help maximize the use of resources on the site.

Mr. Staley stated the site is located at the southeast corner of State Highway 730 and State Highway 207. Mr. Staley shared his computer screen to Google Earth and demonstrated, in blue, where the subject property is located, including the proposed mining area. He stated additional factors to consider include the presence of wetlands, which are shown in green on the screen. The wetlands were determined in coordination with the Department of State Lands (DSL). He stated initially DSL identified the wetland conflicts and the applicant adjusted the mining plan to avoid the wetlands, which resulted in agreement with DSL.

Mr. Staley stated additional benefits to this site include the presence of a basalt outcrop. Mr. Staley identified the basalt outcrops as the area on screen in magenta (Exhibit T). This bluff transects the property as well as the few isolated knobs of the basalt bed rock, which are visible when walking the site and can be viewed on an aerial as well. Additional outcrops off the property to the south were discovered as well, which are indicated in pink on Exhibit T. He stated these are effective indications of an extensive basalt flow that's on the property and in the area.



Mr. Staley indicates on the screen regarding another basalt flow on the north side of State Highway 730 that has a similar bluff edge. Mr. Staley demonstrated what the topography is like in this area, as he changed view to show the westerly angle. A steep slope comes down past the bluffs then levels off into a relatively flat area south of the wetlands. He described the deposit as primarily basalt bedrock, but accumulation of sand is present to the north. The area is effectively enclosed by natural topography on the north and south and it extends abundantly east and west, which is an important aspect for this site.

Mr. Staley discussed how they would develop a mine plan with the existing topography. He showed a wetland buffer, indicated in green on Exhibit T. A 25-foot buffer was added as an appropriate setback with coordination from DSL. Additionally, a permit boundary, indicated in red. DOGAMI will require all mining operations to occur within this area. Operations include extraction and processing of the basalt, extraction and processing of the sand, forming stockpiles, the asphalt batch plant, and stormwater management. He stated County Staff questioned why there was only one sample obtained from this site. He indicated where the sample was retrieved as a white dot on Exhibit T. He stated according to his expertise, this site is more unusual where there is a transection of basalt exposed across the site. Indications of basalt further off the property indicates the resource is extensive. He stated he knows of a LUBA case regarding a sand and gravel only site, that had one sample and was remanded. Mr. Staley has been involved with projects where Goal 5 designations were done without any drill or sampling because of similarities in the surrounding area. This site is important because not only does it have a natural outcrop around and across the site, but there's also mining in the vicinity that meets the criteria.

Mr. Staley explained that ODOT has a pit to use for their own material, and their base rock must pass classifications. He performed a hammer test, which tests how many strikes are needed to break the material. They analyze exposure, fresh material, weatherization, clay filled partings, and degradation of material. Which he did not see. With the findings he felt the material was very high quality and submitted a report even though they only had one confirmation sample.

Mr. Staley demonstrated, in orange, where the extraction will occur on Exhibit T. He stated the 38-acre permit boundary would allow for both basalt extraction and sand extraction on the lower slopes. The gap between the orange (extraction) and the red (permit boundary) is a 25-foot setback, in accordance with DOGAMI. DOGAMI requested a setback between the extent of the mining and the ultimate property boundary to account for any over blast or error in placement of that edge. He added a comment, included in the blast report, stating blasting would occur where the salt outcrops and the cliffs bluff and approximately 100 feet north.

Mr. Staley again stated the magenta area, on Exhibit T, is where they anticipate blasting to occur. This area includes the bluff, south of the bluff, and a marginal area that may have shallow sand. The yellow area indicates where sand extraction will occur. The proposed finished mine floor is where the slope comes down.



Mr. Staley pulled up a similar document for the mine plan on screen and demonstrated the basalt outcrops in magenta, sample location in white, wetlands in green, so those are all similar with the previous map. New features on this are some stormwater management ponds the applicant plans to build into the site. He stated an access road will come off Highway 730, which will go over a culvert for the outlet out of the wash indicated on screen. He stated it will come around the site outside the wetland buffer and then come down to the operations area in the southwest. He added there will be a ditch, along the roadway, that captures drainage coming off the site and lead through a series of check dams to the infiltration pond.

Mr. Staley showed Exhibit D, Site Plans, located on page 72 in the packet and explained the site plan. He continued to show the next topographic map representing the floor of the site sitting at 420 feet above mean sea level. Side elevations range from 480 to 500 feet. Which showed an approximately 60 to 80-foot-high wall key for containment or formation of barriers of the operation to the surrounding area. He described the topography will ultimately look like a benched excavation. Reduction of materials will take time to mine and will probably operate for decades. He stated currently there's a bluff, initial mining will include drilling and blasting up top, but as soon as it's incised those benches will be lowered from mining activity. Especially the operations area shown will always exist behind the either natural or man-made steep slope that forms a barrier for noise and dust from the site.

Ms. Currin directed a statement at Mr. Staley. Asking if the staff notes indicated the applicant intends to mine those basalt outcrops, the natural barrier will eventually diminish. Was he stating that is not the case and it will increase?

Mr. Staley answered it will indeed increase the vertical barrier as mining continues. Blasting will occur a few times a year and it is unnecessary to be more frequent. Only some of those blasts will be above the basalt outcrops. Blasting only takes seconds, where drilling can take a matter of days. Mining will be down over the edge of the slope and contained within, or downslope of the vertical barrier.

Mr. Staley stated based on his expertise there must be enough hard rock to warrant the effort, and close to transport for marketing. The aggregate site must have the appropriate logistics to support the type of mining needed and where it can be found. They want it to be as close as possible to a highway, disrupt the least number of neighbors, and have decent amount of material. He assures this site has all of those, which is not very common. It has a very short route from the site to the highway and has a very large amount of high-quality material.

Commissioner Gentry asked about the sample site and whether drilling was used to procure the sample or if a representative sample from the surface was obtained? Mr. Staley answered he took a representative sample from the cliff, which is 30 to 50 vertical feet. He mentioned it had a pretty good thickness exposed which indicates it has had some degree of weathering by being exposed to the surface conditions and passed all the tests performed. Commissioner Wysocki

asked what the chain of custody for that sample was. Mr. Staley responded that he retrieved the sample and then transported it to the lab, Carlson testing, in Tigard.

Commissioner Standley requested the applicant speak about the concerns received regarding impacts to neighbors from the rock pit and asphalt batch plant. Ms. Currin responded stating there is speculation that property values will drop. She reiterated the area already has a rock quarry used by ODOT which has operated there for many years, likely before some of these farm properties were established. Commissioner Standley asked Ms. Currin when the ODOT quarry was approved. Mr. Cox stated it was established in 1935.

Commissioner Standley mentioned this land has been zoned as Exclusive Farm Use (EFU) since 1972 onward. Ms. Currin reiterated the ODOT quarry has operated for many years and the neighbors have not submitted complaints about the site. Chair Danforth asked if blasting occurs at the ODOT site. Mr. Staley responded yes, there would be no way to mine this area without blasting.

Commissioner Standley asked about the asphalt batch plant, are there additional benefits other than creating asphalt. Asphalt plants create odor, and he asked if there be any ill effects from it? Mr. Staley responded the site is confined and with predominantly west winds it would have minimal impact to individuals living nearby, which would also reduce sound impacts.

Commissioner Standley asked what the hours of operation would be for this site. Per the packet it was listed as 6am to 3pm for commercial access. He wanted to know what operating times would be for work taking place inside the pit. Mr. Cox stated industry standard is from 6am until between 5pm to 7pm. Crushing rock would take place for three weeks after blasting to form stock piles, and then sale of the stock piles would happen thereafter. Mr. Staley commented and agreed with Mr. Cox who stated he will bring in another company to perform the drilling, blasting and crushing and forming of stock piles.

Commissioner Standley asked the applicant again to clarify a more precise operating time, and to explain activities for asphalt processing. Mr. Cox stated the proposed hours are 6am to 7pm. He tried to investigate hours of operation for the nearby ODOT quarry and could not find them. He stated once stock piles are created the commercial hours will be 6am to 3pm. Mr. Staley stated the site must receive approval and DOGAMI permit before purchases like a boiler can be made. General assumptions are made based on the business plan proposal, but until all approvals and permits are received they really can't make guarantees.

Commissioner Gentry asked if any problems have arisen regarding obtaining access permits with Oregon Department of Transportation (ODOT). Mr. Cox stated he has his access permit granted from ODOT. The permit requires a buffer lane of asphalt to widen the road for trucks to enter and exit. Commissioner Gentry asked about the wetlands and any concerns with the wetland regulations. Mr. Staley stated if the fill is under 50 cubic yards Department of State Lands (DSL) will approve. Commissioner Minton requested information regarding any run-off into the current

wetlands. Mr. Staley responded a buffer is required. If they abide by the buffer and maintain the floor of the site, run-off will go into the ditch and not into the wetland.

Commissioner Standley asked if a pre-blasting notification will be sent to residents nearby. Mr. Cox responded a notification 48 hours prior to any blasting activities is required. All rules will be followed. He went into detail about his business with construction and the need for following rules and dealings with the public.

Commissioner Standley stated he wants to get all the information answered. The hope is that the neighbors' concerns can be answered ahead of time and the applicant needs to address those concerns before a decision can be made. Chair Danforth reminded Commissioner Standley and the other commissioners that they are giving a recommendation to the County Commissioners.

Chair Danforth asked a question regarding the wetland setback on the site plan, which stated it was 50-feet. Mr. Staley stated the setback is 25-feet. Chair Danforth brought forth the regulation listed on page 20 in the packet, stating the Goal 5 analysis for this wetland calls for limiting conflicting uses with implementation of a 100-foot setback from wetlands and streams. Mr. Staley stated that is in the Technical Report from 1980 from Umatilla County. Mrs. Davchevski stated the standard is also in the Umatilla County Development Code that all wetlands must have setbacks 100 feet from conflicting uses, but this wetland is also a Goal 5 protected wetland as listed in the 1980 Technical Report. Mr. Staley asked about the conflicting uses stated. Mrs. Davchevski answered it just references mining activities associated with mining, including stockpiling and ponds. Mr. Staley stated they can change the site plan to accommodate that standard.

Chair Danforth requested more information regarding the probability of the location or check dams for runoff. She asked if there was a firm plan, and if any existing fault lines run through this property. Mr. Staley responded the plans made for mining sites are more dynamic, monitoring standards and other things dictate the design and adjustments must occur over time. He stated no active faults run through this property that have been mapped by the United States Geological Survey (USGS).

Chair Danforth asked about the DOGAMI application, referring to page 192 in the packet, and why farm was not checked as a Structure, Facilities or Surface Disturbances within 1,500 feet of the permit area. Mr. Staley responded it may have been an oversight and could be corrected since the application will not be processed until the site passes the local process first. Chair Danforth added she wanted a clear representation of the application.

Commissioner Standley asked about the next section of the DOGAMI application, does the answer regarding 1,100 feet "...from the nearest structure not owned by the permittee", does that represent an outbuilding, property line or home. He asked what type of different effect does blasting have on a structure housing animals but not people. Mr. Staley demonstrated on the computer the structure the application referred to. He stated generally the structures represent

those occupied by people or a critical structure, like a school. He was able to show the nearest outbuilding on-screen.

Commissioner Standley asked about the amount of dust that might be created while crushing takes place and with 10-15 trucks a day into the site. He asked how many loads they would have, and the dust created during a typical busy day, what would neighbors expect. Mr. Cox answered likely five trucks every half-hour. There would be a water truck on site, which can and will be permitted should it need to. He plans to adhere to all the standards for air quality.

Chair Danforth asked about their plans to mitigate runoff in the site area and the aggregate samples. Mr. Staley explained why they chose one sample site instead of several samples across different areas in the proposed site. Access to the site was difficult at this time of year due to recent snowfall. He used LIDAR imagery and looked at hill shade elevations demonstrating prior scouring of the basalt flats and locations of the sand deposits.

Chair Danforth had questions regarding the terminology used regarding the buffer zone and asked if mining would diminish the basalt outcrop over time. Mr. Staley and Ms. Currin both answered stating there would always be a vertical barrier and referred to the mining of this site as a side hill excavation.

Chair Danforth asked why a supplemental blasting plan was not provided as part of the application to Planning staff. Mr. Staley stated this would be something added by a licensed blaster involved and could be provided but those plans are prepared depending on what approach the blaster takes with design and there are strict criteria to follow.

Commissioner Wysocki asked what the volume of basalt was and its thickness. Mr. Staley responded a maximum depth of 80 feet from the mine floor to the top of the vertical cliff, referring to the area on-screen in purple. They have ability to expand about 25 acres.

Commissioner Standley asked about the two different types of applications and differences in Large Goal 5 sites and the limit of aggregate that can be mined each year. Mrs. Davchevski answered there are less criteria and more limits on the amount of aggregate mined each year. She believes the amount mined yearly cannot exceed 500,000 tons for the smaller site. Discussions went on with Commissioner Gentry, Commissioner Wysocki and Mrs. Davchevski regarding the differences between small and large Goal 5 sites.

Commissioner Wysocki asked if Mr. Staley had identified what stratigraphic unit of basalt his specimen sample was. Mr. Staley said he did but was unable to confirm at that time.

Commissioner Gentry asked what the maximum production and projected lifespan of this site. Mr. Staley stated it has the capability of being a large significant site. Rock volume is estimated at 2 million cubic yards, approximately 4.7 million tons, which can be found on page 13 in the findings.

Commissioner Wysocki asked Mr. Cox which county officials were in support of this project. Mr. Cox answered Tom Fellows, the Umatilla County Roadmaster.

Commissioner Standley asked Mr. Cox if the nearby rock source to the east was still producing quite a bit of product. Mr. Cox said he is unsure how they operate and quantity. He shared his business plan includes newer equipment to have shorter periods of time for blasting and crushing. The other quarry has outdated equipment and is said to run for longer periods of time per a local landowner.

Commissioner Standley asked about regulations regarding the other site mentioned to staff and what inventory might exist. Mrs. Davchevski stated the site was grandfathered in and a conditional use permit was granted for their batch plant in the early 1990s.

Ms. Currin mentioned existing dwellings have operated well within the area surrounding the ODOT quarry. She stated this proposed location is better since it has those buffers along the north face, as well as south and west.

**Neutral:** Casie Hull, 34287 Diagonal Rd, Hermiston, OR 97838. Ms. Casie Hull asked what other property this landowner has with exposed basalt that could be used for mining.

**Opponents:** Cody Basford, 33869 E. Progress Rd, Hermiston, 97838. Mr. Cody Basford asked if his submitted comment had been received. Mrs. Davchevski answered the document noted as Exhibit N was provided to the Planning Commissioners.

Mr. Basford read his statement submitted, Exhibit N, before the Planning Commissioners.

**Opponents:** Kyla Latham, 82532 Salmon Point Ln, Hermiston, 97838. Ms. Kyla Latham read her statement submitted as comment, Exhibit M.

She also added the site would disrupt the wildlife on the land and could cause traffic problems along Highway 730 and Diagonal Road. She added it would cause the area to have increase of dust, foul smells, and poor air quality. Chair Danforth asked where her property was located, and she demonstrated on the map her property is located on 5N 29 22 Tax Lot 1300 and 5N 29 Tax Lot 4600. Mrs. Davchevski with further clarification, relayed to Ms. Latham that her property is not included in the site boundary. Chair Danforth and Commissioner Gentry asked if Ms. Latham was aware which boundaries now impact her home and she stated she understood the map better now. Additionally, Chair Danforth asked if she has been impacted by the ODOT quarry nearest her property. Ms. Latham said no, she hardly witnesses any activity.

Commissioner Standley asked if any of the comments this evening put her mind at ease. Ms. Latham stated if anything it has made her more concerned, due to traffic. Commissioner Standley reiterated some of the things covered, including transportation and signage, hours of operation and wind prevailing to the west, so dust would move from where they live. Chair Danforth also

asked if she had any farm buildings within that area. Ms. Latham stated she only has pivots and circles in that area.

**Opponents:** Joyce Langley, PO Box 577, Umatilla, OR 97882. Ms. Joyce Langley shared her concerns regarding the traffic report that Highway 730 is very busy, along with Diagonal Road and onto Salmon Point Lane. She expressed concerns with farmers and their equipment entering, exiting the road on an already very busy area.

**Opponents:** Barbara Atwood, 33679 E. Progress Rd, Hermiston, OR 97838. Ms. Barbara Atwood stated her property is southwest of the proposed site. She expressed concern regarding the impact of noise. The quarry one and one-half miles from their farm is very noisy. Even though there are west prevailing winds they still smell odors from the jobsite. She noted the ODOT quarry had an asphalt grinding or recycling machinery and it was quite odiferous. She expressed her family has allergies, and her daughter has asthma. She states that she is a physician and has history of patients having severe sensitivity to dust and strong smells.

Ms. Atwood also mentioned worries about her land value decreasing. She is getting older and worries if the noise, traffic, and unsightly area cause loss of money on any future sale. They enjoy the ability to see the wildlife running through their property. She also expressed how they have tolerated the ODOT quarry because it isn't very active. She mentioned they were not aware of the quarry East of their property until the last several years when it started becoming more active.

Commissioner Standley asked what her property is zoned. Ms. Atwood responded her property is zoned EFU. They raise animals and utilize their farming property. She worries about the horses she raises and how easily spooked they can be. At times have ran through fences in the past with disturbances like fireworks, so she can only imagine how blasting might affect them and her alfalfa. She indicated that the dust could impact the quality of the farm products including alfalfa and hay. She is unable to feed those dusty crops to her livestock.

**Opponents:** Justin & Jenny Estes, 34214 Diagonal Rd, Hermiston, OR 97838. Mr. Justin Estes expressed concerns about how the determination of tonnage based on the one sample taken. He also spoke about how he has worked as a ranch hand from the age of twelve and now currently forty-nine, he has worked hard to get what he has. He spoke about the ODOT quarry and how infrequent it has operated noticeably over the past 18 years he has owned his property. He also referenced the other quarry located 1.4 miles from his house and the amount of dust produced from it. He doesn't agree with the comments made stating the site is confined, he differs in opinion and believes it is more of a canyon and dust won't be confined. Chair Danforth interrupted to question which quarry was close to his home. Mr. Estes answered it was the Umatilla Ready Mix site.

Mr. Estes also brought up the comment regarding predominant west winds during the summer time. He mentioned during this time of year those change and get pushed their direction instead.



He expressed additional concerns regarding the placement of the rock crusher and the noise that would be produced from that site. Discussion went on regarding the property owner's acreage with basalt and stated Mr. Rupp owns 20,000 acres to the east and asked why that property can't be mined. Mr. Estes spoke in length regarding the road, his inability to move his mailbox to the side of road nearest his property and was refused citing USPS safety for their drivers. He mentioned links to studies in his comment, Exhibit P, regarding EPA studies with effects of silica and prolonged exposure. He also mentioned concern for the false statements he states Staff brought forward.

Mrs. Jenny Estes stated she wants to highlight the study regarding traffic counts, she questioned the safety portion of the operation. She added this area is very busy and if trucks are entering the roadway at a slow rate of speed how is that going to effect other travelers and their safety. She does not want to take away his ability to mine rock, but states there is a lot of land to the south that could be a good location further away from the eight homes that existing in this area.

**Opponents:** Steve White, 33551 E. Progress Rd, Hermiston, OR 97838. Mr. Steve White stated he lives west of Dr. Atwood, and south of the Estes'. He stated his complaints are redundant and wanted to share his silence should not be mistaken for agreeing with this proposal. He added he has a lot of the same concerns being brought forth by others.

Chair Danforth asked how long Mr. White has lived in the area. Mr. White responded by stating he has lived in his current home for 11 years, and in the Hermiston, area combined over 20 years. His wife is unable to attend tonight but has resided in Hermiston for several years. They are concerned with the traffic report and stated 356 trips per day would be a large nuisance.

**Opponents:** Brandon Hayden, 81255 N. Golda Rd, Hermiston, OR 97838. Mr. Brandon Hayden shares a lot of the same concerns by others stated this evening. He stated he lives approximately one and one-half miles away from the proposed site. Chair Danforth asked him which direction. Mr. Hayden indicated closer to Progress Road. Chair Danforth asked if that was more to the west. Mr. Hayden confirmed. He mentioned he only recently learned about this notice. He stated he would like to see what studies were used to determine the impact radius. He would also like to see the supportive information from those who do agree with this proposed site to understand both sides.

**Opponents:** Rob Curry, 33779 Diagonal Rd, Hermiston, OR 97838. Mr. Rob Curry stated he lives at mile marker one headed into town. His biggest concern is the safety aspect. He has kids who ride the school bus just prior to 7am each school day. He describes a situation regarding a loaded dump truck traveling at 55 to 60 miles-per-hour in the fog and danger presented if sight is diminished and stopping can't happen quickly in those conditions. He added the Edwards area is already accident prone and adding a potential 300 plus trucks, where is the safety factor in this all.

**Public Agencies:** None



**Applicant Rebuttal:** Mr. Doug Cox, 78376 Linton Mountain Rd, Weston, OR 97886; Ms. Jennifer Currin, Attorney for applicant, PO Box 218, Pendleton, OR 97838; Mr. Erick Staley, 17600 Pacific Hwy, Marylhurst, OR 97036

Ms. Currin stated many consistent themes were heard by opposition testimony. She asked that focus be placed on this particular site and not other issues or matters between Mr. Cox and other property owners. Ms. Currin stated herself, Mr. Cox and Mr. Staley have addressed the issues regarding dust, noise, safety concerns and criteria must be met before any work (blasting or otherwise) can begin. She reiterated Mr. Cox will do all that is necessary to abide by the provisions, statutes, and safety criteria is always followed. Ms. Currin repeated some information from Ms. Kyla Latham's testimony regarding a misunderstanding of the maps boundaries and that has been interpreted correctly now. Ms. Currin referenced Ms. Latham's statement written in Exhibit M.

Ms. Currin stated she also heard comments in the audience regarding information presented and those individuals may have not been fully informed about this site and what even some of the maps might mean. She commented about studies brought forth from testimony regarding reduction of property values as much as 30% when rock pits are established nearby. She questioned if those studies are relevant to this region, if they are in Eastern Oregon. Ms. Currin continued to state factors specific to this area and whether multiple quarries are nearby. She questioned if those are facts brought up in this mentioned study of reduced property values.

Ms. Currin explains many concerns shared by Ms. Barbara Atwood regarding odor and air quality. She stated Ms. Atwood does not have a history of complaints regarding the already existing sites filed with Umatilla County. She stated Ms. Atwood has continued to live on her property long-term and raise horses despite the nearby quarries. She added the concerns have been noted but believes most of this to be speculation and asks the Planning Commissioners to consider all Mr. Cox has done to meet the criteria for this proposed site. Ms. Currin added Mr. Staley, who was hired by Mr. Cox, was able to provide the information about studies regarding the topography, testing done on-site, and why only one sample was tested on multifactorial analysis. She asked that Mr. Staley have creditability based on his expertise and the information he presented tonight.

Mr. Cox discussed the traffic study that he paid for and wanted to speak about the 365 trips mentioned. Mr. Staley corrected him by mentioning the trips listed on the study per truck being two trips. Mr. Cox recalled a statement about 15-minute intervals and trucks from the proposed site would be traveling from many routes and not always on Diagonal Road. Mr. Staley referenced the 15-minute traffic stated it was from the Staff Report. Mrs. Davchevski stated the information used was from the Traffic Impact Analysis submitted by the applicant is located on page 93 in the packet, referencing 'Table 7 – Aggregate Mining/Asphalt Batch Plant Trip Generation Estimates' and daily trips section outlining 356 trips.

Mr. Cox mentioned a concern expressed by opposition testimony this evening. He was required to have a survey of the property to start the process. He hired someone to do the fence around the property and this worker was stopped by the Basford's. Mr. Cox contacted the Basford family and brought forth information about the fence line and location being over the property line into the proposed site. He personally, has never removed any fencing. Mr. Cox stated he agreed to put up the fence over the bluff, but not until the proper permit is granted and he can access the area. He further explained the area can only be accessed by foot or ATV. Chair Danforth asked why the area is inaccessible by truck. Mr. Cox answered there is no access.

Mr. Cox added he does not have a permit from ODOT yet. Once all approvals are granted he intends to build an actual road off from Highway 730 and safely unload a low-boy. He stated currently there is no safe area to unload equipment on that property, he would have to unload across the road and drive across. He further explained this is one of the reasons he has been unable to return to build the fence because access is very limited. He wanted to add he is a very friendly and neighborly person. Mr. Cox continued to speak about his neighborly nature and how he intends to keep everyone's interest in mind.

Ms. Currin stated she hopes decisions are based upon fencing or surveying in this case. She commented regarding testimony by Mrs. Hull and Mrs. Estes speaking about ownership of property by the same landowner. Ms. Currin asked to have Mr. Staley speak to those comments. Mr. Staley stated he was unsure how much additional land is available to the landowner. He explained this site was an ideal location not only because of the basalt, but due to proximity of transportation, and other factors mentioned prior. He added the landowner could find something similar, it's possible but it may not be in the best location to serve this market. From his understanding, the landowner has had multiple parties approach him stating interest in the aggregate resource. However, the landowner would be the best resource to speak to that subject.

Ms. Currin added Mr. Rupp does have other property, but this property was the most economical and reduced the amount of environmental impacts. Mr. Cox added he attempted to use the ODOT rock pit but was unable to. Chair Danforth asked if they had tried to look further east. Mr. Cox said no, that area was not looked at.

Mr. Staley approached the concern about blasting occurring close to other properties and flying rock during a blast. He stated fly rock is very dangerous and if such an incident occurred there would be reports of this. He added blasters motivation is to perform safely, otherwise fines and loss of license could occur.

Commissioner Standley stated they can't mitigate the ground shaking; any vibration could startle animals and can't be controlled. Mr. Staley stated shaking can be controlled by distance. Animals could be taken elsewhere if property owners think they may be affected. This is mitigated by providing notice 48-hours ahead of time. Commissioner Standley asked where the owner is supposed to move the animals or simply place earmuffs on them. Mr. Staley stated most

animals are tolerant of blasting, and he could cite many examples of ranches right next to functioning quarries that have not been affected. He mentioned a site on the west side of Washington, in Lewis County where a deer raises one or two fawns yearly and they always return. This quarry continues to blast, and the animals are always there or return.

Mr. Staley further discussed why fly rock is detrimental to any project; loss of money, because the process is expensive and if charges are not deep enough you are repeating the process to fracture the rock for processing. Fly rock is a waste and operators don't want to pay for that, beyond controlling regulations and safety. He added dust will be managed with construction of a top soil berm material at the edge of the property. Mr. Staley stated the goal is to maintain topsoil which consists of organic material for future revegetation of the site. The berms must be stabilized against erosion, will be seeded with mulch added to keep the berm intact.

Mr. Staley stated regarding testimony made about storage of fuel and oil, DEQ would be involved with standards and criteria for storage of hydrocarbons like these. Either double walls or exterior containment can be used as a secondary measure in case of tank ruptures. Commissioner Standley shared those types of things need to be known to the Planning Commission. Commissioner Standley further explained previous approvals have been questioned due to the lack of questions asked regarding containment, hours of operation and what standards for this operation. Commissioner Standley added more information to firm up these details so there is no question to their operations or out of compliance. He referenced page 79 in the packet, Mr. Staley's report in Exhibit E, *Fulcrum Geo Resources, Anticipated Impacts from Blasting*, "No warranty or other conditions, express or implied, should be understood." He interpreted you can but can't guarantee everything, like blasting errors can be made during an operation can affect EFU zoned property and was his concern.

Mr. Staley stated is difficult to publish any professional report without limitations, it is a requirement he must follow because his insurance requires it. Commissioner Standley, Mr. Staley and Ms. Currin further discussed the rules outlined to meet criteria. They referred to previous statements about aggregate testing and what criteria have been met based on facts, expertise and evidence.

Chair Danforth stated she wanted to give attention to the concerns from the affected neighbors of this proposed site. She directed a question towards Mr. Cox's statement, will he lease the project to someone else. Mr. Cox stated he will hire someone to do the blasting and crushing, their equipment would be brought on-site to drill, blast, and crush. That would be the extent of their use on-site. Mr. Cox will be responsible for piling the aggregate, operations of the scale house, loading material. Chair Danforth asked if the contractor would be responsible for the dust abatement. Mr. Cox added yes, but he would also be responsible. Chair Danforth added our county is primarily complaint driven and it would be on the neighbors to complain to get something resolved, and it would be more neighborly to mitigate that, so complaints don't take

place. Mr. Cox added he wants to make sure that is done. Mr. Cox added during blasting there will be a water truck on site to address dust issues.

Mr. Staley spoke about the concerns on traffic. He referenced the *Preliminary Findings and Conclusions* on page 46 of the packet, under goal 12 County Finding, “The applicant submitted a Traffic Impact Analysis (Exhibit F) which found that the proposed mining operations will add approximately 356 daily trips on local roads, which overall will have minimal impact on both Highway 207 and Highway 730. The current 15-minute traffic count for the intersection of these two state highways is nearly equivalent to the average daily trips of the mining operation.” Mr. Staley added this was one of the reasons they didn’t feel there would be much impact on traffic because the 15-minute traffic count is equivalent to the trips per day of the aggregate site.

Ms. Currin lastly referred to Exhibit K submitted by Dr. Barbara Atwood, citing her quote regarding OSHA and asphalt fumes, Dr. Atwood cites health concerns. Ms. Currin stated the document does not reflect OSHA standards for exposure regulating of asphalt fumes, and this information is not relevant to this case. She hoped the Planning Commission requires discerning factors made on complaints like the requirements imposed on Mr. Cox and his business CRP & Hauling.

Chair Danforth closed the hearing for deliberation.

Chair Danforth adopted the following exhibits into the record:

Exhibit K; November 8, 2023, Letter to Planning Commission submitted by Dr. Barbara Atwood

Exhibit L; November 8, 2023, Letter to Planning Commission submitted by Crystal Atwood

Exhibit M; November 9, 2023, Letter to Planning Commission submitted by Kyla Langley Latham

Exhibit N; November 9, 2023, Letter to Planning Commission submitted by Wylie Ranch and Aaron Basford

Exhibit O; November 9, 2023, Letter to Planning Commission submitted by Jenny Estes

Exhibit P; November 9, 2023, Letter to Planning Commission submitted by Justin Estes

Exhibit Q; November 9, 2023, Letter to Planning Commission submitted by Casie and Michael Hull (Terra Electric, LLC)

Exhibit R; November 9, 2023, Letter to Planning Commission submitted by Joyce Langley

Exhibit S; Submitted during November 9, 2023 hearing, additional information provided by Jennifer E. Currin (Attorney for Doug Cox, CRP & Hauling)

Exhibit T; Submitted during November 9, 2023 hearing, Project Site map presented by Erick Staley (Geologist for Doug Cox, CRP & Hauling)

### **DELIBERATION & DECISION**

Commissioner Gentry started by stating he does not know much about mining and geology. From his perspective he believes they have done their due diligence with finding this site and wouldn't move forward if they didn't think it was a significant site with adequate aggregate supply.

Commissioner Standley shared that many concerns were stated this evening. He talked about hours of operation, impact to neighbors and how to mitigate concerns. He added this is a large significant site and has impact on neighbors. He asked if Mr. Cox is going to regulate the concerns, if he is going to hire someone, who will that be. Commissioner Standley asked the other commissioners if anyone is familiar with asphalt batch plants and odors from these plants. Chair Danforth answered she has one near her home and thankfully cannot smell it very often.

Commissioner Standley added he has experience hauling asphalt and doesn't care for the smell. Chair Danforth stated she lives near a mine that blasts and she feels the blasting. Commissioner Standley spoke about a pit in Pilot Rock, there are not many concerns related to animals because it's located in the Urban Growth Boundary (UGB).

Chair Danforth stated she would have no opposition on this project except for the proximity of neighbors. She added the zoning classification for area around this site as well. This approval would require property owners to sign paperwork regarding Goal 5 protection and restrictions put in place. She further explained how this presents more of a conflict for her because it is permanent. She mentioned a previous case that was approved by the Planning Commission was recently remanded by LUBA (Land Use Board of Appeals) because adequate soil samples were not obtained. She finished by stating she does not feel enough due diligence was done, she respected Mr. Staley's experience and expert opinion, but felt more could have been done with testing.

Commissioner Minton asked Chair Danforth about the zoning changes she talked about. Chair Danforth explained the previous statement and that the non-remonstrance agreements affect all the surrounding properties in the impact area. She added the properties would still be zoned EFU.

Mrs. Davchevski asked to clarify this information. She stated the properties would remain zoned EFU, but within the 1,500-foot impact area, the applicant identifies conflicting uses they are wanting to protect against for the aggregate site. She added the conflicting uses include

dwellings, wineries, farm stands, gathering spaces which are all allowed in EFU zone, but would conflict with the aggregate operations. She further explained if an applicant wants to establish one of these proposed uses they would have to sign a non-remonstrance agreement if it is included on the Goal 5 approval. Mrs. Davchevski stated the applicant has requested conflicting uses not be allowed at all in the 1,500-foot impact area. She expressed the Planning Commission would have the choice to recommend or not recommend this limitation to the Board of Commissioners. She ended by stating the non-remonstrance agreement states property owner's will not sue the aggregate operations for impacting their new use because it came after the aggregate operation was established. Mrs. Davchevski demonstrated the impact area on the map, page 6 in the packet.

Chair Danforth stated she does not favor the imposition of this restriction on the neighboring properties. She stated the sound does not dissipate much from this area because it is against a canyon, not an open space where the sound is drowned out. Commissioner Standley added further discussion regarding nearby facilities to his own home that he hears on a regular basis.

Commissioner Wysocki countered Chair Danforth's comment and stated he wouldn't identify this area as a canyon.

Mrs. Davchevski clarified there are two decisions for recommendation. First, is there a significant amount of resources that meet the requirements to deem it significant. Second, if it is significant to approve mining at the site.

Commissioner Minton asked if enough information has been gathered to approve a significant site.

Chair Danforth stated she does not feel there is enough information gathered to determine the first point, therefore the second point would not be met.

Commissioner Minton stated she wished there were more samples taken to give them a fuller picture.

Commissioner Standley made a motion to recommend denial of the Doug Cox Comprehensive Text Plan Amendment #T-093-23 and Zoning Map Amendment #Z-323-23, to the Board of Commissioners based on evidence in the record and with the following addition Findings of Fact: Concerns weren't mitigated enough based on shared concerns on impacts by the neighbors, including dust, noise, and blasting. Hours of operation not clearly defined, nor how the asphalt batch plant would be managed. Proximity to neighbors and effects on those properties. Proposed restrictions were not adequately addressed. Lack of soil samples taken to verify quantity and quality of aggregate. How much topsoil exists and would be taken off the property. Noise impacts because of the canyon and wind direction were not addressed.

Commissioner Minton seconded the motion. Motion failed with a vote of 3:3.



Further Deliberation ensued. Clarifications were made by Mrs. Davchevski regarding how the vote can proceed. Chair Danforth agreed they cannot determine, based on testimony and evidence, if there is enough resource to call this site significant. Commissioner Standley added that if they collectively are asking these questions that others are going to question it further above the Planning Commissioners. He further expressed how he hoped the application could have been continued so more information could be gathered by the applicant to address more of the detailed issues, like aggregate samples. Commissioner Standley stated even the smallest of parts in this application will be looked at under magnifying glass.

Chair Danforth added there has been a LUBA case, seen before the Planning Commission, sent back because lack of soil analysis. She stated this case made her rethink methods and request more due diligence.

Commissioner Minton added she could make a good argument on both sides of this proposal. Commissioner Standley stated he has no personal feelings about rock pits. He discussed previous points made prior regarding concerns made by neighbors.

After additional discussion a secondary vote was called.

Commissioner Minton made a new motion to recommend denial of the Doug Cox Comprehensive Text Plan Amendment #T-093-23 and Zoning Map Amendment #Z-323-23, to the Board of Commissioners based on evidence in the record and citing the same above Findings of Fact.

Commissioner Standley seconded the motion. Motion carried with a vote of 5:1 recommending denial to the Board of County Commissioners.

The Planning Commission found the following criteria of approval were not met by the applicant:

1. OAR 660-023-130 (3)(a) A representative set of samples of aggregate material in the deposit on the site
2. OAR 660-023-130 (5) (b) [Conflicts created by the site]
3. OAR 660-023-130 (5) (c) [If conflicts exist, measures to minimize]
4. UCDC 152.487(A)(2) There is sufficient information supplied by the applicant to show that there exists quantities of aggregate material that would warrant the overlay
5. UCDC 152.487(A)(5) The site complies with Oregon Administrative Rules (OAR) 660-023-0180.



## **OTHER BUSINESS**

Mrs. Davchevski provided an update regarding long-term Planning projects. They anticipate a work session in February to discuss new animal density standards and to discuss Senate Bill 1013 which was passed by Legislature. She stated our office has received request to consider adoption of Senate Bill 1013 to permit Recreation Vehicles (RVs) as accessory dwellings in residential zoning. She added the Planning Commission would look at developing standards around the Senate Bill or pursue allowing RVs as accessory dwellings.

## **ADJOURNMENT**

Chair Danforth adjourned the meeting at 9:44PM.

Respectfully submitted,

Shawna Van Sickle,

Administrative Assistant