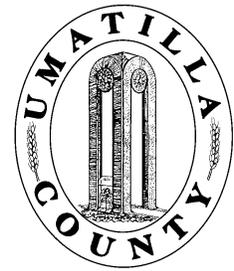


# Umatilla County

Department of Land Use Planning

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## AGENDA

**Umatilla County Planning Commission Public Hearing  
Thursday, February 28, 2019, 6:30 p.m.  
Justice Center Media Room, Pendleton, Oregon**

### **Planning Commission**

Suni Danforth, Chair  
Gary Rhinhart, Vice-Chair  
Tammie Williams  
Don Wysocki  
Tami Green

Cecil Thorne  
Hoot Royer  
Molly Tucker Hasenbank  
Jon Salter

### **Planning Staff**

Bob Waldher, Planning Director  
Carol Johnson, Senior Planner  
Elizabeth Ridley, Planner/ GIS  
Gina Miller, Code Enforcement Coordinator  
Tierney Dutcher, Administrative Assistant

### **1. Call to Order**

### **2. Continued Hearing:**

**COUNTY TEXT AMENDMENT #T-19-078, PLAN AMENDMENT #P-122-19, & ZONING MAP AMENDMENT #Z-313-19**, to Co-adopt City of Stanfield Urban Growth Boundary (UGB) Adjustment. The City of Stanfield requests the County co-adopt a proposed change to the city's UGB that would remove 110 acres of industrial land and 28 acres of open space from within the UGB and replace it with 110 acres of land to be rezoned from Exclusive Farm Use (EFU) to City Industrial, and annexed into the City. The criteria of approval are found in Umatilla County Development Code 152.750-152.755 and the Joint Management Agreement between the City and County.

### **3. New Hearing:**

**PLAN AMENDMENT #P-123-19**, to amend the Exception for Local Access Improvements set forth in Umatilla County Ordinance 2003-09, which Ordinance is a part of the County's Transportation System Plan. The applicant, TA Operating, LLC, requests to amend County Ordinance 2003-09 and the Umatilla County Transportation System Plan, consistent with the Land Use Board of Appeals' opinion in Space Age Fuel. The proposed amendment addresses concerns found in Express and Space Age Fuels v. Umatilla County, 54 Or LUBA 571,597 (2007) and Space Age Fuel, Inc. v. Umatilla County, 72 Or LUBA 92, 100-01 (2015). The criteria of approval for amendments are found in Umatilla County Development Code 152.750-152.755.

### **4. New Hearing:**

**UMATILLA COUNTY DEVELOPMENT CODE UPDATES, #T-19-079.**

A summary of the updates includes the following:

(see reverse)

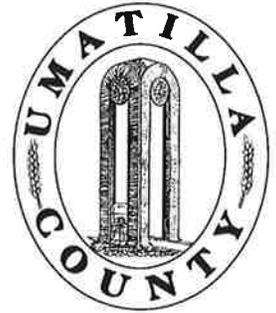
1. Update Chapter Title UCDC Section 152.001
2. Update and Add to Definition Section 152.003
3. Clarify Statutory Provision Chapter Citing Section 152.004
4. Clarify Fence Section 152.019
5. Add Barnhart IAMP to Section 152.019
6. Update Dimensional Standards Section 152.119
7. Clarify Rural Residential Limitations for poultry Sections 152.133 (B), 152.158 (B), 152.163 (B) and 152.338 (B)
8. Update Rural Residential Height Limitations Sections 152.134 (C) (2), 152.159 (C) (2), 152.164 (C) (2) and 152.339 (C) (2)
9. Update Residential Forest zones Sections 152.171, 152.216 and 152.231
10. Update AR Overlay Zone 152.486
11. Clarify Subdivision and Land Partition Replats Section 152.695
12. Clarify Classification of Land Division Types Section 152.643
13. Update Required Survey Section 152.644
14. Update Delegation of Authority for Land Divisions, Section 152.645
15. Update Land Division Types Section 152.646
16. Update Property Line Adjustment Procedure Section 152.724
17. Update Temporary Hardship Homes Section 152.576
18. Update Churches Conditional Use Section 152.617 (K)
19. Renumber Road Standard Section 152.648
20. Remove Duplicate Variance Section in UCDC 152.651
21. Clarify Language for the Type I Land Division Section 152.665
22. Clarify Type I Land Division Tentative Plan Contents Section 152.666
23. Clarify Type I Land Division Approval Section 152.667
24. Clarify Type I Land Division Hearing Section UCDC 152.668
25. Update Type I Land Division Final Plat Section 152.699
26. Update Type II Land Division Standards Section 152.684
27. Update Type II Land Division Final Plat Section 152.686
28. Update Property Line Adjustment Standards Section 152.722
29. Update Property Line Adjustment Procedures upon Approval Section 152.724
30. Remove unused Type VI Land Division Sections 152.725 – 152.739
31. Relocate Corrections and Amendments to Plats to Section 152.725

## **5. Adjournment**

# Umatilla County

Department of Land Use Planning

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DIRECTOR  
ROBERT WALDHER

## MEMO

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

**TO:** Umatilla County Planning Commissioners  
**FROM:** Bob Waldher, Director  
**DATE:** February 20, 2019

CODE  
ENFORCEMENT

**RE: February 28, 2019 Planning Commission Hearing  
Plan Amendment, #P-123-19  
Amendment of County Ordinance 2003-09 and Umatilla County TSP**

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

### ***Background Information***

GIS AND  
MAPPING

The applicant, TA Operating, LLC, requests to amend County Ordinance 2003-09 and the Umatilla County Transportation System Plan (TSP), consistent with the Land Use Board of Appeals' (LUBA) opinion in *Space Age Fuel*. The attached Findings and Conclusions document includes a historical overview of the travel center project, LUBA Remand, and Ordinance 2003-09, which is included in this amendment request.

RURAL  
ADDRESSING

Essentially, the applicant proposes an amendment of Ordinance 2003-09 (see original ordinance attached) to adopt a new map (see 'Exhibit A' attached), amend the text of the ordinance, and include the findings supporting an amendment to the County's Transportation System Plan.

LIAISON, NATURAL  
RESOURCES &  
ENVIRONMENT

### ***Criteria of Approval***

The criteria of approval for amendments are found in Umatilla County Development Code 152.750-152.755.

### ***Conclusion***

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 BCC must also hold a public hearing(s) and make a decision whether or not to approve amendment of the ordinance. The subsequent BCC hearing is scheduled for March 20, 2019.

Staff recommends approval of the proposed amendment to Ordinance 2003-09, as it appears to be consistent with applicable law and is necessary to resolve LUBA's order on remand.

**Memo**

Planning Commission Public Hearing – February 28, 2019

***Attachments***

The following attachments have been included for review by the Planning Commission:

- Preliminary Findings and Conclusions
- Exhibit A – Modified Access Alternative
- Original Ordinance 2003-09
- Traffic Memo

BEFORE THE UMATILLA COUNTY BOARD OF COMMISSIONERS  
AND PLANNING COMMISSION  
PLAN AMENDMENT P-123-19

A request by TA Operating, LLC, to amend County Ordinance 2003-09 by adopting a revised local connectivity map and related text, to guide future improvements to Westland Road between Westport Lane and I-84.

APPLICANT'S PROPOSED AMENDMENT  
AND SUPPORTIVE FINDINGS

**1. Introduction**

This office represents TA Operating, LLC ("TA"). TA is the successor in interest to Petro Shopping Centers ("Petro"), which received approval in 2006 to construct a travel center on its property, located at the northwest corner of the intersection of Westland Road and I-84. On January 12, 2004, the County adopted Ordinance 2003-09 ("Ord. 03-09"), which amended the County's Transportation Plan by adopting the Westland Road/I-84/I-82 Interchange Area Transportation Plan (IATP). **Exhibit 1.** The IATP refined local transportation connectivity plans in around the interchange, as explained by its introductory paragraph:

"The purpose of the Umatilla County Westland Road/1-84/1-82 Interchange Area Transportation Plan is to supplement and refine the Umatilla County Transportation System Plan in the project planning area. The goal of the project is to develop a sub-area study that addresses the specific land use and transportation issues in the Westland Road/1-84/1-82 interchange area. The result of the project will be a list of transportation improvements needed to support the 20-year employment growth in the study area and land use policy recommendations."

Ord. 03-09 also adopted an exception to the County's spacing standard for the first full local street intersection and freeway ramps, which is 1,320 feet. This standard is identical to the desired spacing for interchanges set forth in the 1999 Oregon Highway Plan. The exception, which was adopted by the County at the request of Petro, would allow TA to develop motor vehicle and truck access points somewhat closer than 1,320 feet to the I-84 ramps. The local access layout allowed by the exception was shown in a map attached to the ordinance, labeled "Figure 13." The specific terms of the exception are explained in detail below.

On December 19, 2006, Petro received conditional use approval for a proposed travel center. This approval included a truck fueling complex, truck service and repair facility, truck wash, automotive fueling station, an 18,000-square foot restaurant/retail store, 298 truck parking spaces, 215 automobile parking spaces, eight RV parking spaces, and related accessory uses and improvements. The truck fueling center, service facility, and truck wash will be located on the western portion of the property, zoned Light Industrial ("LI"), and the automotive fueling center and restaurant/retail store will be located on the eastern portion, zoned Tourist Commercial

(“TC”). The truck facilities will have an access point off Westland Road separate from the automobile fueling center and restaurant/retail store. The Planning Commission approved the proposed development on January 31, 2006.

Space Age Fuels appealed the Planning Commission decision to the Board of County Commissioners (the “Board”), arguing among other things that the proposed use is a “truck stop” that is not permitted in either the LI or TC zones. The Board ultimately voted to approve the development, subject to a condition that Petro sign a development agreement obligating Petro to mitigate traffic impacts on a nearby intersection, as required by Ord. 2003-09.

Space Age appealed the CUP approval to LUBA, which rejected all of Space Age’s arguments that the travel center was not permitted in the LI and TC zones. LUBA remanded the case, however, holding that a Development Agreement must be approved before the new access management standards of Ord. 2003-09 become effective. *Western Express and Space Age Fuels v. Umatilla County*, 54 Or LUBA 571, 597 (2007) (“Western Express”).

After LUBA’s decision, the Board approved a Development Agreement consistent with LUBA’s opinion. Space Age again appealed the decision approving the Development Agreement to LUBA, arguing that the Development Agreement, which proposed a different alignment of NW Livestock Road from that shown in Ord. 2003-09, was inconsistent with that ordinance. On September 1, 2015, LUBA remanded the Development Agreement to the Board with orders to make findings addressing UCDC 152.753(B)(1) and the Development Agreement’s consistency with Ord. 2003-09.

Crucially, LUBA explained that Ord. 03-09 must be amended to resolve the 2015 remand order:

“We agree with petitioner that the development agreement that was required by Paragraph 2 of Ordinance 2003-09 to make the “local access improvements outlined on Figure 13” part of the TSP is not any old development agreement. Rather, it calls for a development agreement for the improvements shown on Figure 13. Petitioner appears to be correct that the challenged development agreement calls for improvements that in some respects differ significantly from those envisioned by Ordinance No. 2003-09. We do not mean to foreclose the possibility that the county might be able to demonstrate that the improvements authorized by the disputed development agreement are consistent with those authorized by Ordinance 2003-09. But petitioner appears to be correct that at least the realignment of Livestock Road is sufficiently different from the realignment called for by Ordinance 2003-09 that Ordinance 2003-09 would first have to be amended to authorize that change. If so the county must first amend Ordinance 2003-09 before executing the development agreement to comply with Paragraph 2 of Ordinance 2003-09.”

*Space Age Fuel, Inc. v. Umatilla County*, 72 Or LUBA 92, 100-01 (2015) (“Space Age Fuel”).<sup>1</sup> Since LUBA’s 2015 decision, realignment and improvements of Livestock Road has continued, making the reality on the ground somewhat inconsistent with the realignment shown on Figure 13. No party has challenged these improvements.

During discussions regarding LUBA’s remand, staff requested that TA move its proposed truck entrance northward to mirror the new intersection of Westland and Livestock Roads. Such an alignment would meet the 1,320 foot minimum spacing requirement. TA does not object to doing so; however, this realignment would also be inconsistent with Figure 13, potentially worsening the error LUBA identified in its 2015 opinion. Therefore, TA proposes this amendment to adopt a new map that would (1) acknowledge the current location of Livestock Road and (2) provide for a truck/light industrial entrance directly across from the Westland/Livestock intersection.

## 2. Description of the Proposed Amendment

As explained above, Ord. 03-09 included two relevant decisions. The first was an adoption of the IATP as part of its Transportation System Plan (“TSP”) and Comprehensive Plan (the “Plan”). The IATP included a proposal for the improvement of a new northerly extension of Livestock Road as a local street:



<sup>1</sup> In a footnote, LUBA also explained: “The proposed realignment of Livestock Road to a point north of TA’s property presumably is what eliminated the need for the four-leg intersection at the auto entrance opposite the location specified for the Livestock Road realignment shown on Figure 13 and eliminated the need for the left turn lane for southbound traffic at that entrance. The differences in Ordinance No. 2003-09 and the executed development agreement regarding Sable Road are less clear to us, but the county must consider whether that difference is sufficiently significant to require an amendment to Ordinance 2003-09 as well.” *Id.* n. 9.

Second, Ord. 03-09 provided, in paragraph 2, that the TSP will be amended to allow an exception from these spacing standards if and when a development agreement between TA and the County is executed:

“At such time as a development agreement is executed with the property owner, outlining improvements and responsibilities (including realigned Livestock Road), the Umatilla County Transportation System Plan and the Umatilla County Comprehensive Plan will be amended to provide an exception to the Westland Area Plan north of I-84 to allow for local access improvements outlined in Figure 13 of Exhibit 62, with additional access on east to be granted at industrial area access.”

By its own terms, Ord. 03-09 provided for an automatic amendment of the TSP if and when a development agreement is established between TA and the County. The Oregon Land Use Board of Appeals (“LUBA”) interpreted this exemption as follows:

“Read literally, paragraph 2 states that the TSP and plan “will be amended” to provide for the exception to TSP standards, which certainly suggests that Ordinance 2003-09 did not actually amend the TSP and comprehensive plan to include those exceptions. Even if paragraph 2 is not read literally, and the phrase “will be amended” is understood to mean something like “will be effective,” it seems clear their effectiveness as approval criteria is conditional upon execution of the development agreement.”

*Western Express and Space Age Fuels v. Umatilla County, 54 Or LUBA 571, 597 (2007).*

In 2017, the City approved a Goal Exception and Plan Amendment to allow construction of the Vadata, Inc. data center on land located directly east of the TA parcel. This project is accessed through a newly-paved northerly extension of Livestock Road, which TA understands will be improved to provide a new intersection with Westland Road approximately 1,550 feet north of the nearest I-84 ramp. This improvement has already been partially constructed, and we understand from County staff that the existing Livestock/Westland intersection to the south will be closed.

TA proposes that Ord. 03-09 be amended to adopt a new map (“Exhibit A”) to replace Figure 13 and include the findings supporting an amendment to the County’s Transportation System Plan, as well as the following text of the IATP and Ord. 03-09. **Exhibit 2.** Proposed amendments to this text are shown below.

**~~“2. At such time as a development agreement is executed with the property owner, outlining improvements and responsibilities (including realigned Livestock Road), the~~ The Umatilla County Transportation System Plan and the Umatilla County Comprehensive Plan will are hereby be amended to provide an exception to the Westland Area Plan north of I-84 and County intersection spacing standards to allow for local access improvements**

outlined in Exhibit A, attached hereto. ~~Figure 13 of Exhibit 62 with additional access on east to be granted at industrial area access.~~ Such amendment shall be deemed effective at such time as a development agreement is executed with the property owner, outlining the scope and responsibilities for the improvements shown in Exhibit A necessary to accommodate the proposed development. This exception shall not be required should a development proposal comply with the standard spacing requirements of the County Transportation System Plan.

Whatever its final form, the amendments should allow for the intersection spacing shown in Exhibit A without further amendments to the plan, made effective upon execution of a development agreement.

### 3. Proposed Findings for Plan and TSP Amendment

Ord. 03-09 already amended the Plan and TSP to allow a reduction in access spacing, and no change to the motor vehicle access point is contemplated or proposed. The purpose of this amendment is solely to move the northerly access point into conformance with the County's standard spacing requirements and clarify the current location of Livestock Road. TA provides the following findings to explain how the proposed amendment is consistent with goals and policies that would be applicable to a TSP amendment:

#### a. Goals and Objectives of the Umatilla County Transportation Plan.

A. *Goal 1 – Preserve the function, capacity, level of service and safety of the local streets, county roads and state highways.*

##### 1. Objectives.

a. *Develop access management standards.*

RESPONSE: The proposed amendment does not change County access management standards, although it does bring the spacing alignment contemplated in Ord. 03-09 closer to conformance with County and ODOT access management spacing standards by moving the TA Petro truck access and Livestock/Westland Road intersection past the 1320-foot minimum road spacing requirement applicable to interchanges. The County can find that this objective does not apply to the proposed amendment.

b. *Develop alternative, parallel routes.*

RESPONSE: The proposed amendment does not provide an additional alternative parallel route. However, the County can find that because the proposed amendment merely acknowledges the existing location of the Westland/Livestock Road intersection and requires any future TA Petro truck access to mirror that intersection, it does not detract from this objective and is, on balance, equally supportive of it.

*c. Promote alternative modes of transportation.*

RESPONSE: The proposed amendment does not provide an alternative mode of transportation. However, the County can find that because the proposed amendment merely acknowledges the existing location of the Westland/Livestock Road intersection and requires any future TA Petro truck access to mirror that intersection, it does not detract from this objective and is, on balance, equally supportive of it.

*d. Promote transportation management demand management programs.*

RESPONSE: The proposed amendment does not provide a transportation demand management program. However, the County can find that because the proposed amendment merely acknowledges the existing location of the Westland/Livestock Road intersection and requires any future TA Petro truck access to mirror that intersection, it does not detract from this objective and is, on balance, equally supportive of it.

*e. Promote transportation system management.*

RESPONSE: The County can find that because the proposed amendment merely acknowledges the existing location of the Westland/Livestock Road intersection and requires any future TA Petro truck access to mirror that intersection, it will improve the transportation system and therefore, is consistent with this objective.

*f. Develop procedures to minimize impacts to and protect transportation facilities, corridors, or sites during the development review process.*

RESPONSE: The proposed amendment will require any new TA access point to mirror the Westland/Livestock Road intersection, which will have a more positive impact on the interchange area than would the current alignment of the truck access shown on Figure 13 of Ord. 03-09. Therefore, the County can find that the proposed amendment is consistent with this objective.

**B. Goal 2 – Insure that the road system within the County is Adequate to Meet Public Needs, Including those of the Transportation Disadvantaged.**

**1. Objectives.**

*c. Evaluate the transportation needs and land use characteristics of the unincorporated communities within the county to insure adequate mobility for these areas.*

RESPONSE: The proposed amendment will acknowledge an existing improvement—the realignment of Livestock Road—that was intended to ensure adequate and safe mobility for the unincorporated area of the County. Similarly, the amendment will require the TA Petro truck

access to be in a location mirroring the new Westland/Livestock Road intersection, ensuring that that access will be consistent with the new intersection spacing. Therefore, the County can find that the proposed amendment is consistent with this objective.

*C. Goal 3 – Improve Coordination among the Cities of Umatilla County, the Oregon Department of Transportation (ODOT), the U.S. Forest Service (USFS), the Federal Highway Administration (FHWA) and the County.*

RESPONSE: The County will provide notice of the proposed amendment to affected agencies. The proposed amendment is equally supportive of this policy.

**b. Umatilla County Westland Road / I-84 / I-82 Interchange Area Transportation Plan.**

**IATP Goals**

*A. Goal 1 – Balance land use and transportation planning to develop and interchange plan that can achieve acceptable traffic operations along the area’s transportation system and provide for safe access to adjacent land uses.*

RESPONSE: The proposed amendment is consistent with this Goal because, by moving the intersection of Westland/Livestock Road intersection and the TA Petro truck access to the north, it will result in improved interchange operation over the intersection currently shown in Ord. 03-09.

*B. Goal 2 – Maximize transportation management techniques in the study area to mitigate future traffic impacts generated by future developments and to minimize the necessary transportation infrastructure investment.*

RESPONSE: The new Westland/Livestock Road intersection has already been improved. The new TA Petro truck access point shall be located directly across Westland Road to create a four-way intersection. The County can find that this will substantially improve turning movements and queuing over the existing access plan shown on Figure 13 because it increases the distance between this intersection and the I-84 interchange ramps.

*C. Goal 3 – Solicit significant public input throughout the study process to assure ownership of the plan by study area, stakeholders, property owners and public.*

RESPONSE: The IATP was established with considerable public involvement, as explained in the IATP itself. IATP at I-12. The County can find that an additional study process is not necessary for the proposed amendment because it merely acknowledges existing transportation improvements and ensures that any future alignment of the TA Petro truck access mirrors the new Westland/Livestock Road intersection.

*D. Goal 4 – Develop a comprehensive list of deficiencies in the project area that should be addressed by the study.*

RESPONSE: A complete list of deficiencies was created for the IATP. The proposed amendment neither adds nor subtracts from that list; therefore, the County can find that it has no impact on the above policy.

*E. Goal 5 – Develop future improvement alternatives that address short and long term capacity deficiencies, connectivity and safety around the two study interchanges and study area roadways and intersections.*

RESPONSE: Ord. 03-09 and Figure 13 were developed to allow alternative access spacing. The proposed amendment preserves the existing access spacing alternative for the passenger vehicle access point to the south but moves the northerly TA truck access point northward to comply with access spacing standards. This change will improve capacity, connectivity, and safety adjacent to the I-84/Westland Road interchange by providing additional queuing space for trucks entering and exiting I-84 at interchange.

*F. Goal 6 – Develop conceptual twenty year land use plans in the study area to support the traffic forecasting task and to develop a basis for a sensitivity analysis for the range of impacts that could occur in the study area.*

RESPONSE: The proposed amendment does not change any existing land use plans and therefore has no effect on the above policy.

### **Oregon Highway Plan**

The Interchange Management Plan provides that, although Umatilla County does not have to strictly comply with ODOT spacing standards, it may be prudent to use policy 3C of the Oregon Highway Plan (OHP) as a guideline for the development of the Westland Road Interchange Area Transportation Plan. This proposal is consistent with a number of ODOT spacing standards as explained below:

Action 3C2 – To improve an existing interchange or construct a new interchange.

- *These standards do not retroactively apply to interchanges existing prior to adoption of this Oregon Highway Plan, except or until any redevelopment, change of use or highway construction, reconstruction, or modernization project affecting these existing interchanges occur. Is the goal at that time to meet the appropriate spacing standards, if possible, but at the very least, to improve the current conditions by moving in the direction in the spacing standards;*

RESPONSE: The proposed amendment is consistent with this policy because it shows how the new Westland/Livestock Road intersection meets County and ODOT spacing requirements.

- *Necessary supporting improvements, such as roadway networks, channelization, medians and access control in the Interchange Management Area must be*

*identified in the local comprehensive plan and committed with an identified funding source, or must be in place;*

RESPONSE: The proposed amendment is consistent with this policy because it accurately identifies the correct location of the Westland/Livestock Road intersection. It also demonstrates the channelization plan adjacent to that intersection.

- *Access to cross streets shall be consistent with established standards for a distance on either side of the ramp connections so as to reduce conflicts and manage ramp operations;*

RESPONSE: The proposed amendment is consistent with this policy because it shows how the new Westland/Livestock Road intersection meets County and ODOT spacing requirements.

- *When possible, access control shall be purchased on cross roads for a minimum distance of 1,320 feet (400 meters) from a ramp intersection or the end of a free-flow ramp terminal merge lane taper.*

RESPONSE: ODOT does not own and has not sought to purchase additional access control along Westland road. However, the re-aligned Westland/Livestock Road intersection will exceed the 1,320 foot spacing requirement.

*Action 3C3 – Establish criteria for when deviations to the Interchange Access Management Spacing Standards may be considered. The kinds of considerations likely to be included are:*

- *Location of existing parallel roadways;*
- *Use of traffic controls;*
- *Potential queuing, increase delays and safety impacts; and*
- *Possible use of non-traversal medians for right-in right-out movements.*

RESPONSE: The proposed amendment does not request an additional deviation from Access Management Spacing Standards beyond that already approved as part of Ord. 03-09. In fact, it removes the need for a deviation for the TA Petro truck access point, while leaving in place the existing deviation allowance for the passenger vehicle access.

*Action 3C4 – When new approach roads or intersections are planned or constructed near existing interchanges, property is redeveloped or there is a change of use, wherever possible, the following access spacing and operation standards should be applied within the Interchange Access Management Area (measurements are from ramp intersection or the end of a free-flow ramp terminal merge lane taper).*

- *Approach roads on the crossroads at no closer than 750 feet (230 meters), and between 750 feet (230 meters) and 1,320 feet (400 meters) shall be limited to right-in right-out. This may require construction of a non-traversable median or median barrier.*
- *The full intersection on a crossroad shall be no closer than 1,320 feet (400 meters).*

RESPONSE: The proposed amendment is consistent with these policies because it acknowledges the County's reconstruction of Livestock Road in an alignment consistent with current ODOT spacing standards. In particular, the amendment acknowledges the fact that the new intersection of Westland Road and Livestock Road has been relocated to the north more than 1,320 feet and is, therefore, more consistent with ODOT spacing standards than the previous exception scheme identified in Ordinance 03-09.

### **c. Statewide Planning Goal 12**

Post-acknowledgement plan amendments to a local government transportation plan must be consistent with OAR 660-012-0060, commonly known as the "Transportation Planning Rule" ("TPR"). The essential function of the TPR is to determine whether a proposed amendment will have a "significant effect" on an existing or planned transportation facility. The relevant provisions of the TPR are addressed below.

#### **660-012-0060**

#### **Plan and Land Use Regulation Amendments**

*(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule.*

RESPONSE: The proposed amendment concerns two existing transportation facilities: Westland Road and Livestock Road. The location shown for the new TA Petro truck access is not a "planned transportation facility" because it is located on private land, would serve only a private development, and is not publicly funded. Therefore, the County can find that the TPR applies to the existing alignments of Westland Road and Livestock Road.

*A plan or land use regulation amendment significantly affects a transportation facility if it would:*

*(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*

RESPONSE: Westland Road is designated as a Rural Major Collector and the proposed amendment would not change that designation. Livestock Road is designated as Local Street,

and the proposed amendment, while it acknowledges Livestock Road's realignment, does not change its functional classification.

*(b) Change standards implementing a functional classification system; or*

RESPONSE: The proposed amendment adopts a new map showing where Westland Road has been realigned and consequential traffic control elements that will allow that intersection to function if and when additional development in the vicinity increase trips on the transportation system.

*(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*

*(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*

RESPONSE: The IATP assumes that the TA Petro parcel will be developed with approximately 10,000 sq. ft. of retail uses and approximately 450,000 sq. ft. of industrial uses under a worst-case scenario. The proposed amendment neither re-zones this parcel nor approves a specific development proposal for it. The proposed amendment increases the spacing between the TA Petro truck access point and the I-84 interchange ramps, and does not allow an additional access beyond the number contemplated in the IATP. Therefore, the County can find that the proposed amendment will not result in "types or levels of travel or access" that are inconsistent with the functional classification of Westland or Livestock Road.

*(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*

RESPONSE: The County can find that recognizing the compliance of the Westland Road/Livestock Road intersection with the County's spacing standards will provide equal or better performance on both of those roadways, as explained by the enclosed memorandum from Kittelson & Assoc. **Exhibit 3.**

*(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

RESPONSE: The previous location of the Westland Road/Livestock Road intersection was not projected to fail County performance standards. This section does not apply.

*(4) Determinations under sections (1)–(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.*

RESPONSE: The proposed amendment affects only the transportation system in unincorporated Umatilla County. The County should provide notice of the proposed amendment to ODOT, which should be allowed to provide comments, because it will increase the existing and planned spacing between Livestock Road and the TA Petro truck access, and the I-84 interchange ramps.

**d. Other Statewide Planning Goals**

**i. Goal 1 – Citizen Involvement**

RESPONSE: The County can find that it has a complete citizen involvement program in its acknowledged Plan and land use regulations and that the procedures for post-acknowledgement plan amendments are set forth in ORS 197.610–620 and ORS 197.763. The County can find that this proposal’s conformance with these citizen involvement procedures ensures its compliance with Goal 1.

**ii. Goals 2 – Land Use Planning**

RESPONSE: The County can find that this amendment proposal is consistent with Goal 2 because it is consistent with the County’s Comprehensive Plan and TSP, and Kittelson’s supporting analysis (**Exhibit 3**) constitutes an “adequate factual base” supporting the amendment.

**iii. Goal 3 – Agricultural Lands**

RESPONSE: The County can find that goal does not apply because the proposed amendment does not affect an agricultural land, nor does it change the functional classification of a rural roadway.

**iv. Goal 4 – Forest Lands**

RESPONSE: The County can find that this goal does not apply because the proposed amendment does not affect designated forest lands.

**v. Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources**

RESPONSE: The County can find that this goal does not apply because there are no Goal 5 resources identified within the area shown by proposed Exhibit A.

**vi. Goal 6 – Air, Water and Land Resource Quality**

RESPONSE: The County can find that this goal does not apply because there is no evidence that the proposed amendment will have any adverse impact on air, water, or land resource quality.

Goal 6 only requires that it is reasonable to expect that federal and/or state permits associated with the improvements contemplated by the proposed amendment can be obtained. There is no evidence that necessary permits cannot be obtained for construction of the proposed improvements.

**vii. Goal 7 – Natural Hazards**

RESPONSE: The County can find that this Goal does not apply because there are no natural hazards present within the area shown by proposed Exhibit A.

**viii. Goal 8 – Recreation**

RESPONSE: The County can find that this Goal does not apply because the proposed amendment does not affect a recreational resource.

**ix. Goals 9 – Economy of State**

RESPONSE: The County can find that the proposed amendment furthers Goal 9 because it will facilitate development of vacant land near an important interchange, increasing the availability of goods and services for the travelling public and related employment.

**x. Goal 10 – Housing**

RESPONSE: The County can find that this goal does not apply because it will not affect the supply of land for housing.

**xi. Goal 11 – Public Facilities and Services**

RESPONSE: The County can find that this goal does not apply because it addresses public services other than transportation.

**xii. Goal 12 – Transportation**

RESPONSE: The Requirements of Goal 12 are addressed in detail above. For those reason, the County can find that the proposed amendment furthers Goal 12.

**xiii. Goal 13 – Energy**

RESPONSE: Goal 13 is a planning goal that does not apply directly to transportation planning. The only Goal 13 guideline that has any bearing on transportation planning is Guideline 3, which states that “[l]and use planning should, to the maximum extent possible, combine increasing density gradients along high capacity transportation corridors.” The proposed amendment is not directed at residential development; therefore the County can find that Goal 13 does not apply. Even if Goal 13 did apply, the County can find that it requires energy conservation based on “sound economic principles” and that on balance, the Goal 9 benefits provided by future development of TA’s property and the Goal 12 benefits of better intersection spacing outweigh

any potential increases in energy consumption created by development of surrounding lands or increased traffic.

**xiv. Goal 14 – Urbanization**

RESPONSE: The County can find that this Goal does not apply because the proposed amendment will not change any zoning, adopt a Goal exception, or amend an urban growth boundary.

**xv. Goals 15 – 19**

RESPONSE: These goals protect the Willamette River and coastal resources. They do not apply to the proposed amendment.

**4. Conclusion**

As demonstrated above, the proposed amendment is consistent with applicable law and is necessary to resolve LUBA's order on remand. For these reasons, the County should adopt the proposed amendment.

**DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, where it has been demonstrated the request is necessary to resolve Land Use Board of Appeal's order on remand, the applicant's request is approved.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

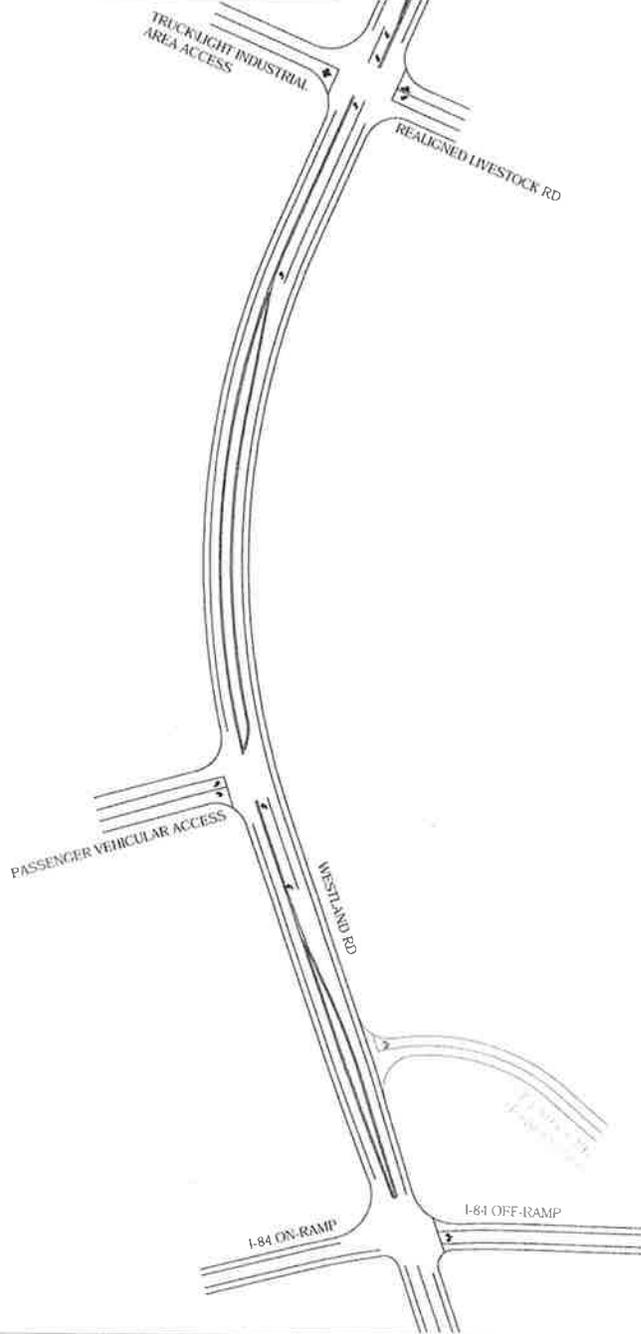
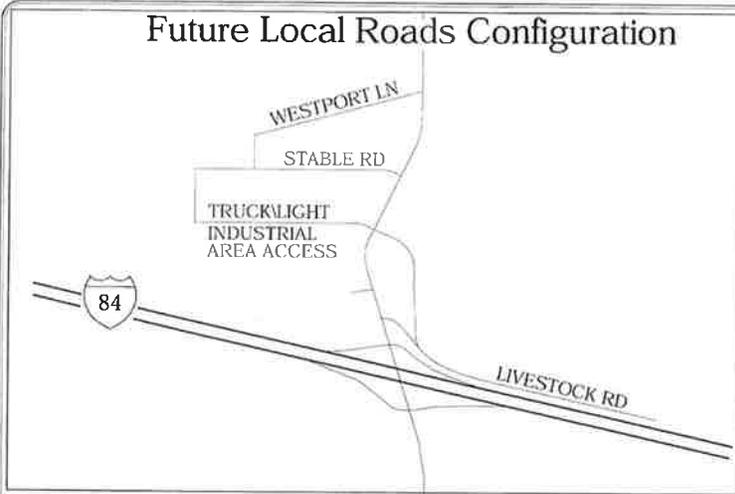
*UMATILLA COUNTY BOARD OF COMMISSIONERS*

\_\_\_\_\_  
William J. Elfering, *Commissioner*

\_\_\_\_\_  
John Shafer, *Commissioner*

\_\_\_\_\_  
George L. Murdock, *Commissioner*

# Future Local Roads Configuration



NOTE: ALL INTERSECTIONS ARE ASSUMED TO BE STOP CONTROLLED.

MODIFIED ACCESS ALTERNATIVE #2  
UMATILLA COUNTY, OREGON

FIGURE

I:\15111206 - Washland Road Transit Center\2018 Update\180822\1203\_181206.dwg



THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Amending )  
Umatilla County Transportation ) ORDINANCE NO. 2003-09  
System Plan and Comprehensive )  
Plan for Westland Road/I-84/ )  
I-82 Interchange Area )

WHEREAS pursuant to Chapter 660, Division 12, of the Oregon Administrative Rules, and specifically OAR 660-12-0045, Umatilla County, as part of its Comprehensive Plan, adopted by Ordinance No. 2003-03, a Transportation System Plan for Umatilla County; and

WHEREAS the Umatilla County Transportation System Plan ("TSP") is to guide the management of existing transportation facilities and the design and the implementation of future facilities for the next 20 years; and

WHEREAS Umatilla County identified the area of Westland Road/I-84/I-82 for further study and transportation planning;

WHEREAS Umatilla County received a Transportation and Growth Management (TGM) Grant to complete a transportation plan study and proposal for the Westland Road/I-84/I-82 interchange area; and

WHEREAS input from the property owners in the study area, local stakeholders, members of the Planning Commission and Board of Commissioners, was requested and received, in a study and plan for the area; and

WHEREAS the study resulted in a proposed amendment to the TSP to include the Westland Road/I-84/I-82 Interchange Area Transportation Plan to address traffic impacts, access management issues and potential transportation infrastructure investment requirements created by existing and future land use developments within the area bordered by the Westland Road/Agnew Road intersection on the north, the Umatilla River and Cottonwood Bend Road to the east, Noble Road on the south and I-82 on the west, encompassing an area of approximately 640 acres; and

WHEREAS the Westland Road/I-84/I-82 Interchange Area Transportation Plan was presented at a workshop before the

Umatilla County Planning Commission on May 29, 2003; and public hearings before the Planning Commission were held on June 26, 2003, and August 28, 2003; and

WHEREAS the Umatilla County Planning Commission recommended to the Board of Commissioners approval of the study and amendment to the TSP and the Comprehensive Plan; and

WHEREAS on June 30, 2003, a public hearing was held by the Board of Commissioners to hear the Westland Road/I-84/I-82 Interchange Area Transportation Plan and to consider the amendment to the TSP, and the hearing was continued to September 22, 2003, December 3, 2003, and January 12, 2004; and

WHEREAS on January 12, 2004, the Board of Commissioners closed public testimony and voted to accept the Umatilla County Westland Road/I-84/I-82 Interchange Area Transportation Plan prepared by H. Lee & Associates, dated August 28, 2003, identified as Exhibit 53, with two changes; and

WHEREAS a change to the Plan to allow for an exception area to the TSP standards for the area North of the intersection was accepted by the Board of Commissioner on a 3-0 vote, to incorporate the proposed Petro/Kittleson Plan outlined in Figure 13 of Exhibit 62, with an added east entrance at the Truck/light industrial area access; and

WHEREAS a change to the Plan to allow for a hardship variance to the TSP standards for the area South of the intersection was accepted by the Board of Commissioner on a 2-1 vote, to incorporate the Kittleson proposal outlined in Figure 1C of Exhibit 59.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains as follows:

1. The Westland Road/I-84/I-82 Interchange Area Transportation Plan is accepted and adopted, and the Umatilla County Transportation System Plan and the Umatilla County Comprehensive Plan are amended to include the Interchange Area Transportation Plan. A copy of the Interchange Area Transportation Plan is attached to this ordinance and incorporated by this reference.

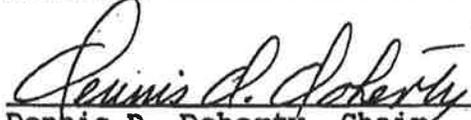
2. At such time as a development agreement is executed with the property owner, outlining improvements and responsibilities (including realigned Livestock Road), the Umatilla County

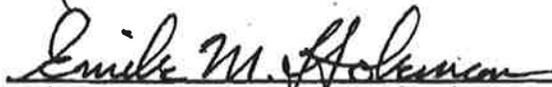
Transportation System Plan and the Umatilla County Comprehensive Plan will be amended to provide an exception to the Westland Area Plan north of I-84 to allow for local access improvements outlined in Figure 13 of Exhibit 62, with additional access on east to be granted at industrial area access.

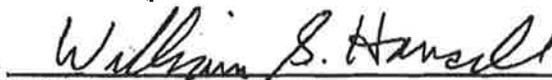
3. A hardship variance to the TSP standards for the area South of the intersection is granted, to incorporate the Kittleson proposal outlined in Figure 1C of Exhibit 59.

DATED this 12th day of January, 2004.

UMATILLA COUNTY BOARD OF COMMISSIONERS

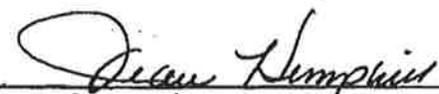
  
Dennis D. Doherty, Chair

  
Emile M. Holeman, Commissioner

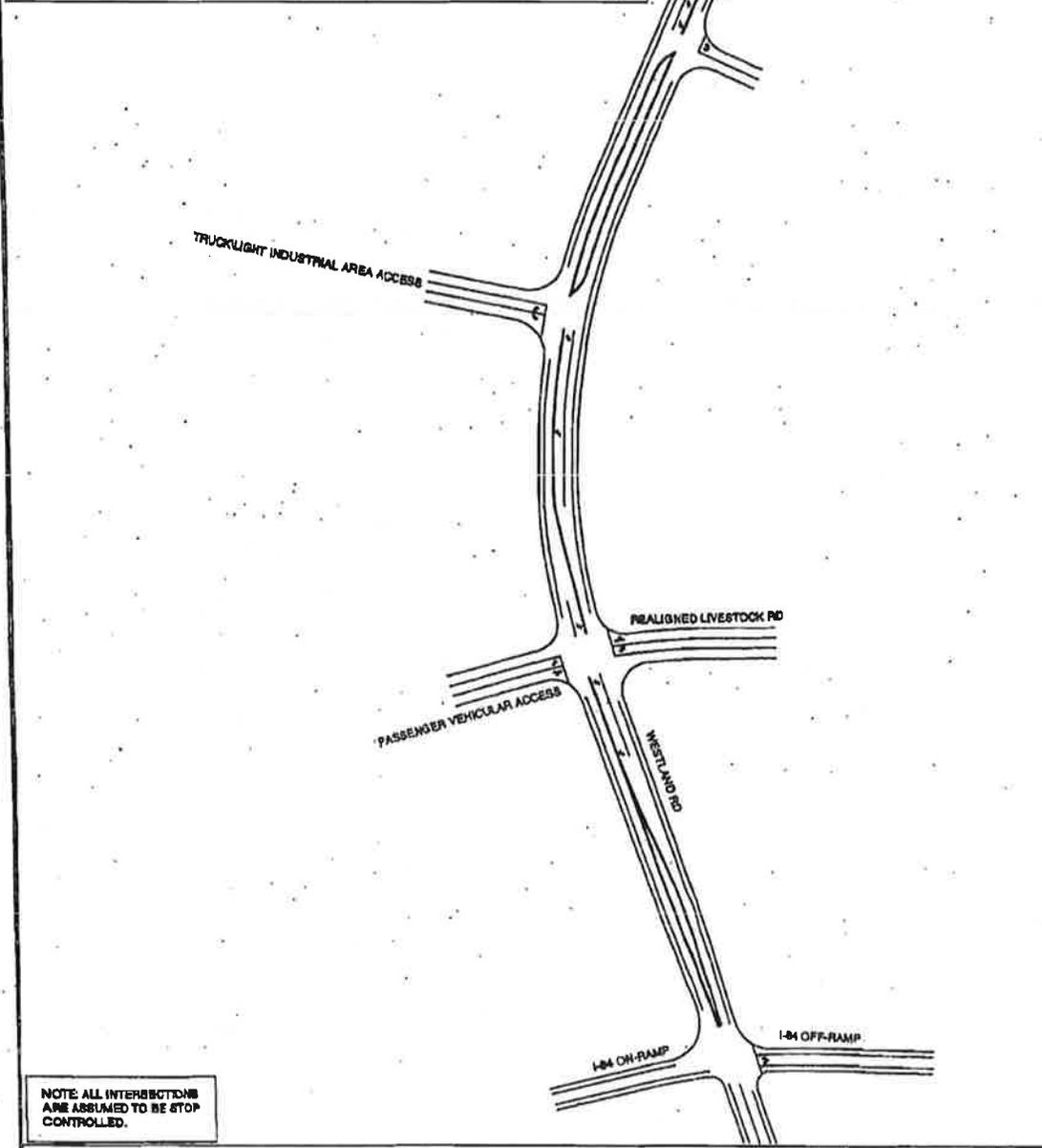
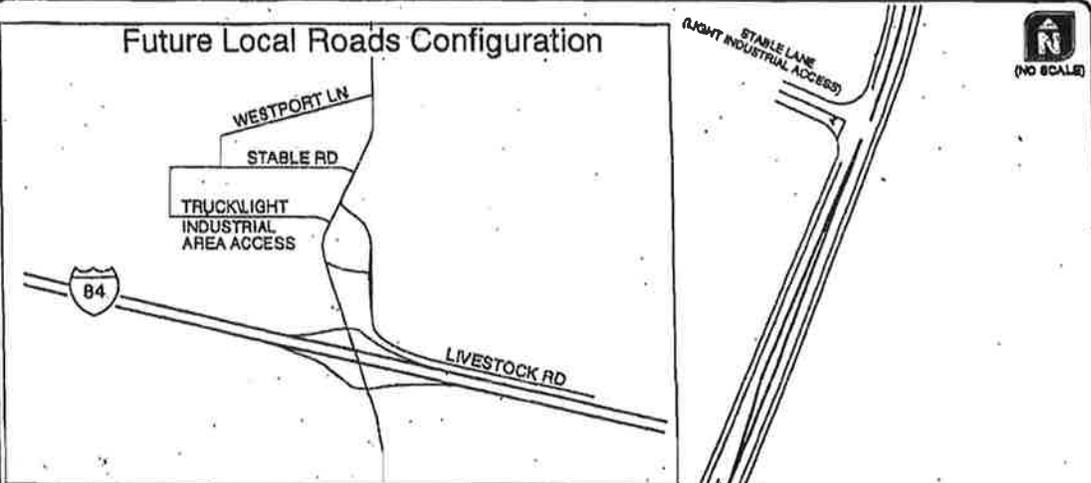
  
William S. Hansell, Commissioner



ATTEST:  
OFFICE OF COUNTY RECORDS

  
Records Officer





NOTE: ALL INTERSECTIONS ARE ASSUMED TO BE STOP CONTROLLED.

MODIFIED ACCESS ALTERNATIVE #2  
 UMATILLA COUNTY, OREGON

13

**MEMORANDUM**

Date: **October 23, 2018**

To: **Robert Waldher and Tom Fellows  
 Umatilla County, Oregon**

Cc: **Garrett H. Stephenson, Schwabe Williamson & Wyatt**

From: **Patrick Marnell, PE & Chris Brehmer, PE**

Project: **Westland Road TA Travel Center**

Subject: **Potential Livestock Road/Westland Road Intersection Relocation**

Project #: 19796



EXPIRES: 12/31/2018

This memorandum summarizes benefits associated with a potential relocation of the existing Livestock Road/Westland Road intersection to a location farther north along Westland Road. The benefits realized directly relate to improved access management as described in detail below. For reference, Exhibit 1 illustrates the existing alignment of Livestock Road and a potential realignment that would combine the Livestock Road/Westland Road intersection with an existing private access.



**Exhibit 1: Existing and Proposed Livestock Road/Westland Road Intersection Location**

**BACKGROUND INFORMATION**

Umatilla County and the Oregon Department of Transportation (ODOT) have each identified access management techniques and requirements to guide public roadway design as well as access to private properties. Generally speaking, access management can be described as a process by which jurisdictions can manage congestion, reduce crash rates, and preserve the capacity of major roadways. While there are several access management strategies, one of the simplest techniques is simply increasing the spacing between interchanges and adjacent intersections (Reference 1).

Locations where roadways cross, merge, or diverge result in one or more conflict points. Locations with higher numbers of conflict points are more complex for drivers to navigate than

locations with lower numbers of conflict point. In general, the potential for crashes increases as the number of conflict points at a given location increases.

By increasing the distance between adjacent intersections or interchanges, conflict points can be physically separated, creating a transportation system that is less complex for drivers to navigate. The separation of conflict points and reduction in complexity typically results in lower crash rates and greater efficiency for the system.

## ODOT AND COUNTY ACCESS SPACING STANDARDS

ODOT standards identify minimum spacing requirements between freeway interchange ramp terminals and adjacent intersections. Where new intersections are planned, ODOT's standard is to locate full-access intersections a minimum of 1,320 feet (1/4 mile) from adjacent ramp terminals (Oregon Administrative Rule 734-051-4020).

When modifying existing intersections that are located closer than the 1,320 feet spacing standard, ODOT's access management strategy is to *"meet the appropriate spacing standards, if possible, but at the very least to improve current conditions by moving in the direction of the access management standards"* (Action 3A.2 of the 1999 Oregon Highway Plan - Reference 2).

The *Umatilla County Transportation System Plan* (TSP - Reference 3) identifies both roadway functional classification and a corresponding access spacing standard. Table 7-2 of the TSP identifies Westland Road as a Major Collector (Livestock Road is not listed in the table). TSP Table 7-5 identifies recommended access management standards and, for major collectors, lists a ¼ mile spacing goal for public roads and 500-foot goal for private drives. TSP Table 7-6 provides minimum access spacing standards for two-lane County crossroads at interchanges that supersede the standards in TSP Table 7-5. The County standards in Table 7-5 are consistent with ODOT standards and seek a minimum ¼ mile spacing goal for public roads and no access allowed within 1,320 feet of the ramp terminals.

## POTENTIAL LIVESTOCK ROAD REALIGNMENT IMPLICATIONS

The existing Livestock Road/Westland Road intersection is located approximately 220 feet north of the Westland Road/I-84 Westbound Ramp, well short of the desired 1,320 foot County and ODOT minimum access spacing. The proposed intersection realignment to the new location shown in Exhibit 1 would situate the intersection roughly 1,500 feet north of the Westland Road/I-84 Westbound Ramp.

The proposed new location would comply with (and exceed) both Umatilla County and ODOT access spacing goals for Westland Road. From general access management experience, the relocation can be anticipated to result in lower crash rates and greater through movement efficiency along Westland Road. Key benefits of the potential relocation Livestock Road/Westland Road intersection include:

- Satisfaction of County TSP and ODOT minimum access spacing requirements;

- Greater separation of conflicts points at the I-84 interchange ramp terminal and Livestock Road/Westland Road intersection;
  - The increased separation should be especially beneficial in terms of improving interaction between westbound left-turning truck and agricultural equipment on NW Livestock Road (involving large vehicles that must accelerate from a stopped condition while beginning to climb an uphill grade) and northbound Westland Road traffic traveling from or through the I-84 Westbound Ramp.
- A reduction in the existing number of conflict points along the subject segment of Westland Road as a function of combining the Livestock Road/Westland Road intersection with an existing driveway;
- Improved Livestock Road westbound approach geometry to Westland Road (reduced horizontal approach curvature and intersection skew as well as reduced vertical grades on Westland Road that impact acceleration as compared to the current location); and
- Increased intersection sight distance facing to the left on Livestock Road approaching Westland Road (due to increased separation from the I-84 interchange and the vertical curve of the Westland Road bridge structure over I-84).

In closing, the proposed realignment of Livestock Road is anticipated to enhance safety and efficiency along Westland Road. Further, the proposed realignment is not anticipated to cause significant adverse effects on the existing or planned transportation system. Please contact us if you have questions or if you would like to discuss further.

## REFERENCES

1. *National Cooperative Highway Research Program Synthesis 332: Access Management on Crossroads in the Vicinity of Interchanges*, Transportation Research Board, 2004.
2. *1999 Oregon Highway Plan (including amendments November 1999 through May 2015)*, Oregon Department of Transportation, 2015.
3. *Umatilla County Transportation System Plan*, Umatilla County, 2002.



# **NEW HEARING**

## **UMATILLA COUNTY DEVELOPMENT CODE UPDATES**

**#T-19-079**

**PLANNING COMMISSION HEARING**

**February 28, 2019**

# Umatilla County

Department of Land Use Planning



DIRECTOR  
ROBERT  
WALDHER

## MEMO

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

CODE  
ENFORCEMENT

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

GIS AND  
MAPPING

RURAL  
ADDRESSING

LIAISON,  
NATURAL  
RESOURCES &  
ENVIRONMENT

TO: Planning Commission  
FROM: Carol Johnson, Senior Planner  
DATE: February 20, 2019  
CC: Robert Waldher, Planning Director  
Doug Olsen, County Counsel  
SUBJECT: **February 28, 2019, Planning Commission Hearing**  
Umatilla County Development Code Update  
Text Amendment, #T-19-079

.....  
Over the past two years, information was gathered as prospective amendments to the Umatilla County Development Ordinance (aka our Development Code). These amendments consist mainly of code clarifications.

The amendments are shown with proposed additions underlined and text to be removed in strikethrough. Included with the proposed changes are a short summary or reason for the proposed changes.

The proposed amendments are presented to the Planning Commission for review, discussion, and suggestions. Planning Commission's action on the proposed amendments is a recommendation to the Board of County Commissioners.

The hearing before the Board of Commissioners is scheduled for 9:00 a.m., April 3, 2019.

# Umatilla County

Department of Land Use Planning

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February 28, 2018

RE: Proposed text changes to the Umatilla County Development Code 2018/2019, #T-19-079

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NOTE: Proposed text changes are shown in a “Mark Up” format with the original text to be removed shown in strikethrough and added text provided in bold and underlined.

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<p><b><u>removed or transferred to another tract.</u></b></p>	
<p><b><u>LAWFULLY CREATED LOT OR PARCEL.</u></b> <b><u>A lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law. (ORS 92.017)</u></b></p>	<p>See ORS 92.017</p>
<p><b><u>PROPERTY LINE.</u></b> The division line between two units of land.</p>	<p>See ORS 92.010 (11)</p>
<p><b><u>PROPERTY LINE ADJUSTMENT.</u></b> (1) "Property line adjustment" means a relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel, where:     (a) An additional parcel is not created, except as allowed due to mortgage or ownership restrictions, and as addressed by the recording of a Covenant Not to Sell Separately; and     (b) The existing parcel reduced in size by the adjustment is not reduced below the minimum lot or parcel size established by the zoning district, unless the lot or parcel is already of a substandard size; and     (c) The lot is not within a platted subdivision.  (2) An adjustment of a lot or parcel line created prior to January 1, 1990 where it can be shown by a survey from a surveyor licensed in Oregon that the surveyed property lines do not correspond with physical boundary marks (such as fences) thought to be the true property lines by adjoining property owners, when these physical boundary markers have existed for at least 10 years, proof of which shall be provided by the person seeking the change of the lot.  (3) An amendment to a recorded subdivision or partition plat to correct errors or omissions of data on the plat, as provided in <u>ORS 92.170</u>.</p>	<p>See ORS 92.010 (12)</p>
<p><b><u>REPLAT.</u></b> Includes a final map of the reconfiguration of lots and easements of a recorded subdivision or partition plat and other writings containing all the descriptions, location, specifications, dedications and provisions and information concerning a recorded subdivision. <b><u>The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in a subdivision.</u></b></p>	<p>See ORS 92.010 (13)</p>
<p><b><u>SETBACK.</u></b> The open yard space on a lot <b><u>or parcel</u></b> between any building and a lot <b><u>or parcel</u></b> line or a line defining an access</p>	

easement or road right-of-way.

**SOIL CLASS & SOIL RATINGS.** Soil class, soil rating, or other soil designations used to describe farmland soils are those in the NRCS Web Soil Survey, the official source of certified soils data available online that identifies agricultural land capability classes.

**STRUCTURE.** Something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure. Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, **masts and** towers, ~~eranes~~, flagpoles, antennas, smokestacks, earth formations and **utility poles for** overhead transmission lines. Structures do not include paved areas.

**LAWFULLY ESTABLISHED UNIT OF LAND.** An area of contiguous land at least sufficient of size to meet minimum zoning requirements for use, coverage and area. A lawfully established unit of land may be means:

(1) A single lot of record **or parcel created pursuant to ORS 92.010 to 92.192; or**

(2) A lot as defined in this section; or  
**Another unit of land created;**

**(A) In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations; or**

**(B) By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations.**

(3) A parcel as defined in this section.

A unit of land recorded in the County Records Office or County Assessor's Office prior to the adoption of the county zoning ordinance of 1972 on July 19, 1972.

(4) "Lawfully established unit of land" does not mean a unit of land created solely to establish a separate tax account.

Units of land that do not meet the minimum zoning requirements are considered non-conforming (see the definition for **NON-CONFORMING LOT OF RECORD**).

See OAR 660-033-0030  
(8)

See ORS 92.010 (3)

<p><b><i>YARD.</i></b> An open space on a lot <b><u>or parcel</u></b> which is unobstructed from the ground upward except as otherwise provided in this chapter. When determining setback, <b><i>YARD</i></b> does not include an access easement or a road right-of-way.</p> <p><b><u>UTILITY POLE.</u></b>  <b><u>A Utility Pole is a column or post used to support overhead power lines and other public utilities, such as electrical cables, fiber optic cables, and related equipment such as transformers and street lights. Utility poles are often referred to as transmission poles, telephone poles and power poles, depending on the application. Utility poles do not include masts and towers designed to support antennas and other telecommunications and broadcasting equipment used by cellular networks and other communication networks.</u></b></p>	
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### 3. Clarify Statutory Provision Chapter Citing Section 152.004

Suggested Change:	Reason for the Change
<p><b>§ 152.004 AMENDED, REPEALED OR MODIFIED STATUTORY PROVISIONS.</b>                      When the state legislature amends, repeals, or modifies <del>any</del> section of an Oregon Revised Statutes chapter quoted within this chapter, the section of the Oregon Revised Statutes chapter cited in this chapter shall be automatically amended, repealed or modified <del>unless the county holds a public hearing pursuant to § 152.771 of this chapter.</del></p>	<p>Adds clarification in citing statutes.</p>

### 4. Clarify Fences Section 152.015

Suggested Change:	Reason for the Change
<p><b>§ 152.015 FENCES.</b>                      Fences are allowed in any zone and do not require a zoning permit for construction unless located in a Special Flood Hazard Area.  <b><u>Fences located in a Special Flood Hazard Area require an approved Floodplain Development Permit and zoning permit.</u></b>  <del>There shall be no <u>Fences must meet</u> height limitation except at</del></p>	<p>Adds clarification that a permit is necessary for all development within a flood hazard area.</p>

<p><del>corners of street intersections and service drives where vision clearance requirements shall be met</del> <b>and zoning height limitation for structures.</b> Fences shall meet all Oregon Uniform Building Code requirements.</p>	
--	--

5. Add IAMP to Section 152.019.

Suggested Change:	Reason for the Change
<p><b>§ 152.019 TRAFFIC IMPACT STUDY.</b></p> <p>(B) <i>Applicability:</i></p> <p>(f) For development within the I-82/US 730 Interchange Area Management Plan (IAMP) Management Area, the location of the access driveway is inconsistent with the Access Management Plan in Section 7 of the IAMP: <del>;</del> <b>or</b></p> <p><b><u>(g) For development within the I-84/Barnhart Road Interchange Area Management Plan (IAMP) Management Area.</u></b></p>	<p>The Barnhart Road IAMP was left out of the list of County IAMPs under requirements for a traffic analysis.</p>

6. Modify Dimensional Standards Section 152.119

Addition:	Reason for the Addition
<p><b>§ 152.119 UNINCORPORATED COMMUNITY.</b></p> <p>(B) <i>Dimensional standards.</i> The following dimensional standards shall apply in a UC Zone: no building or structure shall be erected or enlarged to exceed <del>two stories or</del> more than 25 feet in height, except <b><u>buildings may be constructed with two stories, not including a basement.</u></b> <del>split-level buildings, which may be increased in height to 30 feet.</del></p> <p>(D) <b><u>Building and Structure setback and yards.</u></b> (1) <del>The minimum front yard shall be 45 feet from the center lines of a road right-of-way or easement;</del> <b><u>No building or accessory structure shall be located closer than 20 feet from a lot or parcel line, except on</u></b></p>	<p>Allows for two story dwellings to be constructed without the 25-ft height limitation.</p> <p>Clarifies that both buildings and structures must meet setbacks to property lines.</p>

<b><u>the street side of a corner lot or parcel the setback shall be 25 feet from the lot or parcel line;</u></b>	
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### 7. Clarify Residential Limitation Sections

Addition:	Reason for the Addition
<p><b>§ 152.133 (B), § 152.158 (B), § 152.163 (B) and 152.338 (B)</b></p> <p>The number of chickens, fowl, rabbits, or similar sized fowl <del>or fur-bearing animal</del> shall be confined on not more than 25% of the total lot area;</p>	<p>Provides consistency that fur-bearing animals are not allowed per § 152.131 (A) (1), § 152.156 (A) (1), § 152.161 (A) (1) and 152.336 (A) (1).</p>

### 8. Update Rural Residential Zoning Height Limitations

Addition:	Reason for the Addition
<p><b>§ 152.134 (C) (2), § 152.159 (C) (2), § 152.164 (C) (2) and 152.339 (C) (2)</b></p> <p>Building <b>and structure</b> height. No building or structure shall be erected or enlarged to exceed <del>two stories or</del> more than 25 feet in height, except <b><u>for utility pole structures, and dwellings that may be constructed with two stories (not including basements).</u></b> <del>split level buildings, which may be increased in height to 30 feet.</del></p> <p>Clean Version:                      Building and structure height. No building or structure shall be erected or enlarged to exceed more than 25 feet in height, except for utility pole structures, and dwellings that are constructed with two stores (not including basements).</p>	<p>Allows for two story dwellings to be constructed regardless of the 25-ft height limitation.</p>

### 9. Update Dwellings in Residential Forest Zones (MUF, FR & MR).

Addition:	Reason for the Addition
<p><b>§ 152.171, § 152.216 and § 152.231</b></p> <p>(B) <i>Uses permitted with a zoning permit . . .</i></p> <p>(2) Dwelling (<del>seasonal</del>);</p>	<p>Removes the word “seasonal”. Dwellings are allowed whether year around or seasonally.</p>

10. Update AR Overlay Zone Section 152.486

Suggested Change:	Reason for the Change
<p><b>§ 152.486 APPLICABILITY.</b></p> <p>Upon receipt of a request for an AR Overlay, the Planning Commission shall hold a public hearing <del>within 40 days</del> pursuant to § 152.771 if the AR Overlay is an appropriate overlay for the area requested.</p>	<p>The specific 40-days in which to hold a hearing is not always realistic for this type of application request.</p>

11. Clarify Replats for Subdivisions and Land Divisions Section 152.695

Suggested Change:	Reason for the Change
<p><b>UCDC Section 152.695 <del>DEFINITION;</del> REVIEW AND APPROVAL PROCEDURE.</b></p> <p>A Type III Land Division is <u>used to a replat of an existing a recorded subdivision (or “addition”), or addition plat.</u> whereby <del>the lot</del> <b>The replat may be used to achieve a reconfiguration, of an existing subdivision or addition, or used to increase or decrease the number of lots within an existing recorded subdivision or addition.</b> <del>the public roads or streets, and/or the dedicated</del> <b>A replat may be used to reconfigure or realign a recorded access easements within a plat.</b> <del>are proposed to be</del></p>	

<p>realigned. Replatting includes adjustments to the boundary lines between adjoining lots, except as provided for survey corrections under Type V Land Divisions. This subchapter is intended to implement the requirements of <u>ORS 92.180</u> through <u>92.190</u>.</p> <p><b><u>The replat of an recorded Partition Plat shall follow the applicable Type II or Type IV Land Division process.</u></b></p> <p><b><u>The county allows adjustments of property lines through a property line adjustment approval, as provided in ORS 92.190 (3) &amp; (4), and following the procedures in §§ 152.720 through 152.725.</u></b></p>	
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12. Clarify Classification of Land Division Types UCDC Section 152.643

Addition:	Reason for the Addition
<p><b>§ 152.643 CLASSIFICATION OF LANDS; LAND DIVISION TYPES.</b></p> <p>(B) Land division proposals, <b><u>within city urban growth boundaries</u></b>, <del>consisting of subdivision, major partitions and minor partitions are steps in the land development process and shall comply with requirements and procedures in <u>the</u> joint management agreements co-adopted by both the county and appropriate cities, <u>y.</u> if within an urban growth boundary, and <b><u>Land division proposals, within rural Umatilla County</u></b> shall comply with the County Comprehensive Plan and <del>other legal zoning</del> requirements <del>if proposed within rural lands</del>;</del></p> <p>(C) To allow the greatest flexibility, the county shall adopt and implement four different categories for land division proposals, those being Type I, Type II, Type III, <b><u>and</u></b> Type IV; <b><u>Land Divisions and</u></b> Type V; <b><u>Property Line Adjustments</u></b> and <del>Type VI Land Divisions</del>;</p> <p>(D) Determination of whether administrative or public hearing review should be required depends on the size, location and foreseeable impacts on the community of a given land division proposal. Type II, <del>Type III</del> and Type IV Land Division proposals <b><u>and replating of Type II and Type IV Land Divisions</u></b>, as defined in this chapter, are appropriate for administrative review and decision due to their minor impacts on nearby properties and</p>	

<p>their consistency with the objectives of facilitating development in accordance with the Statewide Planning Goals, <del>particularly No.'s 9, 10, 11, 13 and 14</del> and with the <u>County</u> Comprehensive Plan.</p>	
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### 13. Update Surveying Requirements Section 152.644

Addition:	Reason for the Addition
<p>(3) Final plats of Type III Land Divisions (<b>subdivision replats</b>). <del>A Type III Land Division does not require a survey if the original plat was unsurveyed, unless the new parcels being created through the replat process meets the provisions of (2), (4) or (5) of this section.</del></p> <p>(B) <del>While</del> <b>Preliminary surveys and legal descriptions</b> <del>are not</del> <b>may be</b> required to be submitted for tentative plan approval, <del>valid legal descriptions are required</del> as part of an initial land division application.</p>	

### 14. Update Delegation of Authority for Land Divisions Section 152.645

Addition:	Reason for the Addition
<p>(A) The Planning Commission shall have the authority to approve, deny or modify tentative plans and final plats for Type I <b>subdivisions</b> and Type III <b>subdivision replats</b>. <del>Land Divisions.</del></p> <p>(B) The Planning Director or designee shall have the authority to approve, deny or modify tentative plans and final plats of Type II and/or Type IV Land Divisions, <b>partition replats</b> and maps of Type V Land Divisions (<b>property line adjustments</b>).</p> <p>(C) The Planning Director or designee shall have the authority to determine into which <b>land division</b> <del>classifications of a land division that a land division proposals falls under</del> <b>shall follow</b>. Doubt as to the classification of a land division proposal shall be resolved in favor of a Type I classification. Disagreement on a classification determination of a land decision proposal can only be appealed to the Planning Commission. The Planning Commission shall make a final determination as to a disputed classification.</p>	

## 15. Update Designated Land Division Types UCDC 152.646

Addition:	Reason for the Addition
<p><b>§ 152.646 PROPOSALS DESIGNATED TO LAND DIVISION TYPES.</b></p> <p><i>(A) Type I Land Division.</i></p> <p>(1) The following proposals are designated Type I Land Divisions:</p> <p>(a) Subdivisions, <b><u>as defined in § 152.003;</u></b></p> <p>(b) <del>Any other</del> <b><u>Other land division proposals which, as determined by the Planning Director, will to have a substantial impact on the use or development of nearby property, and land division proposals such that the Planning Commission determination at a public hearing is to follow the Type I Land Division requirements,</u></b> considering:</p> <p><i>(B) Type II Land Division.</i></p> <p>(1) The following proposals are designated Type II Land Divisions:</p> <p>(a) Major partitions, except in the EFU or GF Zones.</p> <p>(b) Minor partitions, except in the EFU or GF Zones.</p> <p>(c) Replats of partitions, <b><u>where the original partition was a recorded partition plat, except in the EFU or GF Zones.</u></b> applied for since January 1, 1990.</p> <p><i>(D) Type IV Land Division.</i></p> <p>(1) The following proposals are designated Type IV Land Divisions:</p> <p>(a) Partitions of land in an EFU Exclusive Farm Use Zone.</p> <p>(b) Partitions of land in a GF Grazing Farm Zone</p> <p><b><u>(c) Replats of partitions in an EFU or GF Zone.</u></b></p>	

<p>(E) <i>Type V Land Division – <u>property line adjustment.</u></i></p> <p>(1) The following proposals are designated Type V Land Divisions: <del>property line adjustments, including replats of partitions applied for prior to January 1, 1990; survey corrections; and corrections to recorded plats, per ORS 92.170.</del></p> <p>(2) Review and approval procedures for Type V Land Divisions are set forth in §§ 152.720 through 152.725 of this chapter.</p> <p><del>(F) <i>Type VI Land Division.</i></del></p> <p><del>(1) The following proposals are designated Type VI Land Divisions: the separation of one or more individual lots along platted lot lines, within a platted subdivision, from a block of contiguous lots under the same ownership, either to exist as a separate tract of land or to be combined into adjoining tracts of land.</del></p> <p><del>(2) Review and approval procedures for Type VI Land Divisions are set forth in §§ 152.735 through 152.739 of this chapter.</del></p>	
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## 16. Update Property Line Adjustment Procedure Section 152.724

Change:	Reason for the Change
<p><b>§ 152.724 PROCEDURE UPON APPROVAL.</b>  <b>[Type V, Property Line Adjustment]</b></p> <p>(B) Once a property line adjustment has been approved by the Planning Department staff, the applicant has two years within which to exercise the approval by <del>either:</del><del>(1) R</del><del>ecording a deed or deeds in the county deed records, if transfer of title is required in order to accomplish the property line adjustment; or</del> <u>(1) Recording a deed or deeds in the county deed records, if transfer of title is required in order to accomplish the property line adjustment; or</u></p> <p><del>(2) If the property line adjustment is between parcels owned by the same person or persons, insure that the taxes are paid on all affected properties and that the Assessor’s Office has changed the tax maps to reflect the approval.</del></p> <p>(C) The applicant must provide notice to the Planning Department <del>of the actions</del> <u>as</u> required in division (B) of this section. Failure to</p>	<p>Clarify wording to reflect procedure for final approval of Type V, Property Line Adjustment.</p>

<p>exercise approval of the property line adjustment <del>and provide the Planning Department notice within one</del> <b>two</b> years from the date of approval shall cause the <b>Planning</b> approval to become null and void.</p> <p><del>(D) The Planning Department will provide notice to the Assessor's Office of each property line adjustment approval, and the Assessor's Office will so alter their maps, provided that the taxes are currently paid. The complete application will serve as adequate consent on the part of the property owner(s) to empower the Assessor's Office to make the requested, approved adjustment to the tax lot boundaries. However, it is the applicant's responsibility to contact the Assessor's Office, and comply with their requirements in order for the property line adjustment approval to be exercised within one year.</del></p>	
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### 17. Update Temporary Hardship Dwelling Section 152.576

Addition:	Reason for the Addition
<p><b>§ 152.576 SPECIAL EXCEPTIONS FOR TEMPORARY MOBILE <u>HARDSHIP HOME DWELLING</u> PLACEMENT.</b></p> <p><del>(A) Purpose. The purpose of this section is to</del> <b>the establishment</b> special exceptions for <b>of a</b> temporary mobile home <b>hardship dwelling</b> placement. <del>(Temporary mobile home <b>hardship dwellings</b>, placement as provided in this section, includes <b>manufactured dwellings and the</b> placement of a temporary Park Model Home. The Park Model Home <b>used as a temporary hardship dwelling</b> must have been manufactured within ten years of the approval of the temporary hardship home <b>dwelling</b>.)</del> <b>These exceptions are intended to provide a means for modifying mobile home placement requirements in cases where a strict adherence to them might cause unusual or undue hardship to a citizen and contravene the goals of the Comprehensive Plan for the county.</b></p> <p><b>UNDUE HARDSHIP</b> shall refer to unique and temporary conditions that exist which justify the need for temporary housing on a given lot or parcel such as a dwelling for aged or disabled family members or similar dwelling needs of a temporary nature that relate to the use of the principal use on the property in question. Nothing in this section shall be construed to require the granting of such special exception.</p>	

(B) *Circumstances for granting a temporary hardship dwelling exception.* A mobile home **manufactured dwelling or park model home** may be temporarily located on a building-site **property** where ~~there exists a personal~~ **the resident of the property, or the resident's family member, has a medical need, is disabled, or the hardship is for the care of an aged family member.** The temporary hardship dwelling is not necessarily **for the purpose of a** financial; hardship on the part of **suffered by the the resident or the resident's family member.** applicant, whereby it is necessary to have someone living on the same premises as the applicant's dwelling or mobile home.

(C) *Conditions.* The following conditions shall be applied in evaluating an application for special exception for temporary mobile home **hardship dwelling** placement:

(1) The temporary mobile **manufactured dwelling or park model** home shall be connected to the same subsurface sewage disposal system used by the existing dwelling. If the temporary hardship home **dwelling** will use a public sanitary sewer system, such condition will not be required;

(2) Approval shall be for a period of two years, which may be renewed; additional doctor's certification may be required to confirm the continued existence of a medical hardship. The mobile **manufactured dwelling or park model** home shall be removed **within** 90 days after the original need has ceased;

(3) The Planning Director or designated authority may require doctor's certification for applications based upon family member dependency due to medical reasons;

(4) The location of a temporary mobile **hardship manufactured dwelling or park model** home on a parcel of land shall not be considered a separate dwelling site and the lot area, frontage and access requirements of the applicable zoning district shall not apply;

(5) In granting a special exception for a temporary mobile **hardship manufactured dwelling or park model** home placement, the Planning Director or designated authority may impose additional reasonable conditions to meet the purposes of this section and the goals and policies of the Comprehensive Plan. Guarantees and evidence of compliance with conditions may be required.

### 18. Update Churches Conditional Use Section 152.617 (K)

Addition:	Reason for the Addition
<p><del>(5) Expansion of existing church facilities is allowable up to a cumulative 50% increase based on the habitable floor area existing on March 6, 1990.</del></p>	<p>Removes size restriction.</p>

### 19. Renumber Road Standards Section 152.648

Addition:	Reason for the Addition
<p>(D) Rural Road standards</p> <ul style="list-style-type: none"> <li><del>(6)</del> <b>(7)</b> <i>Access Connection and Driveway Design</i></li> <li><del>(7)</del> <b>(8)</b> <i>Requirements for Phased Development Plans</i></li> <li><del>(8)</del> <b>(9)</b> <i>Nonconforming Access Features</i></li> <li><del>(9)</del> <b>(10)</b> <i>Reverse Frontage</i></li> <li><del>(10)</del> <b>(11)</b> <i>Flag Lot Standards</i></li> <li><del>(11)</del> <b>(12)</b> <i>Lot Width-to-Depth Ratios</i></li> <li><del>(12)</del> <b>(13)</b> <i>Cul-de-Sacs and Accessways</i></li> <li><del>(13)</del> <b>(14)</b> <i>Shared Access</i></li> <li><del>(14)</del> <b>(15)</b> <i>Connectivity</i></li> <li><del>(15)</del> <b>(16)</b> <i>Subdivisions</i></li> <li><del>(16)</del> <b>(17)</b> <i>Pedestrian Access and Circulation</i></li> <li><del>(17)</del> <b>(18)</b> <i>Commercial Development Standards</i></li> </ul> <p>(E) <i>Bikeways</i></p> <p><b>Bikeways</b> shall be required along urban arterials and collector roads with ADTs greater than 3,000.</p>	<p>Organize number sequence.</p>

### 20. Remove Duplicate Variance Section 152.651

Addition:	Reason for the Addition
<p><b><u>§ 152.651 VARIANCES. [Land Division Variance Section Deleted.]</u></b></p> <p><del>(A) A variance from the provisions of §§ 152.640 through 152.698 of this chapter may be authorized by the Planning Commission, as appropriate.</del></p> <p><del>(B) Such a variance may be authorized only when all of the following factors exist:</del></p> <ul style="list-style-type: none"> <li><del>(1) Special circumstances or conditions apply to the property or to the intended use that do not apply to other property in the same vicinity;</del></li> <li><del>(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the application, and extraordinary hardship would result from strict compliance with the ordinance requirements;</del></li> <li><del>(3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity.</del></li> <li><del>(4) The granting of the variance will not adversely affect implementation of the Comprehensive Plan; and</del></li> <li><del>(5) The circumstances of any hardship are not of the applicant's making.</del></li> </ul> <p><del>(C) Application for a variance shall be filed with the Planning Department on the forms provided at the time of application for a Type I or Type II or Type III Land Division. The application shall be accompanied by the required fee. Notice of the hearing on a Type I or Type II or Type III Land Division shall include notice of the proposed variance and follow procedures in § 152.771 of this chapter.</del></p> <p><del>(D) In granting a variance, the Planning Commission shall make written findings and shall specify any conditions which the Commission feels necessary. The Planning Department shall keep the findings on file as a matter of public record.</del></p>	<p>Removes duplicate Variance section from the Development Code.</p>

## 21. Clarify Type I Land Division Section UCDC 152.665

Change	Reason for the Changes
<p><b>§ 152.665 REVIEW AND APPROVAL PROCEDURE.</b></p> <p>(D) <del>Upon receipt of a</del> <b>Once the application is determined to be</b> completed application, the Planning Director shall schedule, <del>not later than 45 days from receipt of the completed application,</del> a public hearing before the Planning Commission. When the application is within an Interchange Management Area Plan (IAMP) Management Area or within a ¼ mile of any ODOT facility, the Planning Director shall provide written notification to ODOT <del>when the application is deemed complete;</del></p>	<p>Clarifies language for Type I Land Division review.</p>

## 22. Clarify Type I Land Division - Contents of Tentative Plan UCDC Section 152.666

Change	Reason for the Changes
<p><b>§ 152.666</b></p> <p>(B)</p> <p>(1) (e) Proof of record ownership of the tract, <b>(e.g., copy of the deed)</b> and if a representative is acting in behalf of the owner, written authorization from the owner that the representative is acting in his behalf;</p> <p>(5)</p> <p>(m) <del>Any other</del> <b>reasonable</b> materials <del>that</del> the Planning Director <del>deems necessary</del> <b>requests</b> to assist in <del>the</del> review and assessment of the proposed tentative plan by the Planning Commission.</p> <p>(6)</p> <p>(a) Complies with applicable elements of the Comprehensive Plan, including, <del>but not limited to,</del> policies listed in the public facilities and services, and the transportation elements of the Comprehensive Plan.</p>	<p>Clarifies language for Type I Land Division Tentative Plan.</p>

<p><del>(b)</del> Complies with the Statewide Planning Goals adopted by the Land Conservation and Development Commission, until the Comprehensive Plan is acknowledged.</p> <p><del>(c)</del> <b>(b)</b> Complies with <b>applicable</b> provisions of § 152.019, Traffic Impact Analysis, as applicable.</p> <p><del>(d)</del> <b>(c)</b> Complies with applicable provisions listed in the zoning regulations of this chapter;</p> <p><del>(e)</del> <b>(d)</b> Complies with applicable provisions, including the intent and purpose of the Type I regulations listed in this chapter;</p> <p><del>(f)</del> <b>(e)</b> The tentative plan conforms and fits into the existing development scheme in the area, including the logical extension of existing streets and public facility through the tentative plan;</p> <p><del>(g)</del> <b>(f)</b> Complies with other specific requirements listed in § 152.667 for approval of certain types of subdivisions.</p>	
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23. Clarify Type I Land Division UCDC Section 152.667 . . . Approval of Subdivisions . . .

Change	Reason for the Changes
<p><b>§ 152. 667</b></p> <p>(A)(5)</p> <p>(b) Radius of curvature on centerlines of all dedicated roads shall be a minimum of 100 feet. <del>Variancees</del> <b>Reduction</b> down to 80 foot minimum radii can be made for severe topography;</p> <p>(c) Grade of all dedicated roads shall be a maximum of 12%. All roads having centerline curves greater than 45° arc shall have a maximum of 6% grade along such curves. On straight line portions, <del>variancees</del> <b>reduction</b> to 20% grade shall be allowed for a maximum of 200 feet in horizontal distance;</p>	<p>Clarifies language for Type I Land Division approvals.</p>

<p>(d) Maximum length of cul-de-sac roads shall be 600 feet as measured on the centerline, and shall be terminated by a turn-around right-of-way not less than <del>90</del> <b>100</b> feet in diameter;</p> <p>(C)                  (1) If individual disposal systems are proposed, each lot shall be required to have a favorable site <b>evaluation (suitability)</b> report prior to final plat approval;</p> <p>(D)                  (2) A treated fire fuel break of <del>25</del> <b>30</b> feet wide shall be maintained around the entire perimeter of the subdivision if located in a forested area. The fuel break shall be maintained by the subdivider or a homeowners association. All dead and downed materials shall be removed. The remaining vegetation shall be thinned so that fire cannot spread from tree to tree or bush to bush. A wider fuel break may be required for areas of steeper slope. Fire fuel breaks shall be on level or near flat areas whenever possible.</p> <p>(F) A forest management plan shall be required; if the Planning Commission <del>can find</del> that the undeveloped portions of the property should be managed for timber production as a condition of approving the subdivision, <del>or</del> <b>or</b> <del>the subdivider may also desire</del> to manage part of the land for timber production. In either case:</p> <p>(I)                  (3) If natural buffering cannot be provided, then landscaping shall be required, and a landscaping plan shall be <b>included for review and approval by</b> submitted to the Planning <del>Director</del> <b>Commission</b> prior to final plat signing for his approval;</p> <p>(K) The applicant shall submit a grading plan detailing proposed excavation, earth-moving procedures, and other changes to the <b>natural</b> landscape;</p> <p>(L) The applicant must provide a plan for disposal of solid waste generated by the subdivision.</p>	
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24. Clarify Type I Land Division Public Hearing Section UCDC 152.668

Addition:	Reason for the Addition
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<p><b>§ 152.668</b></p> <p>(D) Approval or <del>disapproval</del> <b>denial</b> of the tentative plan by the Planning Commission shall be final unless the decision is appealed;</p> <p>(E) Approval of the tentative plan shall not constitute final acceptance of the plat of the proposed subdivision for recording; however, approval of such tentative plan shall be binding upon the county for purposes of the preparation of the <b>final</b> plat and the county may require only such changes in the plat as are necessary for compliance with the terms of its approval of the tentative plan for the proposed subdivision and the terms of this chapter.</p>	<p>Clarify language for Type I Land Division action.</p>
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25. Update Type I Land Division Final Plat Section 152.669

Addition:	Reason for the Addition
<p>(A)(2) The final subdivision or cluster development plat shall be drawn on 18" x 24" mylar sheet (four mils thick, matte on both sides, using archival quality black ink or silver halide permanent photocopy, leaving a three inch binding edge); shall conform with the surveying standards of ORS 92.050; shall be drawn in the manner provided by ORS 92.080; and shall include one exact reproducible copy made with archival quality black ink or silver halide permanent photocopy and the certifications required by ORS 92.120(3). A plat in digital data format may be submitted in addition to the Mylar and <del>two</del> <b>one</b> <del>copies</del> required by this subsection.</p> <p>(D) <i>Technical review and standards for approval of final plat.</i></p> <p>(4) Following review and approval of a subdivision or cluster development plat, the applicant or subdivider shall:</p> <p>(g) <del>Submit a paper copy of the recorded plat to the Oregon Department of Water Resources in Salem.</del></p>	<p>Clarifies number of plat copies for submittal for Type I Land Division Plat.</p>

## 26. Update Type II Land Division Standards Section 152.684

Change	Reason for the Changes
<p>(F) <del>Dedicated road or public r</del><b>Recorded easements <u>required as access to each parcel</u></b> shall be provided to each parcel and conform to right-of-way <b><u>width</u></b> and <b><u>road</u></b> improvement standards as follows:</p> <p>(1) If <del>a</del><b>A</b> recorded easement for <b><u>providing</u></b> access purposes in a Type II Land Division will serve <b><u>to</u></b> three or fewer parcels, and <b><u>where the access easement</u></b> will not likely <b><u>potentially</u></b> serve other parcels or lots due to existing conditions, such as topography, <del>or the size or shape of land,</del> or the parcels are not buildable, the easement or right-of-way is <b><u>shall be</u></b> required to be improved to meet the Option 1 or “P-1” County Road Standard as provided in § 152.648 (D). The <b><u>access</u></b> easement or right-of-way <b><u>width</u></b> shall be a minimum of 30 <del>feet</del> <b><u>-feet</u></b> wide and improved with a <b><u>road</u></b> surface <del>width of</del> at least 16-feet <b><u>wide, constructed with 4 inches of nominal compacted gravel thickness and with gravel size and grading conforming to ODOT specifications.</u></b></p> <p>Clean Version:  A recorded easement providing access to three or fewer parcels, and where the access easement will not potentially serve other parcels or lots due to existing conditions such as topography, the easement shall be required to meet the Option 1 or “P-1” County Road Standard as provided in § 152.648 (D). The access easement or right-of-way width shall be a minimum of 30-feet wide and improved with a road surface at least 16-feet wide, constructed with 4 inches of nominal compacted gravel thickness and with gravel size and grading conforming to ODOT specifications.</p> <p>(2) <del>If the p</del><b>Partitions</b> is located within a rural fire district or a hospital district which <b><u>providinges</u></b> service, emergency vehicle <b><u>service to parcels where access will be provided from</u></b> considerations for recorded <b><u>access</u></b> easements which dead-end shall <del>provide</del> <b><u>have</u></b> either circle drives (<b><u>cul-de-sac</u></b>) or driveway turnarounds. The Planning Director or Public Works Director shall <del>determines</del> which type of emergency vehicle access <b><u>plan</u></b> <del>above</del> is most appropriate. Circle drives (<b><u>cul-de-sac</u></b>) and turnarounds shall be improved to the same standard as the road they serve as</p>	<p>Clarifies requirements for easement road widths and road improvements.</p>

provided in § 152.648 (D); **Circle drives (cul-de-sac) and turnarounds** shall be kept clear **of objects, fences and vehicles** and shall be of adequate circumference (**cul-de-sac are 100-feet in diameter**) to provide turn around space for emergency vehicles.

Clean Version:

Partitions located within a rural fire district or hospital district providing emergency vehicle service to parcels that are provided access from access easement which deadends shall provide either circle drives (cul-de-sac) or driveway turnarounds. The Planning Director or Public Works Director determines which type of emergency vehicle access plan is appropriate. Circle drives (cul-de-sac) and turnarounds shall be improved to the same standard as the road they serve as provided in § 152.648 (D). Circle drives (cul-de-sac) and turnarounds shall be kept clear of objects, fences and vehicles and shall be of adequate circumference (cul-de-sac are 100-feet in diameter) to provide turn around space for emergency vehicles.

(3) ~~If a public road or~~ **A recorded easement for providing access purposes in a Type II Land Division will serve to four or more parcels, and or that potentially will likely serve additional parcels or lots, or likely will be an extension of a future road as specified in a future road plan, the right-of-way or easement shall be required to be improved to meet the Option 2 or “P-2” County Road Standard as provided in § 152.648 (D). The 60-foot right-of-way or access easement or right of way width shall be a minimum of 60-feet wide and improved with a road surface width of at least 22-feet wide, constructed with 8 inches of nominal compacted gravel thickness, and with gravel size and grading conforming to ODOT specifications.** All 60-foot rights-of-way **and/or access easements are roads may be required** to be named prior to final approval of the partition plat and **if required to be named**, the road name must be included on the final partition plat map. **Named Roads must be posted with a road name signs, provided and installed by the County Public Works Department, and are to be paid for by the applicant** prior to the final partition plat approval.

Clean Version:

A recorded easement providing access to four or more parcels, or that potentially will serve additional parcels or

lots, or will be an extension of a future road as specified in a future road plan, shall be required to meet the Option 2 or "P-2" County Road Standard as provided in § 152.648 (D). The access easement or right of way width shall be a minimum of 60-feet wide and improved with a road surface of at least 22-feet wide, constructed with 8 inches of nominal compacted gravel thickness, and with gravel size and grading conforming to ODOT Specifications. All 60-foot rights-of-way and/or access easement road may be required to be named prior to final approval of the partition plat and if required to be named, the road name must be included on the final partition plat map. Named roads must be posted with a road name sign, provided and install by the County Public Works Department, and paid for by the applicant prior to the final partition plat approval.

(4) Recorded easements or dedicated public roads ~~required~~ **established** in the Type II Land Division may warrant the installation of road signs at intersections with named or numbered county roads, state highways, or with other existing easements or public roads within or abutting the partitioned land. The Public Works Director will determine if road signs are necessary at these intersections. Such signs shall be of a type approved by the Public Works Director. Easement or public road names or numbers shall be the same as existing named or numbered county or public roads if an extension of such county or public road. All other road names or numbers shall be selected by the Planning Director as provided in Umatilla County Code of Ordinance, Chapter 93. Road signs shall be installed by the County, provided the partitioner pays for the cost ~~and maintenance~~ of the sign.

(5) Existing County ~~Roads~~ **and Dedicated** Public Roads shall be improved pursuant to the requirements of this chapter. **Lands dedicated to the public, such as public roads, must be accepted by the County Board of Commissioners prior to recording the final survey plat or the instrument authorizing the approval.**

Clean Version:

Existing County Roads and Dedicated Public Roads shall be improved pursuant to the requirements of this chapter. Lands dedicated to the public, such as public roads, must be accepted by the County Board of Commissioners prior to recording the final survey plat or the instrument authorizing the approval.

**(6) Parcels created through a Type II Land Division shall obtain are required to have necessary access approvals and/or permits from either the State Highway Department onto state highways, or from the County Public Works Director Department for access onto County Roads and public roads. Access points onto County and public roads are reviewed for location, spacing standards, and design, and improvement standards of access points onto County Roads, (approved) public roads, as provided by the County Public Works Director and § 152.010 or state highways.**

Clean Version:

Parcels created through a Type II Land Division are required to have access approvals and permits from the State Highway Department onto state highways, or from the County Public Works Department for access onto County Roads and public roads. Access points onto County and public roads are reviewed for location, spacing standards, and design and improvement standards, as provided by the County Public Works Director and § 152.010.

**(G) As a condition of approval Each parcel under four acres in size, both those partitioned, or and the remaining remnant piece parcel which are zoned residential, or to be used, for residential purposes, must have a site evaluation (suitability) approval from the Umatilla County Health Department Department of Environmental Quality. A waiver to of this requirement may be granted if the applicant makes a written request to the Planning Director and the Planning Director finds:**

...

**(H) The land division plan shall provide easements along existing irrigation ditches that traverse or abut the partition property where no such easements have yet not been recorded. The purpose of the easement shall be is for perpetual maintenance of the ditch and the easement width and purpose shall be recommended by the Ditch Company, if the land division is located within an irrigation district, said easement width and purpose shall be approved recommended by the Irrigation District Board.**

**(I) The land division plan must considers energy conservation measures (e.g. road, lot and building orientation for solar and**

<p>wind usage) unless vegetation, topography, terrain, or adjacent development will not allow these energy conservation measures.</p> <p>(J) <del>All required improvements have signed agreements with the Board of Commissioners to meet the standards of this chapter or improvements specified by the Planning Commission or Public Works Director, and are recorded in the Recorder's Office at the time, and as a condition of approval for a Type II Land Division.</del>  <u>As a condition of approval, all improvement agreements required by this chapter, must be agreed to, and signed by, the property owner and the Board of County Commissioners, as appropriate. The required agreements shall be recorded in the County Records Office prior to, or at the time, the final plat survey is recorded.</u></p> <p>(K) <del>The land division plan must Adequately addresses any</del> known development limitations within the proposed Type II Land Division, <u>and provide</u> <del>outlining</del> appropriate measures to mitigate the limitation.</p> <p>(L) <u>As a condition of approval, the applicant shall work, with and Address,es</u> the comments of <u>from</u> the appropriate water agency <u>where the property</u> <del>if the proposed Type II Land Division</del> has a water right.</p>	
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27. Update Type II Land Division Final Partition Plat 152.686

Change	Reason for the Change
<p>(B)            (1) Submission</p> <p>(b) The final partition plat shall be drawn on 18" x 24" Mylar sheet (four mils thick, matte on both sides, using archival quality black ink or silver halide permanent photocopy, leaving a three inch binding edge); shall conform with the surveying standards of ORS 92.050; shall be drawn in the manner provided by ORS 92.080; and shall include one exact reproducible copy made with archival quality black ink or silver halide permanent photocopy and the certifications required by ORS 92.120(3). A plat in digital data format may be submitted in addition to the Mylar and <del>two copies</del> required by this subsection.</p> <p>(2)</p>	<p>Corrects parcel identification.</p>

(j) Parcels shall be identified ~~with capital letters~~ **numerically**, beginning with ~~the letter "A"~~ **number "1"** and continuing consecutively without omission or duplication throughout the partition. The ~~letters~~ **numbers** shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure. ~~Parcel identification letters in an addition to a partition of the same original tract shall be a continuation of the lettering in the original partition;~~

(4) *Technical review and standards for approval of final partition plat.*

~~(g) Within three business days of the signing of the plat by the Planning Director, and Planning Commission Chairperson and/or Board of Commissioners, as required, the Planning Department shall so notify the applicant by certified mail, advising the applicant that the signed, approved plat is being held for them at the Planning Department, pending their arrival at the Courthouse to record the plat and accompanying documents.~~

~~(h)~~ **(g)** Approval of a final plat by the Planning Director shall not constitute or effect an acceptance by the public of the dedication of any street, easement or public road shown on the plat; however, signing of a final plat for a "major" partition by the County Board of Commissioners does constitute acceptance of a public road or street right-of-way, but not the road improvements;

~~(i)~~ **(h)** Approval of a final plat by the Planning Director is a ministerial action, which takes effect immediately upon signing of the plat.

~~(j)~~ **(i)** Within 60 days following review and approval of a partition plat, the applicant shall:

(i) Deliver the signed, approved **Final** partition plat ~~Mylar, a paper copy thereof (for the Assessor's Office), and an silver halide, exact~~ **Mylar-reproducible** copy of the plat, signed by the surveyor preparing the plat that ~~the copy is a they are~~ **true copies** thereof, and any accompanying documents to the Records Department of the County Records Office for recording, and pay the required recording fees;

~~(iii) Notify the Planning Director in writing that the approved partition plat and accompanying documents~~

<p>have been delivered to the Records Department and County Surveyor, and submit two paper copies of the recorded plat and all accompanying documents;</p> <p>(iv) Submit a paper copy of the recorded plat to the Oregon Department of Water Resources in Salem.</p>	
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### 28. Update Type V Land Division – Property Line Adjustment Standards Section UCDC 152.722

Addition:	Reason for the Addition
<p><b>§ 152.722 STANDARDS FOR APPROVAL.</b>                      The Planning Department staff shall examine the application, <del>make sure that it is</del> <b>for completeness</b>, and <del>shall act on it within five working days, provided the request complies</del> <b>ance</b> with the following standards:</p>	<p>This time line contradicts the 20 working days allowed for completeness review.</p>

### 29. Update Type V – Property Line Adjustment Procedure upon Approval Section UCDC 152.724

Addition	Reason for the Addition
<p><b>§ 152.724</b></p> <p>(B) Once a property line adjustment has been approved by the Planning Department staff, the applicant has two years within which to exercise the approval by <del>either: (1) Recording a deed or deeds in the County deed records, if transfer of title is required in order to accomplish the property line adjustment; or (2) If the property line adjustment is between parcels owned by the same person or persons, insure that the taxes are paid on all affected properties and that the Assessor's Office has changed the tax maps to reflect the approval.</del></p> <p>(C) The applicant must provide notice to the Planning Department of <b>complete</b> the actions required in division (B) of this section. Failure to <del>exercise approval</del> <b>complete the action in division (B) of this section</b> of the property line adjustment and provide the <del>Planning Department notice</del> within <del>one</del> <b>two</b> years from the date</p>	<p>Clarifies property line adjustment procedure.</p>

<p>of <b>the property line adjustment</b> approval shall cause the approval to become null and void.</p> <p>(D) The Planning Department will provide notice to the Assessor’s Office of each property line adjustment approval, and the Assessor’s Office will <del>se</del> alter their <b>County Assessor</b> maps, provided <del>that the</del> each property’s taxes are currently paid <b>and the action in division (B) has been completed</b>. <del>The complete application will serve as adequate consent on the part of the property owner(s) to empower the Assessor’s Office to make the requested, approved adjustment to the tax lot boundaries.</del> However, it is the applicant's responsibility to contact the Assessor’s Office, and comply with their requirements in order for the property line adjustment approval to be exercised <b>shown on the Assessor’s map</b> <del>within one year</del>.</p>	
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**30. Remove Type VI Land Division UCDC Sections 152.725 – 152.739 and Replace with new - Part 7, Amending Recorded Plats and Affidavit of Corrections**

Change	Reason for the Change
<p><b>§ 152.735 CORRECTING AMENDMENTS TO PLATS.</b>                      If the request is a correcting amendment to a recorded subdivision or partition plat, the following standards and procedural requirements, as set forth in ORS 92.170, shall be applied in addition to those cited in §§ 152.721 through 152.724:</p> <p>(A) Any plat of a subdivision or partition filed and recorded under the provisions of ORS 92.018 to 92.190 and/or the provisions of this chapter may be amended by an affidavit of correction:</p> <ul style="list-style-type: none"> <li>(1) To show any courses or distances omitted from the subdivision or partition plat;</li> <li>(2) To correct an error in any courses or distances shown on the subdivision or partition plat;</li> <li>(3) To correct an error in the description of the real property shown on the subdivision or partition plat; or</li> <li>(4) To correct any other errors or omissions where the</li> </ul>	<p>This section relocated from Type V Land Division (Property Line Adjustment) Section 152.725 and renumbered to Section 152.735.</p> <p>Replaces deleted Type VI Land Division Section 152.725.</p>

error or omission is ascertainable from the data shown on the final subdivision or partition plat as recorded.

(B) Nothing in this section shall be construed to permit changes in courses or distances for the purpose of redesigning lot or parcel configurations, which are classified as “replatting” and are processed as Type II **and Type IV** Land Divisions for partitions or as Type III Land Divisions for subdivisions

(C) The affidavit of correction shall be prepared by the registered professional land surveyor who filed the plat of the subdivision or partition. In the event of the death, disability or retirement from practice of the surveyor who filed the subdivision or partition plat, the County Surveyor may prepare the affidavit of correction. The affidavit shall set forth in detail the corrections made and show the names of the present fee owners of the property materially affected by the correction. The seal and signature of the registered professional land surveyor making the correction shall be affixed to the affidavit of correction.

(D) The County Surveyor shall certify that the affidavit of correction has been examined and that the changes shown on the certificate are permitted under this section.

(E) Once the correction has been ~~approved~~ **reviewed** by the Planning Department staff ~~as a Type V Land Division~~, the surveyor who prepared the affidavit of correction shall cause the affidavit to be recorded in the Office of County Records where the subdivision or partition plat is recorded. The affidavit shall bear a signature block for the County Surveyor, and this signature of approval must be shown on the affidavit prior to recording. The Office of County Records shall return the recorded copy of the affidavit to the County Surveyor. The County Surveyor shall make any corrections pursuant to ORS 92.170.

(F) For recording the affidavit in the county deed records, County Records shall collect a fee set by the County **Board of Commissioners**. County Records shall also collect a fee set by the County ~~Commission~~ to be paid to the County Surveyor for services provided under this section.

**(G) Corrections or changes shall not be allowed on the original plat once it is recorded with the County records Office.**

### 31. Relocate Correcting Amendments to Plats, Section UCDC 152.725

Change	Reason for the Change
<del>§ 152.725 CORRECTING AMENDMENTS TO PLATS</del> [Relocate]	Removes this section and replaces deleted Section 152.725.

### 32. Corrects Public Notice Distance

Change	Reason for the Change
§ 152.770 (A) (3) Within 500 <u>750</u> feet of the property which is the subject of the notice where the subject property is within an Exclusive Farm Use, <del>or</del> Forest Zone or Mixed Farm/Forest Zone.	Corrects the Notice distance required by Oregon Administrative Rules.

# **DRAFT MINUTES**

**REQUEST FOR A PUBLIC HEARING FOR  
CONDITIONAL USE REQUEST #C-1311-18**

**ELLIS HUNTING PRESERVE,  
APPLICANT & OWNER**

**PLANNING COMMISSION HEARING**

**January 24, 2019**

**DRAFT MINUTES**  
**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, January 24, 2019, 6:30 p.m.**  
**Umatilla County Justice Center, Media Room, 4700 NW Pioneer Place, Pendleton, OR**

\*\* \*\* \*\* \*\*

**COMMISSIONERS**

**PRESENT:** Suni Danforth, Chair, Gary Rhinhart, Vice Chair, Don Wysocki, Cecil Thorne, Tami Green, Hoot Royer, Molly Tucker Hasenbank  
**ABSENT:** Tammie Williams  
**STAFF:** Bob Waldher, Planning Director, Jacob Potterf, Planner/GIS, Tierney Dutcher, 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 6:30 p.m. and read the Opening Statement.

**NEW HEARING**

**REQUEST FOR A PUBLIC HEARING FOR CONDITIONAL USE REQUEST #C-1311-18, ELLIS HUNTING PRESERVE, APPLICANT/ JUNE MILLER ET AL, OWNERS**

A “Request for a Public Hearing” was filed on November 20th, 2018 to appeal the County’s tentative approval granted to Paul L. Ellis for a Conditional Use Permit for a “Private Hunting Preserve”. The request is to integrate an additional 122 acres into an existing private hunting preserve on an adjacent tax lot. The subject property is zoned Exclusive Farm Use (EFU) and is located approximately three miles Northeast of Pilot Rock adjacent to Shaw and Rockwell Road, described as Tax Lot #3200 in Township 1N, Range 32D. Criteria for approval of Conditional Uses are found in Umatilla County Development Code (UCDC) Sections 152.060, 152.062, 152.612, 152.615, and, 152.617 (I)(O).

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex-parte contact or objections to jurisdiction. Commissioner Rhinhart stated that he knows both parties and would like to abstain from the hearing and moved to sit with the rest of the public.

**STAFF REPORT**

Jacob Potterf, Planner, stated that Conditional Use Request #C-1311-18 was submitted to the Planning office by Paul Ellis on August 27, 2018. The property owners for this application are James and Judy Miller.

Mr. Potterf stated that UCDC 152.617 (I)(O) allows for a private hunting preserve on a parcel or tract of land not meeting the definition of high value farm land. If approved, this request would result in 122 acres integrated into an adjacent hunting preserve. The newly incorporated land would fall under the

same Oregon Fish and Wildlife (ODFW) license as the existing hunting preserve operated by the Ellis' on an adjacent parcel.

Mr. Potterf stated that the application was handled administratively and Planning Staff made a tentative decision that the request met all applicable standards. On November 20, 2018, a Request for Public Hearing was submitted by a neighbor who had received the public notice. The neighbor expressed concerns about the potential for increase of noise, hours of operation, additional traffic on Shaw Road and the overall effect the activity would have on the adjacent parcels of farm land. Mr. Potterf stated that the Planning Commission is asked to refer to the UCDC, Staff Findings and other provided information to determine if the request does or does not meet the applicable standards.

Commissioner Salter asked if the intermittent noise levels will be a focus of the annual review process. Mr. Potterf stated that the annual review will be focused on the subsequent conditions of the Conditional Use Permit (CUP). The conditions in place at this time state that Umatilla County Code Enforcement will become involved if any complaints are made regarding activity outside of the designated hours of operation.

Chair Danforth asked what the ODFW hours of operation for hunting preserves are. Mr. Potterf stated that the hours vary throughout the year. Bob Waldher, Planning Director, stated that the Oregon Administrative Rules (OAR) 635-047-0005 through 635-047-0050 outline the State of Oregon's regulations for private hunting preserves. He reiterated that the hours of operation are not clearly defined. Regarding time, the only reference to regulation made in OAR 635-047-0005 (1) is that, "[t]he time and length of season allowed any given hunting preserve shall be determined on the basis of potential conflict with wild populations, provided that no open season shall be allowed between April 1 and July 31 of any year".

## TESTIMONY

**Applicant Testimony:** Paul Ellis, Applicant, 68685 Shaw Road, Pilot Rock, Oregon and Patrick Gregg, Attorney, Corey, Byler & Rew, LLP, PO Box 218, Pendleton, Oregon. Mr. Gregg represents the applicant, Paul Ellis. Mr. Ellis stated that his father is a partner in the business and was hoping to attend the hearing but had another engagement.

Mr. Gregg stated that Mr. Ellis and his father applied and obtained approval for a hunting preserve in the year 2000 for the larger portion of the property which includes approximately 800 acres. The Ellis' have been operating the facility under the name Ellis Hunting Ranch. The purpose of the hearing is to seek approval to add an additional 122 acres to the overall preserve.

Mr. Gregg pointed out that operating a hunting preserve is a heavily regulated activity. The ODFW oversees the hunting activities and the County grants land use authorization. He believes it speaks to the professionalism of the operation that in 18 years since Ellis Hunting Ranch has been in service they have never had any Code Enforcement issues with Umatilla County or ODFW.

Mr. Gregg stated that the hunting preserve operates by prospective hunters first purchasing birds which are furnished by Mr. Ellis and then planted on the property prior to the hunt. The hunting preserve season regulated by ODFW runs from August 1<sup>st</sup> – March 31<sup>st</sup>, and this timeframe is broader than the season allowed for wild hunts. Mr. Gregg stated that Mr. Ellis typically has hunters before, during and after the wild bird season in order to take advantage of the opportunities. He pointed out that, with approval from the land owner, this property is available to use for wild bird hunts 7 months out of the year. Therefore, he believes the use of the land will be no different than the way the land has been used for many decades. He added that this request is not for a new hunting preserve, it is an expansion of an existing preserve. Mr. Ellis believes that this small piece of acreage will provide additional benefit to his customers. He added that ODFW now offers a permit which authorizes trainers to release and/or kill game birds for the purpose of training hunting dogs year-round. Mr. Gregg stated there should be no additional impact on neighboring properties and the community.

Mr. Ellis stated that the wild bird population has been depleting and this way of hunting has become more popular. He stated that there are approximately 76 operating hunting preserves in the State of Oregon at this time. In addition to this location, he has a hunting preserve on Birch Creek and Stuart Creek. He feels the additional acreage will enhance the experience because it's a flatter area which caters to hunters who may have mobility issues.

Mr. Ellis stated that the closest residences to this additional acreage belong to him and his father. They put out 20-30 birds on an average day, but sometimes only 10. He believes there is a market for people who are lacking bird areas to go hunting. He plants the birds on the property at daylight and hunts typically begin at 9 a.m. The ODFW sets the hours allowed to hunt roughly between 30 minutes before sunrise and 30 minutes before sunset. Mr. Ellis stated that this activity does not involve continuous fire of weapons like a shooting range would.

Commissioner Green asked if they are limited on how many hunters are allowed per acre. Mr. Ellis stated that ODFW does not limit the amount, but his insurance limits him to no more than 9 hunters at any given time for safety reasons. Sometimes the groups are larger because not everyone in the group is hunting. Commissioner Green asked if they provide guides for the hunts. Mr. Ellis stated that they offer guided hunts but a majority of the hunts are groups going out on their own.

Commissioner Wysocki asked if they use male or female birds. Mr. Ellis stated that they can use both but he primarily uses male birds. Commissioner Wysocki asked for more information about the land. Mr. Ellis stated that some of the ground is part of the Conservation Reserve Program (CRP) and some is comprised of alfalfa bottoms with grass ditches. He explained that when planting birds for hunting it's best to have a confined area with good cover.

Mr. Gregg stated that the request for additional acreage does not include any construction of buildings, structures or pens. They are simply asking to add 122 acres of land into the existing private hunting preserve. He stated that OAR 635-047-0010 places limitations on the size of hunting preserves and

requires that they not contain more than 1,280 acres in one continuous tract. Additionally, there must be at least one-half mile distance between licensed hunting preserves.

**Opposition Testimony:** Richard Doherty, 69004 Iris Lane, Pilot Rock, Oregon. Mr. R. Doherty stated that he represents Brand X Ranch, LLC which has been a family run operation for 106 years. He provided a packet of 9 letters from surrounding property owners and residents to be added to the record of exhibits for the hearing, including; Richard and Sue Doherty (exhibit C), Dennis and Kelly Doherty (exhibit D), Brand X Ranch, LLC (exhibit E), Lisa Mendoza (exhibit F), Gordon Adams (exhibit G), Mary Green (exhibit H), Alan and Ruth Insko (exhibit I), Thomas and Christine Sutherland (exhibit J), and Mike and Barbara Morehead (exhibit K).

Mr. R. Doherty stated that the Ellis Hunting Ranch has approximately 1000 acres between 2 preserves that have already been approved and in operation. He wants to know why they need to add these 122 acres. He stated that there are many homes and families tightly packed in the area. The rock bluffs and canyons channel the noise throughout the valley and it vibrates his windows. He does not believe the Ellis' are being good neighbors because he stated that they start hunting at any hour of the day and hunt every day of the week.

Mr. R. Doherty stated that he inquired to the ODFW and learned that there is no regulation placed on the number of birds that can be released at any time for a hunt. He disagrees with the numbers represented in the staff report. He figures that if there are 5 hunters and 25 birds involved in a hunt each hunter will shoot 2-3 times at each bird. This amounts to 50-75 shots per hunt and there could be multiple groups out in a day. He stated that there are only 4 months each year in which they are legally unable to hunt.

Mr. R. Doherty stated that he does not agree with staff findings about noise on page 8. He feels the noise is not intermittent and limited. He feels that the findings demonstrate there were no studies done on the noise impact of the preserve on the neighborhood. He stated that any good business is going to try to grow to its fullest and in this case, that means more clients, traffic and noise. He acknowledges his area is very convenient for hunting because it is flat land with easy access. However, it is not convenient for the surrounding residents and he believes the letters he provided convey that same view. He expressed concern that property values will be affected because prospective home buyers will be deterred by all the shooting in the area. He believes the only people who will profit from this application being approved are the Ellis' and everyone else will lose the quiet enjoyment they once had on their property.

Commissioner Wysocki asked Mr. R. Doherty if he is a hunter. He stated that he has hunted many pheasants but he is frustrated that the number of birds on his property has declined over the years. He believes that the preserves have negatively affected the numbers of wild birds and its presence is destroying the neighborhood.

**Opposition Testimony:** Dennis Doherty, 44241 Rockwell Road, Pilot Rock, Oregon. Mr. D. Doherty stated that he and his wife, Kelly Doherty, contest the expansion of the Ellis Hunting Preserve on to the property owned by his neighbors, Jim and June Miller. Mr. D. Doherty stated that he owns a farm that borders the Miller and Ellis properties. He believes the expansion will increase the shooting noise by 1000% due to the unlimited number of hunters hunting next to his home. He stated that the Millers have never allowed hunting on their property before.

Mr. D. Doherty expressed concern about a potential increase in vehicle and foot traffic, barking dogs and overall noise but his primary concern is safety. He stated that his wife has a medical issue with one of her eyes and fears that one stray or misdirected shot could result in permanent blindness. Mr. D. Doherty stated that his neighbors will be impacted if this application is approved and asked the Planning Commissioners to put themselves in his position and to consider all the neighbors' concerns.

Mr. D. Doherty stated that he is upset that birds have been shot and left lying on the ground. He has made complaints with the ODFW office in Salem but nothing has been done. Chair Danforth stated that future formal complaints related to land use or the CUP conditions of approval should be directed to Umatilla County Code Enforcement for follow up and consideration during the annual review process. He presented a 2 page printed copy of the Ellis Hunting Ranch website under the "Bird Trophies" photo gallery link. Chair Danforth entered the document into the record as exhibit L. The document was distributed to the Planning Commissioners for review.

**Opposition Testimony:** Joe Deutz, 68815 Shaw Road, Pilot Rock, Oregon. Mr. Deutz presented 2 letters of opposition to the Planning Commissioners. The first letter (exhibit A) is from Joe and Jill Deutz and includes a partial article from the American Speech-Language-Hearing Association website titled, "Recreational Firearm Noise Exposure" by Michael Stuart, PhD, CCC-A, Professor of Audiology, Central Michigan University. The second letter (exhibit B) is from Joe Deutz. Chair Danforth added both letters to the hearing record. Mr. Deutz stated that he and his wife, Jill, have attended the hearing to oppose the CUP request for Ellis Hunting Ranch.

Mr. Deutz stated that the Findings and Conclusions provided by the Planning Department must be supported with evidence, but there is very little evidence provided. He pointed out that in the findings it is determined that, "[s]ome noise may be generated through the proposed use, however hunting will be intermittent and regulated by ODFW regulation." He asks for evidence to support that the hunting activities will be intermittent and wants more information about the regulations by ODFW that will help ensure this. According to the ODFW regulations he read, limits are placed on the season and hours allowed but no limits on the number of birds or gun shots. Therefore, there is no rule or regulation that suggests that hunting will be intermittent at this site.

Mr. Deutz stated that he believes this request to expand the hunting preserve suggests growth in the business. Growth in the business implies more hunters, more traffic and more gun fire which will ultimately lead to more conflict. Mr. Deutz referred to the partial American Speech-Language-Hearing Association website article included as part of exhibit A. The article addresses firearm noise and

indicates that almost all firearms create a noise greater than 140 decibels (dB). It goes on to say that firing guns in a place where sounds can reverberate, or bounce off walls and other structures, can make noises louder. Mr. Deutz stated that the noise is a concern for all parties in opposition of this application. He feels like there is a lack of evidence to support the statement claiming that the noise will be intermittent and limited.

Mr. Deutz stated that he is used to dust, equipment noise, seasonal hunting and the occasional trespass by neighbors cattle while living in an EFU Zone. However, he does not feel he should have to put up with the possibility of shotguns firing up to 8 months a year, 7 days a week, for 12 hours a day, across the road from his home. He did not anticipate that while living in a farm zone they would have to deal with increased traffic, litter and the crime that comes with nearby commercial activity. There are 4 rural residences within 150 yards of the proposed hunting preserve boundary. He feels the use conflicts with the neighboring pre-existing farms and residences. He believes it will force significant change and could lead to his property being considered less desirable because this activity will negatively affect families, pets and wildlife in the area.

Mr. Deutz stated that the applicant provided information stating that the CUP will not conflict with scenic values because the hunting activity will be intermittent and transitory in nature. He does not understand how information provided by the applicant is enough to decide if there truly is an impact on scenic values. He reiterated that a statement from the applicant does not qualify as evidence and there is no evidence in the findings to support this claim. Additionally, he feels that the hunting preserve falls under the definition of a 'facility' in Umatilla County and the criteria for approval of a facility is not addressed in the application.

Mr. Deutz stated that according to UCDC 152.612(C), "A conditional use permit or land use decision will not be approved unless the proposed use of the land will be in conformance with the County Comprehensive Plan". He feels this application must be denied because it fails to disclose how it would conform to the County Comprehensive Plan.

Commissioner Wysocki asked if Mr. Deutz is a hunter. Mr. Deutz stated that he no longer hunts birds but does hunt big game.

Chair Danforth asked how long he has lived in the area. Mr. Deutz stated that his family has owned the land for 30 years and built a home there 17 years ago. Chair Danforth pointed out that that he built a home there after Mr. Ellis originally received approval for the hunting preserve and asked if he has experienced any issues. Mr. Deutz stated that there have been no problems with additional traffic and the noise has been nominal.

Chair Wysocki asked what he feels would be a reasonable buffer zone for safety purposes. Mr. Deutz stated that his preference would be 300 yards.

Commissioner Royer asked if he has witnessed any hunting activity in the existing buffer zones. Mr. Deutz stated that he has not, but he is unable to see the buffer zone from his home.

**Neutral Testimony:** Gary Rhinhart, 1914 SW Sunset Drive Pendleton, Oregon. Mr. Rhinhart stated that he is neutral on this issue. He wanted to remind the Planning Commissioners that they have the authority to apply conditions to the approval of this application which may help to keep peace in the neighborhood.

**Public Agencies:** No additional comments.

**Applicant Rebuttal:** Paul Ellis, Applicant, 68685 Shaw Road, Pilot Rock, Oregon and Patrick Gregg, Attorney, Corey, Byler & Rew, LLP, 222 SE Dorion Avenue, Pendleton, Oregon.

Mr. Gregg stated that in the 18 years Ellis Hunting Ranch has been in operation there have been no complaints made to Code Enforcement. He feels like they would have heard something before today if there had been any serious concerns. He stated that this application is subject to the approval criteria which are set by Umatilla County and the State of Oregon and none of the issues raised by the opposition are related to approval criteria. He feels a speculative discussion about how approval may or may not impact property value is not an element used in analyzing this application. Similarly, he feels that whether or not ODFW effectively regulates the activities under their authority is not an issue for the Planning Commission to consider in processing this application.

Mr. Gregg stated that approval of this application would authorize a 15.3% increase in the size of the existing hunting preserve. There will be no new construction as a result of the application. They only wish to allow hunters to come on the property for hunting season and a few months before. It does not seem reasonable for the opponents to suggest this will result in a 1000% increase in the numbers of hunters and shooters at this site. He reiterated that the noise will be intermittent and limited. Mr. Gregg noted that Mr. Ellis was a certified outfitter by Oregon State, and was permitted to bring hunters onto land he has access to and charge clients to hunt. He noted that this was applicable to the incident that occurred on November 24<sup>th</sup>. They are not asking for approval for trap-shooting on this 122 acre property. They are asking it to be added into a preserve that allows certain bird hunting activities.

Mr. Gregg spoke about the buffer zone issue. The applicant doesn't feel that it will solve anything because they will be hunting in a different direction to the south. Additionally, there are already regulations in effect for hunting near roadways by ODF. He pointed out that the application has been signed by the property owner. He discussed how the application would not negatively impact farming practices in the area and that it complies with the Comprehensive Plan.

Mr. Ellis spoke about their application and that he wouldn't be doing this if he felt that it was negatively impacting the area. They shoot an average of 2,000 birds a year. He discussed their other preserve near Pilot Rock, and how they had not received any complaints in the last 18 years. Mr. Ellis said they will be operating from 9 a.m. through 3 p.m. most days. They typically do not hunt in August due to the heat, and in September they do archery hunts. He's fine with the proposed buffer

but there is no need for a buffer on the east side of the creek. He said he had no knowledge of the November 24<sup>th</sup> incident, but they have operated for 18 years without any problems. He does not consider the buffer from the road a safety factor.

Mr. Gregg talked about the annual review condition, and how this should help alleviate any concerns that neighbors should have. People can also contact the Code Enforcement office if problems should arise in the future, even though there have never been any reports made to Code Enforcement in the past several years. He also discussed the noise standards and how there is a general lack of problems being reported in the past 18 years about noise concerns. Discussion followed on where the designated parking area will be clearly marked.

Chair Danforth asked how many hunters used the facility in the last year, and Mr. Ellis said they had between 300-400 hunters for all the preserves. This information is reported to ODFW each year, along with the number of released birds. Mr. Ellis talked about the dog training they do at the property and explained how that works. Commissioner Wysocki asked about the buffer, and Mr. Ellis said he would be completely fine with a 500 foot buffer. Discussion followed on the locations of the buffer. Chair Danforth talked about Condition #6, a 50 foot buffer extending east from Shaw Road, and Mr. Ellis said he agreed to this buffer but said the 300 foot buffer was just an “entrapment” area and shouldn’t be imposed. Mr. Gregg said that Tax Lot #4900 has been operating as a preserve for 18 years with no safety issues so this shouldn’t be an issue. Chair Danforth suggested a condition for increased signage to denote areas where they cannot shoot/hunt. Commissioner Wysocki asked if they were required to carry liability insurance. Mr. Ellis said that hunters must sign a release form before hunting. Discussion followed on the process that hunters must go through to use the preserve and what measures they have for safety and fire.

Chair Danforth closed the hearing for deliberation.

### **DELIBERATION**

Commissioner Salter stated that he had concerns about the noise factor, but he did get better clarity from the applicant and now feels that it satisfies the standard. Commissioner Wysocki also expressed concerns about the noise. Commissioner Tucker-Hasenbank agreed that noise seemed to be the biggest factor for everyone concerned. She is familiar with the sound of gunshots reverberating off a canyon, and while it is annoying, does not rise to the standard of impacting quality of life. Commissioner Green said that it came down to being a good neighbor. Commissioner Royer commented that they had been in operation for many years without any documented complaints. Commissioner Tucker-Hasenbank said that this permit would only extend their usual hunting time by 3 months. Chair Danforth said that they could add a 500 foot buffer on the upper most west side, with signs posting the borders of the hunting preserve. Discussion followed on how many signs and where they should be located for the condition. It was decided to require the placement of signs every 600 feet across the buffer area.

Chair Danforth talked about the annual review condition and said that she would like to extend the annual review to 5 years. She added that the nearby property owners should be invited to a meeting yearly to discuss the permit and any problems that may arise. She used the gun club as an example for this meeting with adjacent property owners. Discussion followed on this proposed condition. Mr. Waldher suggested that the Code Enforcement Officer send copies of the annual report to adjacent land owners who received the public notice for the application for the first 5 years. Mr. Potterf asked that the designated parking areas be clearly defined on the final site map (Condition #4).

Commissioner Tucker-Hasenbank moved that the application, #C-1311-18 for the Ellis Hunting Preserve, be approved as amended with the following conditions; 500 foot buffer on the uppermost west side, clearly mark all parking areas on the site plan, place a Refuge sign every 600 feet around the buffer, and the annual review will be extended to 5 years with a summary of the annual review by the County be sent to all landowners who received the public notice of the application. Commissioner Wysocki seconded the motion. Motion passed with a vote of 6:1.

### **MINUTES**

Chair Danforth called for any corrections to the minutes from the October 25, 2018 meeting. Hearing none, she moved to approve the minutes as written and Commissioner Thorne seconded it. Motion carried by consensus.

### **ADJOURNMENT**

Chair Danforth Adjourned the meeting at 9:28 p.m.

Respectfully submitted,

Tierney Dutcher  
Administrative Assistant