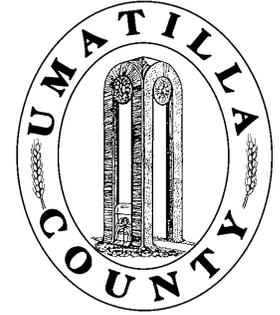


Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission Public Hearing
Thursday, November 16, 2017, 6:30 p.m.
Justice Center Media Room, Pendleton, OR

Members of Planning Commission

Suni Danforth, Chair
Gary Rhinhart, Vice-Chair
Tammie Williams
Don Wysocki
Don Marlatt
Randy Randall
Cecil Thorne
Tami Green
Clive Kaiser

Members of Planning Staff

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

1. **Call to Order**
2. **Adopt Minutes** (Thursday, October 19, 2017)
3. **New Hearing:**

COMPREHENSIVE PLAN TEXT AMENDMENT AND GOAL 3 EXCEPTION, #T-17-075, COMPREHENSIVE PLAN MAP AMENDMENT, #P-121-17 and ZONING MAP AMENDMENT, #Z-312-17, applicant/property owner, 3R Valve, LLC, Kent Madison, Member.

The applicant requests a Post-Acknowledgment Plan Amendment to rezone approximately 11 acres of Exclusive Farm Use (EFU) zoned land to a Rural Retail Service/Commercial (RRSC) Zone with a LU, Limited Use Overlay Zone. The property is identified as Tax Lot #103 on Assessors Map #4N 28 33B and is located at 29701 Stanfield Meadows Road, Hermiston, Oregon 97838. The property is south of the Umatilla River situated between State Highway 207 and Stanfield-Meadows Road, approximately one mile south of the City limits and Urban Growth Boundary of Hermiston. The applicant's request includes the following land use actions: 1) Amendment of the County Comprehensive Plan Text and approval of a Statewide Planning (Agriculture) Goal 3 Reasons Exception; 2) Amendment of the County Comprehensive Plan Map from North South Agriculture to Commercial; 3) Amendment of the County Zoning Map from EFU to RRSC Zone & LU, Limited Use Overlay Zone.

The Goal Exception must comply with the Goal 2 Exception process, Oregon Revised Statutes (ORS) 197.732 and the reasons exception criteria in Oregon Administrative Rule (OAR) 660-004-018, 660-004-0020, 660-004-0022. Also, addresses OAR 660-014-0040, Goal 14, the OAR 660-012-0060, Transportation Goal 12, County Transportation System Plan (TSP) and Umatilla County Comprehensive Plan Policies from Chapters 10-12, 14, 15, 17 and under Chapter 18 how the exception meets one of three general types of Commercial lands for the exception. And Umatilla County Development Code (UCDC) Sections 152.019, RRSC Zone Sections 152.251-152.256, Limited Use Overlay Zone Sections 152.530-152.536. The process follows the UCDC Section 152.750-152.755 for Amendments.

4. **Adjournment**

**3R VALVE, LLC COMPREHENSIVE TEXT AMENDMENT, #T-17-075
EXCEPTION TO STATEWIDE PLANNING GOAL 3
COMPREHENSIVE PLAN MAP AMENDMENT, #P-121-17
ZONING MAP AMENDMENT, #Z-312-17
ASSESSOR'S MAP #4N 28 33B, TAX LOT #103
NOVEMBER 16, 2017, PLANNING COMMISSION HEARING
PACKET CONTENT LIST**

1. Staff Memo, pages 1 & 2
2. Vicinity Map & Goggle Map, pages 3 & 4
3. Staff Report & Draft Findings, pages 5 - 59
4. Comments by Jon Jinings, Community Services Specialist, pages 60 & 61
Department of Land Conservation & Development (DLCD)
5. Property Water Right Transfer, pages 62 - 66
6. Applicant's Exhibit D, Conceptual Site Plan, Page 67
7. Applicant's Exhibit E, Traffic Impact Analysis, pages 68 - 98
Including Applicant's Exhibit F, Deed to ODOT/Access Reservation
8. Applicant's Exhibit, Potential Water & Wastewater page 99
(Related to the Applicant's RV Park request)
9. Applicant's Exhibit K, County Road Access Approach Permit, pages 100 & 101
10. Applicant's Exhibit N, County Comprehensive Plan Map, page 102

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT
WALDHER

November 9, 2017

LAND USE
PLANNING,
ZONING AND
PERMITTING

MEMO

CODE
ENFORCEMENT

To: Umatilla County Planning Commissioners

SOLID WASTE
COMMITTEE

From: Carol Johnson, Senior Planner *CJ*

SMOKE
MANAGEMENT

Re: November 16, 2017, Planning Commission Hearing
3R Valve, LLC, Kent Madison, Member, Applicant
Michael Schultz, Lolly Anderson, Representatives
Comprehensive Plan Text Amendment, #T-17-075,
Comprehensive Plan Map Amendment, #P-121-17,
Zoning Map Amendment, #Z-312-17
Tax Lot #103, Map #4N 28 33B

GIS AND
MAPPING

RURAL
ADDRESSING

cc: Doug Olsen, County Counsel
Robert Waldher, Planning Director

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

The 3R Valve, LLC application is a request for three land use actions: Reasons exception to Statewide Planning Goal 3 (Agricultural Lands), Comprehensive Plan designation change from Agriculture to Commercial, and a Zone change from Exclusive Farm Use (EFU) to Rural Retail Service/Commercial (RRSC).

Statewide Planning Goal 2 provides for three types of exceptions; 1) developed or built, 2) committed, and 3) reasons or need. Often exceptions are identified as “developed and committed” though both have different criteria. Of the three exceptions, “physically developed,” “irrevocably committed” and “reasons” *the reasons exception is the most limiting and is believed to be the most difficult of the three exceptions.* The uses allowed are only those uses that sufficient reasons support and justify. The 3R Value LLC-Madison application provides information in support of a “reasons” exception for approval of a Comprehensive Plan Amendment to re-designate lands from North/South Agriculture to Commercial through a “reasons exception” to the statewide planning Agricultural Goal 3. Goal 3 preserves and maintains agricultural land for farm use.

The 3R Valve LLC property is generally located south of the Umatilla River between the Butter Creek Highway and Stanfield-Meadows Road, approximately one mile south of the City limits of Hermiston. Situs address: 29701 Stanfield Meadows Road, Hermiston, Oregon 97838.

1

The record before the Planning Commissioners includes the following materials: Staff Memo, Draft Findings, Maps, and Exhibits. The applicant has the burden of proof. This includes the burden of satisfying applicable criteria and assuring the record demonstrates this. The criteria are drawn from various sources and are binding on the County (e.g., state statutes and rules, state planning goals, county comprehensive plan and local ordinances). As is the case in each of our Land Use Hearings, the Planning Commission either makes an appealable decision, or as in the case for the 3RValve LLC application, makes a recommendation to the Board of Commissioners based on the record.

As commissioners, you rely heavily on staff and other agencies to inform you of the applicable criteria. Then it is up to you to determine whether the criteria have been satisfied in the context of a given application and record. All of which some reasonable people may disagree. If a challenge comes, in the form of an appeal, it is the applicant, not the county, who must defend the appeal. Again, the applicant has the burden of proof, and is responsible for making the record and defending satisfaction of the criteria.

Agricultural Lands Goal 3 is to preserve and maintain agricultural lands for farm use consistent with existing and future needs ... and consistent with the state's agricultural land use policy as expressed in statute. "Farm use" as defined in statute, varies broadly, and is not limited just to growing crops. The record seems to be premised on the ideas if the property is not good crop-growing land then there's no agricultural or farm use. Goal 3 agricultural lands and farm use definitions are much broader and include open space explicitly and lands necessary to permit farm practices on adjacent and nearby lands.

Land use, however, includes an exceptions process. It is complex and the burden of proof is high; and there is a general sense that caution must be exercised. Otherwise, exceptions would become the rule.

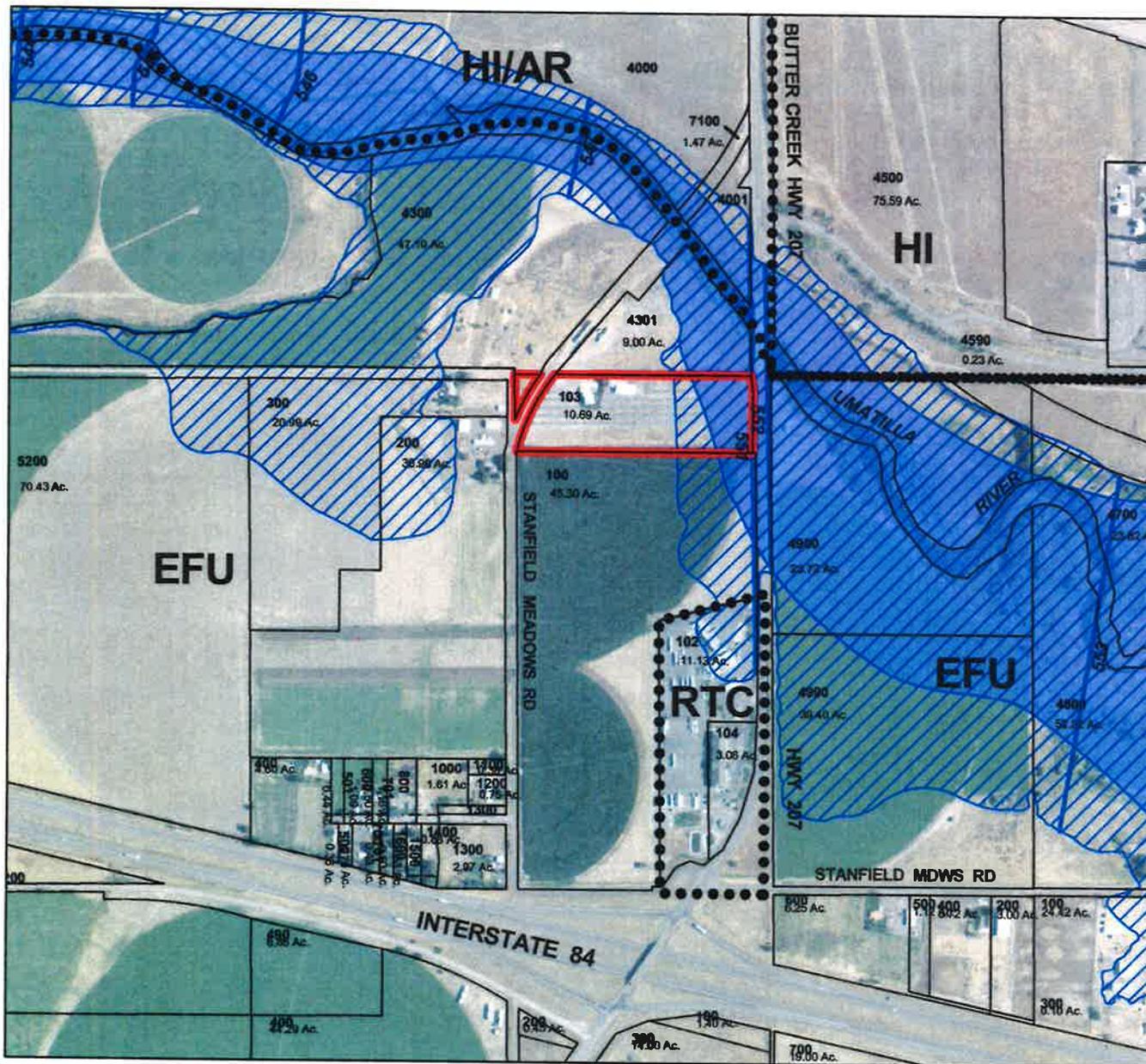
The applicant's argument for a Goal 3 exception - it's not high quality farmland, the proposed uses are needed by the County, good highway transportation routes and the property location, make the property ideal for the Applicant's uses. Yet EFU lands that adjoin the applicant's property do not appear to be fully considered.

You must be persuaded that there is merit to the idea that farm ground that is less than optimal for crop-growing purposes is a prime candidate or even a candidate at all for conversion to a different nonresource zoning.

Again, exceptions are not readily available vehicles for those who purchase agricultural land, desire to develop the land with nonresource uses, and therefore, applying to remove Goal 3 protections is not a strong justification for a Goal 3 exception.

The application is important to the applicant/property owner and they have invested time and resources in preparing their request and deserve explanation, especially if the Planning Commission's recommendation to the Board of Commissioners is against their application. Likewise if the Commissioners recommend approval to the Board of Commissioners, additional findings based on facts in the record need to be formulated along with conditions to reduce impacts and assure compatibility with adjacent uses.

Staff has provided findings and conclusions that you may believe support, or do not support, the criteria. The conclusions made by the Planning Commission and recommendation to the Board of Commissioners, must be based on substantial, factual, evidence in the record, not feelings, or conclusory and general statements.



PROPERTY OWNERS WITHIN 750' NOTICE AREA FROM SUBJECT PARCEL

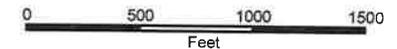
MAP & TAX LOT OWNER

- 4N2833B000100 PRINCE CO
- 4N2833B000102 PLISKA INVESTMENTS LLC
- 4N2833B000103 3R VALVE, LLC**
- 4N2833B000200 MUELLER FRANK N
- 4N2833B000300 VILLALOBOS RHONDA R & BENJAMIN
- 4N28C00004000 UNION PACIFIC RR CO
- 4N28C00004001 STATE OF OREGON
- 4N28C00004300 MUELLER FRANK
- 4N28C00004301 MUELLER FRANK
- 4N28C00004500 J R SIMPLOT COMPANY
- 4N28C00004900 MUELLER FRANK



Proposed to be rezoned RRSC / LU Rural Retail Service Commercial with a Limited Use overlay zone

2016 AERIAL PHOTO



DATE: 10/17/17

TEXT AMENDMENT #T-17-075, PLAN AMENDMENT #P-121-17,
 ZONE MAP AMENDMENT #Z-312-17
 3R VALVE LLC, KENT MADISON, APPLICANT/OWNER
 MAP 4N2833B, TAX LOT 103

- SUBJECT PARCEL
- FLOODWAY
- BASE FLOOD ELEVATION LINE
- PARCEL BOUNDARIES
- 1% CHANCE ANNUAL FLOOD ZONE AE



MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by J. Alford, Umatilla County Planning Department, y:\workspace\planning\vicinity maps\M-P\Madison_P_121_17.gws

UMATILLA COUNTY BOARD OF COUNTY COMMISSIONERS

DRAFT FINDINGS AND CONCLUSIONS

3R VALVE COMPREHENSIVE PLAN MAP AMENDMENT (File #P-121-17),
EXCEPTION TO STATEWIDE PLANNING GOAL 3, TEXT AMENDMENT (File #T-17-075),
ZONING MAP AMENDMENT (File #Z-312-17), for property identified as
ASSESSOR'S MAP 4N 28 33B, TAX LOT 103

Applicant: 3R Valve LLC
Kent Madison & Laura Madison, Managers
29299 Madison Road
Echo, Oregon 97826

Owner: 3R Valve LLC
Kent Madison & Laura Madison, Managers
29299 Madison Road
Echo, Oregon 97826

Amendment Summary:

The applicant requests a zone change from EFU to RRSC with a LU Overlay based on reasons exception. Approval of the request would result in the following:

- Amendment of the Umatilla County Comprehensive Plan Text to include text demonstrating that the standards for an exception to Statewide Planning Goal 3 (Agriculture) have been met to amend the Umatilla County Comprehensive Plan Map from North/South Agriculture to Commercial Plan Designation (non-resource land plan designation).
- Re-Zoning of the property from Exclusive Farm Use (EFU) to Rural Retail Commercial-Service (RRSC) and with LU, Limited Use Overlay Zone amending the Umatilla County Zoning Map.

Location: The property is generally located south of the Umatilla River between the Butter Creek Highway and Stanfield-Meadows Road, approximately one mile south of the City limits of Hermiston. Situs address: 29701 Stanfield Meadows Road, Hermiston, Oregon 97838.

Exception Property:

The site is comprised of one tax lot, Tax Lot # 103 on Assessor's Map #4N 28 33B.

Parcel Size: 10.70 acres

Current Zoning Designation: Umatilla County Exclusive Farm Use (EFU) and Flood Hazard Overlay Zone (FH)

Comprehensive Plan Designation:

The site for rezoning is within Umatilla County's jurisdiction. The County Comprehensive Land Use Plan designates the subject properties **North/South Agricultural Region**.

Permit History:

- 1978 – Zoning Permit issued to then property owner, Wes Walker, for an 8' x 40' addition onto existing dwelling.
- 1997 – Mr. Walker was issued a State Farm Building Exemption Request for a 50' x 100' storage (accessory) farm building for storage of melons and equipment. State exemptions allow construction of farm related buildings for storing farm products and equipment, the exemption allows construction of buildings without stamped engineered plans. These buildings are limited for other uses.
- 2008 – Mr. Walker sold the property to Kent Madison.
- 2011 – Mr. Madison conveyed the property to his company, 3R Value LLC, the current owner of the property.
- 2011 – Conditional Use Permit application approved for small solar project, as allowed on Agricultural designated lands zoned Exclusive Farm Use.
- 2013 – Conditional Use Permit was approved to enlarge the solar project to its current size. All of the uses e. g. farm dwelling, accessory farm structures, and solar arrays, developed on the exception property were outright and conditionally permitted uses in an EFU Zone.
- 2016 – 3R Valve LLC, Kent Madison, submitted a rezone application to change zoning from EFU Zone to RRSC Zone and Goal 3 Exception process through a "developed and committed" exception. The 2016 application was withdrawn by the applicant prior to the first public hearing.



Access Roads:

Access to the exception property is provided along the west side of the property from Stanfield Meadows Road, County Road No. 1332 SM. In addition, the property has reservation for access from Oregon Department of Transportation (ODOT) to Butter Creek Highway, State Highway 207.

Easements:

An overhead transmission line easement approved for Oregon Wind Farms, LLC, was established in 2008 and crosses the south 40 feet of the exception property, recording in Book 537, Page 117, of the Umatilla County Deed Records.

Soils and Topography:

The property is predominately comprised of 42A- Kimberly fine sandy loam, 0 to 3 percent slopes. This soil is NRCS Class II prime farmland soil when irrigated and Class III soils when not irrigated. In addition to the Kimberly farmland soil the west quarter of the property is comprised of 75B- Quincy loamy fine sand, 0 to 5 percent slopes. The Quincy soil is NRCS Class IV when irrigated and Class VII when not irrigated.

Irrigation:

According to the applicant's information there are no irrigation water rights on the exception property. However, the property was once irrigated¹. In 2011, nine acres of irrigation water rights were transferred from the exception property for use on other land owned by the applicant. In addition, the property is located within the Butter Creek Critical Ground Water area where new irrigation water rights are not available. However, water rights are available through transfer from within the area.

Fire Protection:

The subject site is located within Umatilla County Fire District #1.

Floodplain:

The east approximate third of the subject parcel is located within a designed flood hazard area as depicted on FIRM map number 41059C0587G. This area of the property is within the "AE"

¹ Department of Land Conservation and Development (DLCD), Oregon Administrative Rules, chapter 660, division 33, specifies definitions applicable to Agricultural Lands including the definition for "Irrigated" as provided in OAR 660-033-0020 (9):

“‘Irrigated’ means watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. For the purposes of this division, an area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.”



Floodway and the “A” 100-year Floodplain Zone. Development within the designed Flood Hazard areas requires approval of a County Floodplain Development Permit.

Goal 5 Sites:

Goal 5 resources are inventoried in the Umatilla County Comprehensive Plan and the Plan does not include a listing of wetlands or other Goal 5 resources on the exception property.

I. REQUEST

Applicant’s Request:

“3R Valve LLC, an Oregon limited liability company (“Applicant”), is submitting applications (“Applications”) to request that Umatilla County (“County”) approve: (1) an amendment to the Comprehensive Plan Text Amendment for an exception to Statewide Planning Goal 3; (2) an amendment to the Comprehensive Plan Map Designation from North/South County Agriculture District to Commercial; and (3) an amendment to the Zoning Map designation from Exclusive Farm Use (“EFU”) to Rural Retail/Service Commercial (“RRSC”) with a Limited Use Overlay (“LU Overlay”).

The Applications apply to approximately 10.7 acres of real property (“Property”) located northwest of the Interstate Highway 84 (“I-84”) and State Highway 207 (“Highway 207”) interchange. Applicant intends to develop approximately 5 acres of the currently undeveloped portion of the Property into an RV Park. Applicant does not intend to perform additional construction on the developed portion of the Property, but desires to use the existing structures for commercial purposes.”

Planning Department Summary of the Request:

The request is the Applicant’s second application request for a Goal 3 exception for Tax Lot #103. In 2016 an application was submitted for a similar rezone request from EFU to RRSC through a “developed and committed” Goal 3 exception. The 2016 application was withdrawn prior to the public hearing.

Approval of the Applicant’s current request would result in the removal of the subject property from the County’s EFU resource zone and rezone the property into the Rural Retail Service Commercial (RRSC) through a Goal 3 “reasons” exception. To achieve this outcome, the following land use actions are requested.

- A. *Change the Comprehensive Plan Map from North/South Agricultural Designation to Commercial;*
- B. *Change the Zoning Map Classification from Exclusive Farm Use to Rural Retail Service Commercial (RRSC) with a LU, Limited Use Overlay Zone, (also the FH, Flood Hazard Overlay Zone remains);*
- C. *Amend the Umatilla County Comprehensive Plan text to justify the Goal 3 exception from resource land to non-resource land;*



Land use planning in Oregon is guided by 19 Statewide Planning Goals. Goal 3 is the State's Agricultural Goal and to remove land from an Ag resource category (EFU) and place the land in a non-resource category, it must be justified why the land should be exempted from Goal 3. All exception lands (non-resource zoned lands) are identified within the County's Comprehensive Plan. Therefore, to change the designation, a text amendment must be justified and adopted into the County Comprehensive Plan.

The Applicant requests the Goal 3 exception to rezone EFU land to Rural Retail Service Commercial to pursue commercial development and/or redevelopment of the proposed exception property for the following list of uses:

- travel trailer (RV Park),
- use of an existing farm shop building by Jack-E Up LLC, as a machine or welding shop for fabricating and selling trailer hitches, or
- alternatively, use of the shop building as an office for a different business,
- use of an existing dwelling as an office for wind service technicians for dispatch to maintain and repair area wind power projects, or
- use of the dwelling as an accessory dwelling for the RV Park operator (caretaker).

II. UMATILLA COUNTY COMPREHENSIVE PLAN

Chapter 6. AGRICULTURE

Policy 1: Umatilla County will protect, with Exclusive Farm Use zoning pursuant to ORS 215, lands meeting the definition of farmland in this plan and designated as Agricultural on the Comprehensive Plan Map.

Applicant's Response: "The County should find that the Applications conform to Agricultural Policy 1 because this policy does not prohibit the County from changing the EFU zoning to a more suitable zoning. As described in this Memorandum, there are other policies within the UCCP that support other uses of the Property and therefore support a change in zoning. Further, the Oregon exceptions process allows the County to approve an exception to allow non-farm uses on farmland, and the Applications meet the criteria for an exception."

Planning Response:

The associated Finding, Finding 1, to Chapter 6, Policy 1 states, "Agriculture is important economically in Umatilla County and to the state." Policy 1 was formulated to protect Agricultural lands by applying Exclusive Farm Use zoning to those lands meeting the definition of farmland and designated these lands as Agriculture. In Umatilla County this has been done for lands that meet the definition of farmland. The lands were designated in the Plan as Agriculture and zoned EFU.

ORS 215 governs uses on farmland and the legislature has included an extensive list of non-farm uses. One of these non-farm conditional uses was pursued by the Applicant to construct and operate a solar project on the exception property.

As described by the Applicant, there is a process to change the zoning and Plan designations of existing zoned and planned lands. The burden of proof is on the Applicant to justify the “need” and “location” for the zoning request change through a reasons exception to Statewide Planning Goal 3, the Agricultural Goal.

Chapter 8. OPEN SPACE, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES

Policy 42(a) Encourage development of alternative sources of energy.

Applicant's Response: “The County should find that the Applications are consistent with this policy because the proposed use of an office for wind turbine technicians encourages renewable energy development in the County by developing a reliable and efficient network of technical support for new and existing projects.”

Planning Response: Chapter 8 number 42 Policies including 42(e) correlates to Finding number 42: “Alternative energy resources should be explored more fully in Umatilla County.”

Although the applicant indicates, “. . . an office for wind turbine technicians encourages renewable energy development. . .” Planning disagrees.

Development of wind projects result in the operation and maintenance facilities and wind turbine technicians to maintain these renewable energy facilities. It is not the function of the Operations and Maintenance (O&M) Facilities to encourage development of alternative sources of energy but these facilities are the result of renewable energy wind facility development.

Additionally, the County's EFU Commercial Wind Power Generation Facility² Conditional Use Permit criteria allow for O&M Facilities. These facilities are encouraged to locate in appropriately zoned areas, usually urban and/or urban growth areas, or the O&M Facilities may be constructed on the EFU wind project site under two circumstances.

Chapter 10. NATURAL HAZARDS

Policy 1: The County will endeavor, through appropriate regulations and cooperation with applicable government agencies, to protect life and property from natural hazards and disasters found to exist in Umatilla County.

Applicant's Response: “The County should find that the Applications are consistent with this policy. A portion of the Property is located within the designated floodplain of the Umatilla River. The Applicant acknowledges that the County will impose the applicable floodplain development regulations on future development within the floodplain, that additional permitting from the County will be required, and that Applicant will be required to follow the building standards and other requirements established for floodplain development.”

² UCDC 152.616(HHH)(6)(g) (g) “Required permanent maintenance/operations buildings shall be located off site in one of Umatilla County's appropriately zoned areas, except that such a building may be constructed on site if: (1) The building is designed and constructed generally consistent with the character of similar buildings used by commercial farmers or ranchers, and (2) The building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility consistent with the provisions of §152.616 (HHH) (7).”

Planning Response: Development within FEMA determined flood hazard area can be permitted under specific limitations. The applicant's property also includes land within the FEMA determined "floodway." Although the Applicant acknowledges that a portion of the exception property is located within a flood hazard area the Applicant does not explain how placing the RV Park in the flood hazard area protects life and property.

Chapter 10, Policy 2: "Limit "floodway" development to non-structure improvements not detrimental to maximum runoff flows."

The applicant's conceptual development plan includes an RV Park support building. Construction of this proposed building appears to be within the FEMA determined floodway and therefore, if the Applicant's request is approved, this support structure would be required to locate outside of the determined floodway.

CHAPTER 11. RECREATIONAL NEEDS.

Policy 1: Encourage and work with local, state, federal agencies and private enterprise to provide recreational areas and opportunities to citizens and visitors to the County.

Applicant's Response: "The County should find that the Applications are consistent with this policy. The RV Park will support access by visitors to recreational opportunities in the County."

Planning Response: Approval of the Application requests for Comprehensive Plan Amendment, Goal 3 reasons exception and zone change followed by a subsequent permit request for an RV Park does not in of itself encourage work with local, state, federal agencies or private enterprises to provide recreational areas and opportunities. (Emphasis added.) The RV Park would provide overnight recreational vehicle camping for tourist, traveling public and/or short term stays for temporary employees working on area projects. The Applications do not proposed to create development of recreational areas and opportunities.

Policy 5: Provide for recognized forms of recreational use while minimizing conflicts with surrounding uses.

Applicant's Response: The County should find that the Applications are consistent with this policy. The RV Park would support recreational travelers in the County and it is designed with accommodations for both small and large recreational vehicles. The small size of the RV Park would minimize impact on surrounding farm uses.

Planning Response: The associated Finding, Finding 5, to Chapter 11, Policy 5 includes: "Differing recreational pursuits occasionally conflict among themselves and with other land uses." The Applicant indicates that the RV Park (one of the Applicant's proposed uses) as consistent with Policy 5. The County currently has nine zones adopted where a permit for an RV Park could be pursued. Each application for an RV Park would typically address how the development minimizes impacts. Just by making the statement that the small size of the RV Park minimizes impacts on surrounding farm uses without describing the types of surrounding farm uses or the farm practices uses by the surrounding farm operations makes it difficult to determine what the potential impacts



may be. Just by stating that the RV Park is small does not address how impacts to surrounding farm uses are minimized.

Policy 6: Provide assistance to recreational groups and private investors interested in acquiring and developing recreational facilities.

Applicant's Response: The County should find that approval of these Applications and the additional land use approvals required to develop the RV Park on the Property would be consistent with this policy.

Planning Response: If land inventories of appropriately zoned areas, where recreational development can occur, are depleted, including re-development opportunities, then discussion with area cities for opportunities within existing or expanded urban growth boundaries should be taken as the initial steps to provide recreational facilities that would be similar to the Applicant's RV Park request.

Policy 12: Provide opportunities to both private business and public agencies to construct, maintain and expand RV Parks in accordance to adopted development regulations within the County.

Applicant's Response: "The County should find that approval of these Applications and the additional land use approvals required to develop the RV Park on the Property would be consistent with this policy."

Planning Response: Finding 12 to Policy 12 states: "Recreational Vehicle Parks are a valuable economic development, tourism and recreational attribute to the County."

"... opportunity to construct, maintain and expand RV Parks in accordance to adopted development regulations within the County" RV Parks are currently permitted in nine adopted County zones. If the Applicant's Goal 3 reasons exception is substantiated and the exception property is rezoned to RRSC the Applicant could apply for the RV Park Conditional Use Permit.

Chapter 12. ECONOMY OF THE COUNTY

Policy 6: Encourage and promote private investment resorts and service facilities that offer quality public recreational experiences.

Applicant's Response: "The UCCP states that recreational attractions and good transportation linkages contribute to the tourist industry. The County should find that approval of these Applications and the additional land use approvals required to develop the RV Park on the Property would be consistent with Policy 6 because the RV Park will contribute to the tourist industry by providing services and accommodations for recreational tourists in the County."

Planning Response:

The Umatilla County Comprehensive Plan has Policies and associated Findings addressing the Statewide Planning Goals. Many of the Comprehensive Plan Policies are aspirational such as Policy 6 in Chapter 12. RV Parks could be included as part of an investment in a resort experience or recreational experience; however, as described by the Applicant the purpose of the Applicant's

RV Park is for short-term temporary worker stays and as overnight RV accommodations for the traveling public is not a resort or recreational experience itself.

Policy 10. Encourage industry and manufacturing diversification while preserving the more productive agricultural lands.

Applicant's Response: "The County findings indicate that retail trade is related to fluctuations in agriculture income. Therefore, promoting diversification will help stabilize our economy. The County should find that the Applications are consistent with this policy for two reasons. First, the Applications propose diversification of the Property into multiple uses which are unlikely to be influenced by agricultural fluctuations. The wind maintenance office would maintain size and stability throughout the life of the power projects the maintenance company services. Future industry growth is tied to power prices and government incentives and unrelated to fluctuations in the agricultural sector. The RV Park would provide income from tourism, a nation-wide sector linked to the national economy and fuel prices, but largely unrelated to the strength of agricultural commodity markets. Second, as described in greater detail above, the Property is not productive farm land, it does not have an available water right, and it is not currently in resource production."

Planning Response: The associated Finding to Policy 10 includes, "Retail trade is directly related to fluctuations in agriculture income."

Policy 10 was advanced to encourage industry and manufacturing diversification because as Agriculture income fluctuates, so can local retail trade. While manufacturing activities may be more economically insulated than commercial retail trade to income fluctuations in Ag communities, the Applicant's request is not for manufacturing purposes; although, the Applicant proposes to use the exception property for several (diversified) uses. The Applicant has characterized the proposed uses on the exception property as Retail/Service Commercial. Such as an RV Park to 'serve' non-permanent workers, the traveling public and tourists, and as a wind turbine technician service center for dispatch of wind turbine technicians into the field to 'service' wind projects. In addition to these services the Applicant proposes retail/commercial sales of trailer hitches directed "for use on recreational and agricultural trailers." With the proposed Retail/Service Commercial uses in mind it is difficult to conclude the Applicant's request promotes Policy 10 by encouraging industry and manufacturing.

Policy 12. Provide for three types of Commercial Service Center to serve nearby rural development; Tourist Commercial to serve the traveling public; Retail/Service Commercial to serve commercial activities which cannot locate within urban growth boundaries.

Applicant's Response: "The County should find that changing the Property to Rural Retail/Service Commercial will provide siting for low-impact, rural commercial enterprises that will benefit the County's economy, that serve the rural communities, and that are not appropriate to locate within the UGB."

Planning Response:

The Applicant indicates under Policy 12 that in addition to benefiting the County's economy, and serving rural communities (which rural communities or areas are not identified), changing the EFU zoning to Rural Retail/Service Commercial will provide siting enterprises "that are not appropriate to locate within in UGB." No evidence is provided in support of this statement and it is difficult to

believe the Applicant's list of proposed commercial uses put forward for the reasons exception are not appropriate to locate within a UGB. In fact the opposite is true as determined by calling and visiting with several cities located in West County and asking if they have available lands of appropriate sizes and zoning for the Applicant's desired list of commercial uses. The feedback from city representatives in West County confirmed there are available lands appropriate in size and zoned to allow a variety of commercial uses.

Chapter 14. PUBLIC FACILITIES AND SERVICES

Policy 1: The county will control land development in a timely, orderly, and efficient manner by requiring that public facilities and services be consistent with established levels of rural needs consistent with the level of service requirements listed on pages J-27 and J-28 of the Technical Report. Those needs are identified as follows:

a. Fire protection shall be provided consistent with Policies 8, 9, 10.

Applicant's Response: "The County should find that the Applications are consistent with this subpolicy for the reasons set forth in response to Policies 8, 9, and 10 below."

b. Police protection shall be provided consistent with Policy 7.

Applicant's Response: "The County should find that the Applications are consistent with this subpolicy for the reasons set forth in response to Policy 7 below."

Planning Response:

Rural services, for fire and police protection are provided by Fire District #1 and the Umatilla County Sheriff's Department.

c. Surface Water Drainage - Roadside drainage shall be maintained and plans for drainage shall be required in multiple use areas.

Applicant's Response: "The Property is not located in a multiple use area. Therefore, the County should find that this sub-policy is not applicable to the Applications."

Planning Response: Regardless of whether an exception property is located in multiple use areas; surface water drainage or run-off is addressed by the Department of Environmental Quality (DEQ).

d. Roads shall be maintained or improved to standards adopted by the County Road Department which are consistent with nationally accepted standards that correlate traffic to desired road conditions.

Applicant's Response: "The Property will have direct access to State Highway 207, which is improved to County road standards. The County should find that the Applications are consistent with this sub-policy."

Planning Response: The road proposed for use by the RV Park is State Highway 207. In addition to State Highway 207 the property has access via County Road No. 1332 SM, Stanfield-Meadows Road. The Stanfield-Meadows Road is currently used as access to the exception property and the existing dwelling (proposed for use as wind turbine facility and dispatch of turbine service

KI

technicians or alternatively as an accessory dwelling) and existing shop building (proposed as a machine or welding shop for fabricating and selling trailer hitch products, or as an alternate use as an office for a different business). Although the Applicant proposes to develop and use the access reservation to State Highway 207 for the proposed RV Park, no details were provided on access for other uses. Therefore, it is generally assumed the current access using Stanfield-Meadows Road would continue to be used for existing uses and the Applicant's other proposed uses.

Policy 2: Require that domestic water and sewage disposal systems for rural areas be provided and maintained at levels appropriate for rural use only. Rural services are not to be developed to support urban uses.

Applicant's Response: "The County should find that the Applications are consistent with this policy. The Applications do not propose urban uses. Should the Applications be granted, the water and sewer facilities will be limited to on-site rural uses. The Property currently has an exempt ground water well and on-site sanitary sewer. Should the County grant the additional permits required to construct the RV Park, the water and waste water demands are expected to increase. The attached Exhibit G details the estimated usage for the highest water use RV Park build-out, which would be well within the usage for a commercial well and a septic upgrade."

Planning Response: The Applicant's proposed development is limited to rural facilities for water and sewage disposal, unless an exception is taken to Goal 11.

Policy 6: The County will seek comments from affected public facilities and services providers for all discretionary land use actions including all types of land divisions, conditional uses, variances, zoning map amendments, and comprehensive plan map amendments.

Applicant's Response: "The Applications are discretionary land use actions. Therefore, the County should seek comments on the Applications from affected service providers. Upon doing so, the County should find that it has processed the Applications consistent with this policy."

Planning Response: The County's practice to notify affected service providers is followed for the list of applications identified in Policy 6. Notice will be provided to affected agencies and service providers of the Applicant's requests.

Policy 8: The County will encourage the formation or expansion of rural fire districts in areas designated for non-resource use.

Applicant's Response: "The Property is located in and served by the Hermiston Rural Fire District. The County should find that the Applications are consistent with this policy."

Planning Response: Hermiston Rural Fire District and Stanfield Rural Fire District recently were approved by a vote of the district areas to form one district, the Umatilla County Fire District #1.

Policy 9: Require adequate water supplies for firefighting as part of significant new developments in rural areas in coordination with the appropriate rural fire district.

Applicant's Response: "The Hermiston Rural Fire District will receive notice of the Applications and can provide comments on its capacity to serve the Property."

Planning Response: In addition to the rural fire district, State Building Codes has requirements for an on-site firefighting water supply. State Building Codes will be notified for comment.

Policy 10: The County will provide assistance to rural fire districts in their attempts to locate satellite fire stations closer to rural development.

Applicant's Response: "The Hermiston Rural Fire District will receive notice of the Applications and can provide comments on its capacity to serve the Property."

Planning Response: The exception property is located within the Umatilla County Fire District #1 and as an affected service provider notice will be sent to the Fire District #1 for concerns and comments on fire protection services to the exception property.

Chapter 15. TRANSPORTATION

Policy 5A. New development proposals will be reviewed for consistency with the County and Cities' Transportation System Plans.

Applicant's Response: "The Applicant has submitted a TIA with the Applications so that County may review the traffic impacts of the proposed new development."

Planning Response: The County received a Traffic Impact Analysis (TIA) as part of the Applicant's Plan Amendment application. Because the exception property is within the County's jurisdiction the County Transportation Plan is applicable to the Applicant's request. The TIA is provided in detail later in this report.

Policy 7: Access onto state highways shall be limited, consolidated, and, otherwise be controlled as much as feasible. Access control shall emphasize coordination of traffic and land use patterns through the use of frontage roads and access collection points (see OAR 734.051). ODOT will be provided notice of land use applications and development permits that have access or frontage onto State Highways.

Applicant's Response: "The Property has a reservation for access to a state highway. This access point has been evaluated and the findings are detailed in the TIA submitted with these Applications. ODOT was given notice of this potential access point, consulted on the preparation of the TIA, and has reviewed the access to the State Highway. The County should therefore find that the Applications are consistent with this Policy."

Planning Response: The Applicant has submitted evidence of an access reservation to State Highway 207. Additionally, the Oregon Department of Transportation will be notified of the Applicant's requests and have opportunity to provide comments and share information concerning the Applicant's proposal and the TIA.

Policy 25A: Examine interchanges and other potential commercial and industrial locations for appropriateness of development taking into consideration access, sewer and water availability and environmental conditions.

Applicant's Response: "The Property is sited in close proximity to the interchange of I-84 and Highway 207 where the Space Age travel center has been developed. It is appropriate for the County to consider the existing development status of this interchange in determining whether the development proposed by the Applicant is appropriate. The Property will have access to Highway 207, an on-site well and septic serve the Property, and there are no inventoried environmental resources on the Property. Therefore, the County should find that the Applications are consistent with this policy."

Policy 25B: Identify and evaluate factors limiting development in this area.

Applicant's Response: "The factor limiting development of the Property is its EFU zoning. The County should find that approval of the Applications will remove this limitation."

Planning Response: Chapter 15, Policies 25A and 25B correlate to Finding number 25:

"The development of I-82 after the County's Comprehensive Plan was acknowledged established new interchanges which could effect [affect] the location of industries, commercial businesses and highway-oriented business."

The interchange at I-84 and State Highway 207 was established prior to acknowledgment of the County Comprehensive Plan and the County examined this interchange for existing and future commercial or industrial development. Examination of the I-84/Highway 207 interchange resulted in adoption of an exception for commercial designation and zoning for Tourist Commercial. This made way for highway-oriented businesses such as the Space Age travel center. Further, all interchanges located along I-84 of the County were evaluated and examined for either Tourist Commercial or Light Industrial development. Lands near all of the interchanges in west County except for I-84/Highway 320 (Echo) interchange received zoning to prepare for commercial and industrial development for highway-oriented businesses.

Evaluation of the interchanges along I-82 were not completed at the time the County Comprehensive Plan was acknowledged and therefore, the Policies in 25A and 25B are relevant to this interchange. However, since the application request is not located in the immediate area of the I-82 interchanges at either I-82/I-84, I-82/Lamb Road or I-82/Powerline Road the policies do not appear to be applicable.

Chapter 17. URBANIZATION

Policy 5: Where practical, and to conserve the agricultural base, lands committed to urbanization should be those of lesser agricultural potential compatible with continuing production of neighboring farm lands.

Applicant's Response: "The Applications do not request urban uses of this property. Therefore, the County should find this policy is not applicable even though the Property has less agricultural potential than neighboring farm lands."

Planning Response: The introduction to the Comprehensive Plan Chapter 17 Urbanization includes the following:

"Urbanization entails providing mechanisms for the orderly and efficient transition from rural to urban land uses. These intended results involve cooperative processes between the county

and cities to identify and separate urbanizable land from rural land by mutually agreed upon urban growth boundaries.”

Finding 5 correlates to Policy 5 as follows:

“Urban uses can adversely impact farm uses by interfering with farm practices or by occupying productive land.”

The Finding and Policy encourage cities and the county to look to non-high value soils and less productive farmlands for inclusion into cities future growth areas or Urban Growth Boundaries (UGB). Although the Applicant is not a city looking to enlarge its UGB, or proposing a large urban level development, interfering with farm practices by siting urban type uses, or even in some cases, EFU non-farm uses results in a depletion of the agricultural base.

Although the Applicant indicates the land has less agricultural potential than neighboring farm lands, and the exception property is predominately comprised of 42A-Kimberly fine sandy loam, 0 to 3 percent slopes. This soil is NRCS Class II prime farmland soil when irrigated and Class III soils when not irrigated. In addition to the Kimberly farmland soil the west quarter of the property is comprised of 75B-Quincy loamy fine sand, 0 to 5 percent slopes. The Quincy soil is NRCS Class IV when irrigated and Class VII when not irrigated. Therefore, the Applicant’s transfer of water rights resulted in the property’s non-irrigated state and predominate Classification as III soils.

The Applicant’s transfer of water rights and use of the land for solar may result in the Applicant describing the land as having “less agricultural potential than neighboring farm lands” but this appears to be a management choice and not justification for Policy 5 above or generally for the Applicant’s Goal 3 reasons exception.

Chapter 18: THE PLAN MAP - RETAIL/SERVICE COMMERCIAL

The great majority of commercial facilities are intended to develop within urban and urbanizable lands. However, specific commercial activities require larger sites than may be available within urban growth boundaries and are encouraged to locate in those rural industrial areas that allow commercial uses. Should increased rural needs for rural "retail/service" designations surpass urbanizing and industrial site availabilities, additional rural lands may be classified commercial upon demonstration of (1) Need for that additional site; (2) Non-availability of appropriate sites in urban growth boundaries and rural industrial areas; (3) Adequate services for that commercial activity; and (4) Compatibility with surrounding land uses.

Applicant's Response: “The Applications meet the criteria for the addition of rural retail service commercial lands. As described in detail below in the response to OAR 660-004-0020, the Applicant analyzed the availability of existing alternative properties in the County and found that no other properties are available which met the needs of the Applicant and are appropriate to the proposed uses within urban growth boundaries or industrial areas. Further, the existing services on the Property are adequate for the proposed uses and merely require a change in designation of the existing groundwater well and an expansion of the septic system. As further detailed in the response regarding the RRSC zone, the proposed uses are compatible with the surrounding land uses because these uses are low-impact, rural uses that will provide services to the surrounding rural, agricultural, and industrial community.”

Planning Response: Chapter 18 – The Plan Map - Land Use Classifications - Retail/Service Commercial
The Applicant includes the first paragraph from Retail/Service Commercial and refers to responses made under OAR 660-004-0020 later in this report. Planning evaluated the Applicant’s responses to OAR 660-004-0020 and has not found the Applicant effectively analyzed alternative sites that would not require an exception, or demonstrated how rural needs have surpassed available urbanizable lands or industrial sites as prescribed in the paragraph above.

III. STATEWIDE PLANNING GOALS

Post-acknowledgment plan amendments ("PAPAs") must be in compliance with the Oregon Statewide Planning Goals. ORS 197.175(2)(a); *1000 Friends of Oregon v. LCDC*, 301 Or 447, 724 P2d 268 (1986). The Applications request PAPAs. Therefore, the County's decision must explain why the Applications are in compliance with the Goals. Alternatively, if a Goal is not applicable, the County must adopt findings explaining why that Goal is not applicable. *Davenport v. City of Tigard*, 22 Or LUBA 577, 586 (1992). The responses below provide findings explaining why the Applications are either in compliance with the Goals, or alternatively, why the Goals are not applicable to the Applications.

Goal 1: Citizen Involvement.

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Applicant's Response: "Goal 1 requires local governments to adopt and administer programs to ensure the opportunity for citizens to be involved in all phases of the planning process. The County has adopted such a program for PAPAs, and it is incorporated within the UCCP and UCDC and has been acknowledged by the Land Conservation and Development Commission. Among other things, the County's program requires notice to citizens, agencies, neighbors, and other interested parties followed by multiple public hearings before the County makes a decision on the Applications. These procedures will provide ample opportunity for citizen involvement in all phases of these Applications. The County should find that, upon compliance with the County's notice and hearing procedures, the County has reviewed the Applications in a manner consistent with Goal 1. See *Wade v. Lane County*, 20 Or LUBA 369, 376 (1990) (Goal 1 is satisfied as long as the local government follows its acknowledged citizen involvement program)."

Planning Response: Goal 1 is implemented through locally adopted procedures that provide opportunity for citizen involvement. The Umatilla County Comprehensive Plan is acknowledged in compliance with Goal 1. County Planning followed the public notice process for the Applicant’s request and allows public participation throughout the application process. County Planning finds there is opportunity for citizen involvement in all phases of the planning process.

Goal 2: Land Use Planning.

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Applicant's Response: "Goal 2 requires establishing a land use planning process and policy framework as a basis for all land use decisions and requires an adequate factual base for all land use decisions. In the present case, the

provisions of the UCCP and UCDC establish the land use planning process and policy framework for considering the Applications. Further, this Memorandum and its related exhibits demonstrate that the Applications satisfy all applicable substantive standards. As such, there is an adequate factual basis for the County's decision.

Additionally, Goal 2 requires that the County coordinate its review and decision on the Applications with appropriate government agencies. In its review of the Applications, the County has provided notice and an opportunity to comment to affected government agencies, including nearby cities and the State Departments of Land Conservation and Development and Transportation. The County should find that the Applications are consistent with Goal 2.”

Planning Response:

Umatilla County has established a planning process and policies as the basis for making land use decisions. Umatilla County finds the Goal 2 process will be followed by Umatilla County in processing the Applicant's request.

Goal 3: Agricultural Lands.

To maintain and preserve agricultural lands.

Applicant's Response: “Goal 3 concerns maintaining agricultural lands. The Applications request a reasons exception to this Goal and the justification for this exception is set forth in the response to OAR 660-004-0020 below.”

Planning Response: Umatilla County finds Goal 3 applies to the Applicant's property and the request for the reasons exception must be justified by the applicant to remove farm protections under Goal 3.

Goal 4: Forest Lands.

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Applicant's Response: “Goal 4 protects forest lands. The Property does not include any forest lands, and approval of the Applications will not impact any forest lands. Therefore, the County should find that Goal 4 is not applicable to the Applications.”

Planning Response: Umatilla County finds forest lands (timbered areas) are not located on or near the Applicant's proposed exception property. Forest lands in Umatilla County are located in the Blue Mountains miles to the south and southeast of the Applicant's property. Therefore, Goal 4 is not directly applicable to the Applicant's request.

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces.

To protect natural resources and conserve scenic and historic areas and open spaces.

20

Applicant's Response: "Goal 5 protects certain types of inventoried resources. The Property does not include any inventoried Goal 5 resources, and approval of the Applications will not impact any Goal 5 inventoried resources. Therefore, the County should find that Goal 5 is not applicable to the Applications."

Planning Response: Umatilla County finds the Applicant's property does not contain inventoried Goal 5 resources and therefore, Goal 5 is not directly applicable to the Applicant's request.

Goal 6: Air, Water and Land Resources Quality.

To maintain and improve the quality of the air, water and land resources of the state.

Applicant's Response: "Goal 6 addresses waste and process discharges from future development and requires local governments to determine that the future discharges, when combined with existing development, would not violate (or threaten to violate) applicable state or federal environmental quality statutes, rules and standards. The Applications do not permit any specific development as additional County zoning and conditional use permits would be needed after approval of these Applications, and therefore will not increase waste or process discharges. The County will assess discharges of any future development at the time such development is proposed and the respective permits are applied for. Thus, the County should find that Goal 6 is not applicable to the Applications.

Alternatively, the County should find that the proposed uses of the Property require minimal development and are low impact and rural scale. The change in use of the Property will not significantly impact the quality of the air, water or land."

Planning Response:

Goal 6 ensures that waste and process discharges from "future development" will not degrade, overload, or threaten availability of air, water, or land resources. Waste and process discharges consist of solid waste, thermal, noise, atmospheric or water pollutants, and contaminants, etc. Goal 6 is addressed by Umatilla County in the County's Comprehensive Plan and the County's Plan is acknowledged by the State.

Review of Goal 6 is part of the review for a post-acknowledgment plan amendment such as the Applicant's request. Future development of the RV Park, one of the Applicant's proposed uses on the exception property, could require a DEQ storm water permit. This discharge permit would be reviewed and processed at the time of development request. The County finds permits for storm water are reviewed and issued by DEQ at the time of development.

Goal 7: Areas Subject to Natural Hazards.

To protect people and property from natural hazards.

Applicant's Response: "A portion of the Property is located within the designated floodplain. Future development within the floodplain will require additional permitting from the County and the Applicant acknowledges that it will be required to follow the standards set for floodplain development. The County will assess protections required at the time of those applications."

Planning Response: Planning for areas subject to Natural Hazards requires local governments to adopt comprehensive plan policies and implementing measures to reduce risks to people and property. Natural hazards under Goal 7 consist of floods, landslides and earthquakes among others. Once local governments receive hazard information from federal and state agencies they must respond within a specified time period by

evaluating each inventoried risk for frequency, severity and location of the hazard and effects on existing and future development. Also, the local government must assess whether development in the hazard area would increase frequency and severity of the hazard and then determine what types and intensities of land use will be allowed in the hazard area.

Umatilla County, as well as, many counties throughout Oregon purposely applied resource designations to areas inventoried as natural hazards. In the rural areas of Umatilla County Agricultural designations and EFU zoning was often applied to areas located within FEMA determined flood hazard areas and floodways located along streams, rivers and other bodies of water. This includes the Applicant's exception property where FIRM maps show the approximate east one quarter of the property within a flood hazard area and in the floodway. As the Applicant recognizes, development within the flood hazard areas can be permitted in part, by complying with the County's adopted Flood hazard standards and obtaining a County Flood Hazard Development Permit. However, prior to issuing the Flood Hazard Development Permit for any encroachment, fill, new construction, substantial improvements and other development within a Floodway the Applicant is required to obtain a Conditional Letter of Map Revision (CLOMR) from FEMA. The County finds Goal 7 is implemented through the County's adopted criteria for development in areas subject to natural hazards including areas within a designated flood hazard area.

Goal 8: Recreational Needs.

To satisfy the recreational needs of the citizens of the state and visitors, and where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Applicant's Response: "Goal 8 requires local government plan for recreational needs of its citizens and where appropriate, provide for the siting of necessary recreational facilities and opportunities in the planning area based upon adequate research and analysis. The Applications propose a recreational vehicle park on the Property. The Applications contend that locating the RV Park outside the urban growth boundary and close to the I-84 travel corridor will promote and support tourism and recreational use development in the County while minimizing traffic impacts and negative impacts of surrounding uses. The County should find that for these reasons the Applications satisfy Goal 8."

Planning Response: The purpose of Goal 8 allows for local governments to plan for recreational needs of its citizens. As first adopted, the goal directed jurisdictions to inventory existing recreation areas, facilities, and opportunities to use in determining not only the current recreational needs and also future recreational needs in proportion to demand. Although, overall recreational needs are considered, now the main focus of Goal 8 has become the development and regulation of destination resorts.

Goal 8 includes inventorying eligible areas, applying siting standards and implementing measures, a list of definitions, and provides 10 Planning guidelines to follow to meet Goal 8, including basing recreation needs inventory on adequate research and analysis. Although the Applicant contends locating an RV Park outside of the urban growth boundary will promote and support tourism and recreational use developments in the County there is no factual evidence the Applicant's exception property, used as an RV Park, is a recreational opportunity, or located near a recreational opportunity. As an example, the RV Park at Hat Rock could be deemed an important area adjacent to recreational opportunities since the park is near public waters i.e. the Columbia River. Overall Statewide Planning Goal 8 provides guidelines for inventorying recreational needs and opportunities and formulating Comprehensive Plan policies.



Umatilla County finds review and processing of the reasons exception request for use of the Applicant's property as an RV Park is based on the Applicant demonstrating need and location for the use and meeting the requirements prescribed in OAR 660-004-0022 and 660-004-0020.

Goal 9: Economic Development.

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Applicant's Response: "In general, Goal 9 is only applicable to areas within urban growth boundaries. The Property is located outside all urban growth boundaries. Therefore, the County should find that Goal 9 is not applicable to the Applications.

Alternatively, to the extent Goal 9 is applicable, the County should find that the Applications further the objectives of this goal by increasing the supply of commercial land in the County, which will facilitate economic growth, employment, recreational opportunities, and promote tourism in the County. The County should find that the Applications are consistent with Goal 9."

Planning Response: In 1988 the Goal 9 purpose statement was rewritten and planning requirements established by ORS 197.712 (2) (a-d) are now applicable through OAR 660-009-0010 (1) to urban areas only. Amendments to the Goal 9 administrative rules, adopted by LCDC in 2005, primarily were due to concern over the state's dwindling industrial land supply. (Note: Counties may choose to plan for industrial and other employment uses outside of urban growth boundaries.) Compliance is demonstrated through the Economic Opportunities Analysis.

Although economic development is important to the County it is not necessary to satisfy Goal 9 for the Applicant's reasons exception to Goal 3 to change the property zoning from EFU to RRSC.

The County finds the Applicant's property is located outside of an urban growth boundary.

The County finds the Applicant's request is for a reasons exception to Goal 3 to rezone the exception property to commercial.

The County agrees with the Applicant that "Goal 9 is not applicable to the Applications."

Goal 10: Housing.

To provide for the housing needs of the citizens of the state.

Applicant's Response: "Goal 10 and its implementing rules require each local government to inventory the supply of buildable residential lands and to ensure that the supply of such buildable lands meets the local government's anticipated housing needs. The Applications will not affect the supply of residential lands in the County. Therefore, the County should find that the Applications are consistent with Goal 10 to the extent the Goal is applicable."

Planning Response: Goal 10 requires local governments to ensure there are opportunities for affordable and needed housing units for Oregon citizens. When there is a demonstrated need for housing local governments [cities] are required to permit housing in zones with sufficient "buildable lands" through applied clear and objective standards, conditions, and procedures for establishing needed housing.

“Buildable lands” are lands in urban and urbanizable areas necessary, suitable and available for residential uses. Goal 10 has no effect on housing outside of urban growth boundaries and Goals 3, 4, 5, and 14 place limitations on residential development outside of UGBs.

The County finds the Applicant’s exception to Goal 3 is not for the purpose of justifying or establishing residential development by rezoning the exception property to a residential zone outside of an urban growth boundary. The County finds Goal 10 is not applicable.

Goal 11: Public Facilities and Services.

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Applicant’s Response: “The Property is not served by public water or sewer facilities. The proposed development does not require the extension of public sewer or storm drainage facilities. The Applicant does not propose the extension of public utilities. For these reasons, the County should find that the Applications are consistent with Goal 11.”

Planning Response: Goal 11 requires facilities and services to be provided at an appropriate level and limited to the needs and requirements of the urban, urbanizable, and rural areas to be served. This ensures that rural development is not established beyond a level that can be supported by rural services. Likewise the Goal supports concentrating urban levels of service inside urban growth boundaries. According to the Applicant all five of the proposed uses on the exception property would be at a rural scale and would not require an urban level of services. The County finds Goal 11 applies to limiting development to rural levels of public facilities and services.

Goal 12: Transportation.

To provide and encourage a safe, convenient and economic transportation system.

Applicant’s Response: “Goal 12 is implemented by the TPR, which requires local governments to determine whether or not a proposed PAPA will "significantly affect" an existing or planned transportation facility. Under OAR 660-012-0060(1), a PAPA will "significantly affect" an existing or planned transportation facility if it will: (1) change the functional classification of a facility; (2) change standards implementing a functional classification system; (3) as measured at the end of the planning period, result in types or levels of travel or access that are inconsistent with the functional classification of an existing facility; or (4) degrade the performance of an existing facility either below applicable performance standards, or if already performing below these standards, degrade it further.

The County should find that the Applications will not significantly affect any existing or planned transportation facilities. In support of this conclusion, the County should rely upon the TIA which concluded that approval of the Applications would not result in any of the outcomes listed in OAR 660-012-0060(1)(a) and that the Applications would not significantly affect any existing or planned transportation facilities for purposes of the TPR. Therefore, the County should find that the Applications are consistent with Goal 12 and the TPR.”

Planning Response: To implement Goal 12 the County has adopted a County Transportation Plan and implementing ordinances. Certain development applications trigger the County’s requirement for a Traffic



Impact Analysis (TIA). The Applicant's Comprehensive Plan Amendment for a Goal 3 exception to re-designate the Applicant's property from Agricultural land to Commercial land and rezone the exception property from EFU to RRSC triggered a TIA. The Applicant has submitted a TIA that looks at generated trips from the Applicant's list of requested uses on the exception property. Review of the TIA does not appear to result in proposed development of the exception property causing a failure of a transportation facility. The County finds Goal 12 applies to the Applicant's request and the County has an adopted process to assess impacts to transportation facilities.

Goal 13: Energy Conservation.

To conserve energy.

Applicant's Response: "In general, Goal 13 is a planning goal directed toward the development of local government land management implementation measures which maximize energy conservation. The Applications are consistent with Goal 13 because the proposed amendments will provide for efficient use of land and energy by supporting the growth of wind power in the County by placing a service facility along a major state interchange and at a geographical midpoint that can efficiently access multiple wind farms.

Further, the Applications propose to limit the uses on the Property under the LU Overlay that will minimize transportation impacts and energy usage. For these reasons, the County should find that the Applications are consistent with Goal 13."

Planning Response: Goal 13 provides for conservation of energy. Although the Applicant contends "the proposed amendments provide for efficient use of land and energy by supporting the growth of wind power in the County by placing a service facility along a major state interchange and at a geographical midpoint that efficiently access multiple wind farms."

The County finds the Applicant has not demonstrated that the desire for a wind service facility for technicians to dispatch to area wind farms to 1) support more growth of the wind industry in Umatilla County, and 2) the wind service facility would be located at a midpoint to efficiently access multiple wind farms, where no information was provided identifying area wind projects the proposed wind service facility office is offered to be located at a midpoint between. The majority of wind projects approved in Umatilla County are located closer to the Oregon/Washington border east and northeast of Pendleton, an area considered as north-central County and east County.

Therefore, to the extent that Goal 13 applies to the Applicant's request for a Goal 3 reasons exception the proposed use of the exception property for a wind service facility located at a midpoint to somewhere does not comply or support Goal 13. Likewise although the Applicant includes that Goal 13 is supported because the wind service facility would have access to "a major state interchange" this point was not further developed and likewise could describe access for many parcels located in the County at or near I-84 interchanges.

Additionally the Applicant's reasons exception to Goal 3 is limited to the uses the reasons justify. The reasons must support each proposed use on the exception property and by the very nature of Goal 3 the reasons exception uses are limited. Limitations under the Goal 3 reasons exception are not for the purpose of providing consistency with Goal 13. The County finds the Applicant's assumptions for consistency with Goal 13 are not substantiated.

Goal 14: Urbanization.



To provide for an orderly and efficient transition from rural to urban land use.

Applicant's Response: "Goal 14 typically limits development of urban uses to locations inside urban growth boundaries. The Applications maintain the rural character of the Property by proposing non-urban, low impact uses such as a machine shop and a wind turbine service office that both provide services to rural customers and the RV Park which require minimal development and serves the traveling public. The proposed uses would not require additional public services such as extension of the sewer system and, as indicated in the TIA, would not significantly impact the area transportation facilities. Therefore, the County should find that because the Application do not propose urban uses, Goal 14 does not apply."

Planning Response: The Goal 14 purpose is magnified by the legislature's land use policy establishing the Oregon planning program, ORS 215.243 (2), (3).

(2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.

(3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.

Goal 14 requires establishment of urban growth boundaries as a cooperative process among cities, counties and/or regional governments. And to provide for the orderly and efficient transition from rural to urban land uses.

The County's rural commercial zone, Rural Retail/Service Commercial (RRSC), has several uses that could be considered urban in character rather than rural. This includes one of the uses the Applicant proposed to apply for a permit for as a blacksmith or machine shop to fabricate and sell trailer hitches. The County's RRSC also permits other uses such as financial institutions, gift stores, office buildings and service-oriented businesses. Several of these uses could be considered as questionable in serving mainly rural needs.

During the County's Periodic Review a Goal 14 exception was taken for some areas of the County zoned for commercial use. Other areas where a Goal 14 exception was not taken resulted in the removal of some uses from the County's commercial zone and the adoption of a building size limitation of 3,500 square feet. Addressing Goal 14 through Periodic Review resulted in four commercial zones, Rural Retail/Service Commercial, Rural Tourist Commercial, for lands where a Goal 14 exception was not taken, and Retail/Service Commercial and Tourist Commercial, remained where a Goal 14 exception was justified; therefore, these zones continued to allow some commercial urban level uses in the exception areas. The County completed tasks under Periodic Review and the State deemed the County's Periodic Review was satisfied.

According to the Applicant there are no urban uses proposed on the exception property because the Applicant's proposed uses are listed as permitted either with a Zoning Permit or Conditional Use Permit in the County's RRSC zoning. Since the Applicant proposes uses currently allowed by the County's RRSC zoning, as limited, the County agrees.

20

Goals 15 through 19.

Applicant's Response: "Goals 15 through 19 apply to lands along the Willamette River, wetlands, coastal shorelands, beaches and dunes, and ocean resources. The County should find that these five Goals are not applicable to the Property because; the Property is not located along the Willamette River or in the Willamette River Greenway, the Property does not include any designated estuarine resources and the Applications will not impact them, the Property does not include any coastal shorelands and the Applications will not impact any designated coastal shorelands, and the Property does not include any designated beaches or dunes and the Applications will not impact any designated beaches or dunes, and the Property does not include and is not in the vicinity of any ocean resources and the Applications will not impact any ocean resources. Therefore, the County should find that Goals 15 through 19 are not applicable to the Applications."

Planning Response: Goals 15 through 19 do not apply to lands in Umatilla County or to the Applicant's request.

IV. APPLICABLE STATE STATUTE AND ADMINISTRATIVE RULES – GOALS 2 PROCESS FOR EXCEPTION TO GOAL 3

A. ORS 197.732 provides, in relevant part:

(2) "A local government may adopt an exception to a goal if:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

(B) Areas that do not require a new exception cannot reasonably accommodate the use;

(C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

(4) A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons that demonstrate that the standards of subsection (2) of this section have or have not been met.

Applicant's Response: "The County should find that the responses below pertaining to the requirements of OAR 660-004-0020, which are incorporated into this section by reference, meet the standards of ORS 197.732(c) and therefore that an exception is justified.

The County should adopt findings of fact and a statement of reasons that demonstrate that the standards of this subsection have been met. The County action should satisfy the requirements of this subsection.

The County should specifically note in its notices of public hearing Applications that the Applications propose an exception to Goal 3, and the notices should summarize the issues pertaining to these exceptions in an understandable manner. The County action should satisfy the requirements of this subsection.”

Planning Response:

OAR 660-004-0022 describes the types of reasons that may be used to justify a reasons exception to Goal 3. The Applicant proposes to demonstrate need based on one or more Statewide Planning Goals and must address why the proposed uses or activities have special features or qualities that necessitate location on or near the proposed exception site. Further the Applicant must conduct an alternative-site analysis to address and justify why, or why not, alternative-sites were not chosen, as provided in OAR 660-004-0020.

B. Statewide Planning Goal 2 Exception Process for Exception to Goal 3

Goal 2 provides for three types of exceptions; 1) developed or built, 2) committed, and 3) reasons or need. Often exceptions are identified as “developed and committed” though both have different criteria. Of the three exceptions, “physically developed,” “irrevocably committed” and “reasons” *the reasons exception is the most limiting and is believed to be the most difficult of the three exceptions.* The uses allowed are only those uses that sufficient reasons support and justify. The 3R Value LLC-Madison application provides information in support of a “reasons” exception for approval of a Comprehensive Plan Amendment to re-designate lands from North/South Agriculture to Commercial through a “reasons exception” to the statewide planning Agricultural Goal 3. Goal 3 preserves and maintains agricultural land for farm use.

ORS 197.732 (2) (c), Goal 2, Part II (c) and OAR 660-004-0020 and OAR 660-004-0022, allow an exception to a statewide planning goal to authorize uses of land not otherwise allowed under the goal, if there are reasons that justify why policies in the applicable goals should not apply. Amendments to acknowledged comprehensive plans or land use regulations that significantly affect a transportation facility must address the state rules in OAR Chapter 660 Division 12. Allowed uses by the Goal exception must be limited to rural uses or take an exception addressing the criteria to Goal 14 (urbanization), pursuant to OAR 660-014-0040. The administrative rules for a reasons exception are provided in underlined bold face type.

OAR 660-004-0018

(3) Uses, density, and public facilities and services not meeting section (2) [“physically developed” and “irrevocably committed” goal exceptions] of this rule may be approved on rural land only under provisions for a reasons exception as outlined in section (4) of this rule and applicable requirements of OAR 660-004-0020 through 660-004-0022, 660-011-0060 with regard to sewer service on rural lands, OAR 660-012-0070 with regard to transportation improvements on rural land, or OAR 660-014-0030 or 660-014-0040 with regard to urban development on rural land.

28

Applicant's Response: "The County should find the reasons exception has been justified in the above response to OAR 660-004-0022, incorporated here, and that the proposed uses, density, and public facilities and services meet the applicable requirements of OAR 660-004-0020 through 660-004-0022, 660-011-0060 regarding sewer service on rural lands, OAR 660-012-0070 regarding transportation improvements on rural land, or OAR 660-014-0030 or 660-014-0040 regarding urban development on rural land."

(4) "Reasons" Exceptions provides, in relevant part:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

Applicant's Response: "The County should find that the proposed plan and zone designations, namely the Limited Use Overlay Zone, limits the density, public facilities and services, and activities to only those justified above as an exception to Goal 3."

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.

(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.

Applicant's Response: "Applicant acknowledges the requirements subsections (b) and (c)."

Planning Response:

The County acknowledges the rules for a reasons exception and the limitations on exception uses, pursuant to OAR 660-004-0018.

OAR 660-004-0022

Reasons Necessary to Justify an Exception under Goal 2, Part II(c) [for Goal 3 Exception]

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040.



County Summary of the reasons exception under OAR 660-004-0022:

Reasons fall into two broad categories.

The first category is “need” of the proposed use or activity based on other Statewide Planning Goals and “location” where the proposed use or activity can only reasonably be obtained at the exception site; or the proposed use or activity has special features or qualities that require the proposed use or activity to be located on the proposed exception site.

The second category of reasons exceptions is really a group of specific types of uses identified in OAR 660-004-0022 (2)-(11), in part these uses include rural residential development, water-dependent development and certain uses in areas of coastal shore lands.

Because the Applicant’s reasons exception request is not one of the specific types of uses in OAR 660-004-0022 (2)-(11) it is evaluated under “need” and “location”.

The Applicant requests an Agricultural Goal 3 exception to rezone EFU land to Rural Retail Service Commercial to pursue commercial development and/or redevelopment of the proposed exception property for the following list of uses:

- travel trailer (RV Park),
- use of an existing farm shop building by Jack-E Up LLC, as a machine or welding shop for fabricating and selling trailer hitches, or
- alternatively, use of the shop building as an office for a different business,
- use of an existing dwelling as an office for wind service technicians for dispatch to maintain and repair area wind power projects, or
- use of the dwelling as an accessory dwelling for the RV Park operator (caretaker).

Applicant’s Response: “The Applications propose uses that are not allowed by Goal 3; therefore, the County should approve Goal 3 exceptions to allow these uses. Applicant addresses the reasons that justify this exception in the response below.”

Planning Response: The County finds the Applicant’s reasons exception request is not one of the specific types of uses in OAR 660-004-0022 (2)-(11) and will be evaluated under “need” and “location”.

(1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

(A) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must



demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(B) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

Applicant's Response: "The uses proposed by the Application are not specifically addressed by OAR 660-004-0022. Additionally, the uses proposed by the Applications are not addressed in OAR 660-011-0060 (Sewer Service to Rural Lands), 660-012-0070 (Exceptions for Transportation Improvements on Rural Land), 660-014-0030 (Rural Lands Irrevocably Committed to Urban Levels of Development) or 660-014-0040 (Establishment of New Urban Development on Undeveloped Rural Lands). The proposed uses are not addressed by these administrative rules because the Applications do not propose to respectively; extend sewer service, require transportation improvements that would require a goal exception, assert that the Property is irrevocably committed to urban development, or propose to establish urban development on the Property.

The Applications satisfy subsection (a) because there is a demonstrated need for the uses proposed by the Applications under Goal 8 (Recreational Needs) and Goal 9 (Economic Development). The Applications propose a recreational vehicle park on the Property. The purpose of Goal 8 is to satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts. Review of nearby RV Parks indicates that those tourism facilities are close to capacity even prior to the summer travel season. Addition of this use will facilitate Goal 8. Goal 9 is to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens. The Property is not economically viable for crop production and the Applications propose to use the Property for economically viable uses for the Applicant, the County tax base, and the individuals employed by the new economic activity.

The Applications satisfy subsection (B) because the proposed uses have special features that necessitate the location on or near the proposed exception site. The first use of the RV Park is dependent on the traveling public and therefore it is necessary to locate the use close to a primary travel corridor. The Property is one parcel from the intersection of I-84 and Highway 207. The second use of the office for wind turbine service technicians is also dependent on efficient access to major roadways and a centralized location to service the wind power projects in the County."

Planning Response: In addressing OAR 660-004-0022 (1) (a) the Applicant states recreational needs, Goal 8, and economic development, Goal 9, as providing the basis for satisfying the rule for the Applicant's proposed uses. However, the Applicant did not choose to submit a market area analysis [as required by (A)] showing the area to be served for each of Applicant's proposed uses. Often only one use, the RV Park, is put forth by the Applicant in addressing rule criteria. Here the Applicant also restates the purpose statement for Goal 8 and for Goal 9 and offers, that the "Applications propose a recreational vehicle park on the Property." Further the Applicant states, "Review of nearby RV Parks indicates that those tourism facilities are close to capacity even prior to the summer travel season." Specifics and/or facts were not provided other than the statement quoted above to describe the area or location of nearby parks. It is unknown what nearby parks were looked at or where these parks may be located or whether the referenced parks serve the traveling public, short-term housing for temporary workers, or are a combination of mobile home parks that welcome RVs.

Under this section of the rule the Applicant also provides, "the Property is not economically viable for crop production and the Applications propose to use the Property for economically viable uses for the Applicant, the County tax base, and the individuals employed by the new economic activity." Again, it is difficult with the information provided in the section, as well as, what has been provided addressing other sections, for Planning

to make a determination on how the economics of the Rural Retail/Service Commercial business for an RV Park, as well as, for fabrication and sale of trailer hitches would affect the County tax base or individuals employed by other new economic activities, no doubt, if successful it would positively impact the economics of the Applicant.

In addition to the rule requiring the Applicant demonstrate need for the proposed uses or activities based on one or more of the Goals, the Applicant must under OAR 660-004-0022 (1) (a) either (A) show that the resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site, substantiated by a market analysis, or (B) demonstrate the proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

The Applicant addresses (B) in that the RV Park is dependent on the traveling public and therefore it is necessary to locate close to a primary travel corridor. The Applicant also provides that the exception property is located one parcel from the intersection of I-84 and Highway 207. As shown on the vicinity map by following State Highway 207 south from the exception property to the intersection of Hwy 207 with I-84 there are three parcels between the exception property and the intersection. These parcels include a portion of Tax Lot 100, the adjoining EFU zoned 45 acre farm parcel, and Tax Lots 102 and 104. Tax Lot 102 is developed with Space Age and Tax Lot 104 is developed with the Comfort Inn motel, both are zoned Rural Tourist Commercial.

In addition, the Applicant includes that the wind turbine technician facility is “dependent on efficient access to major roadways and a centralized location to service the wind power projects in the County.” Efficient access to major roadways may be equally accomplished from many locations including lands that do not require an exception and/or are located within Hermiston’s UGB beginning approximately one mile north, along Highway 207, from the proposed exception property.

Goal 3 protected EFU zoned lands may be sited with an Operations and Maintenance (O&M) facility in conjunction with an approved wind project conditional use permit. Use of the exception property as an office for dispatch of technicians to service and maintain wind project facilities is not demonstrated as having special features or qualities that necessitate its location on or near the proposed exception site and simply because technicians benefit from efficient access to major roadways, other appropriate zoned non-exception properties where an office for wind turbine technicians could be approved without a Goal 3 exception equally could have efficient access to major roadways.

The Applicant further contends the proposed use of the exception site for wind turbine service technicians depends on “a centralized location to service the wind power *projects in the County.*” (Emphasis added) The turbine service office is also described and justified as centrally located: however, central to where, or to which projects, in Umatilla County were not identified.

Most of the wind power projects, approved in Umatilla County, are located northeast of Pendleton. The closest approved wind power project to the proposed exception property is a small project approved to the southwest of Echo in the Buttercreek area and located on the Madison and Mader-Rust properties. Therefore, the location of the exception property for use as a wind turbine service technician office is represented by the Applicant as depending on “a centralized location to service the wind power *projects in the County.*” (Emphasis added) The Applicant may believe this statement; however, it is not supported by facts in the Application.

Findings:

County Planning finds in addressing OAR 660-004-0022 (1) (a) the Applicant has not provided a factual basis to support removal of protections under Goal 3 to allow an RV Park, one of several proposed exception property uses, as based on supplying recreational needs of the citizens of the state and visitors under Goal 8.

County Planning finds in addressing OAR 660-004-0022 (1) (a) “that economically viable uses for the Applicant, the County tax base, and the individuals employed by the new economic activity”, has not provided a basis to remove protections under Goal 3 based on Goal 9, a goal that generally applies to urban lands and urban growth boundaries (not on rural lands), as acknowledged by the Applicant in the Application.

County Planning finds that the Applicant chose not to base the exception on (1) (a) (A), a resource or resources, the proposed exception uses are dependent upon, or by providing an analysis of the market area to be served by the proposed uses or activities, or demonstrate that the proposed exception site is the only site within the market area where the depended upon resource can reasonably be obtained.

County Planning finds that the Applicant chose to base the exception on (1) (a) (B) that each proposed use or activity has special features or qualities that make it necessary to locate on or near the Applicant’s property.

County Planning finds in addressing OAR 660-004-0022 (1) (a) (B) the Applicant has not demonstrated need on the exception property for the RV Park, based on that the “RV Park is dependent on the traveling public and therefore it is necessary to locate close to a primary travel corridor.” County Planning further finds there are properties that do not require an exception, that are appropriately zoned and appropriate in size, located within the City of Hermiston’s UGB along primary travel corridors, as confirmed by conversations between County and City Planning.

County Planning finds a wind turbine office for use by wind turbine technicians is a permitted use on Goal 3 protected lands zoned EFU in conjunction with the approval of a conditional use permit for a wind project.

County Planning finds the Applicant has not demonstrated need under OAR 660-004-0022 (1) (a) (B) for the proposed use of the exception property as an office for dispatch of technicians to service and maintain wind project facilities and further Finds the Applicant has not demonstrated the proposed use has special features or qualities that necessitate its location on or near the proposed exception site to justify a Goal 3 exception and rezone the property from EFU to a commercial zone.

County Planning finds the Applicant has not addressed or demonstrated need under OAR 660-004-0022 (1) for other proposed uses such as, use of the existing farm shop building by Jack-E Up LLC, as a machine or welding shop for fabricating and selling trailer hitches, or alternatively, use of this same shop building as an office for a different business, or as an alternative use of the dwelling as an accessory dwelling for the RV Park operator (caretaker).

Conclusion:

County Planning concludes, based on the above findings, the Applicant has not demonstrated need for the proposed uses, based on one or more Statewide Planning Goals and further the Applicant has not shown that the County cannot satisfy or meet Planning Goals unless the County accommodates the Applicant’s uses through approval of the Goal 3 reasons exception.

OAR 660-004-0020

Prior to the County applying and evaluating the Applicant's request under OAR 660-004-0020, the Applicant is obligated to satisfy requirements in OAR 660-004-0022. Because the Applicant has put forth reasons in addressing the rules under the OAR 660-004-0020 provisions the Applicant's reasons are considered here and evaluated.

Goal 2, Part II(c), Exception Requirements [for Goal 3 Exception]

(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

Applicant's Response: "The state policy embodied in the applicable goal, Goal 3, is that agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products. The following reasons justify why this state policy embodied in Goal 3 should not apply to the Property."

"Applicant's Reason 1 – Quality of the Property for Farming. The Property is not viable agricultural land and therefore its protection does not require prioritization under Goal 3. The prior landowner ceased to farm the Property in the 1990s as a result of the inability to maintain the irrigation system and the substantial cost of the installing a new system relative to the ability of the Property to produce crops, as inhibited by the small parcel size and mixed soil quality. The Property no longer has an associated water right and climatic conditions make it difficult to grow crops without irrigation."

"Applicant's Reason 2 – Location of the Property. The Property is located in an area that is already developed in a manner that supports its use for rural commercial activities. The Property is located near the interchange of I-84 and Highway 207. The Space Age travel center, located on two lots to the south, is zoned Rural Tourist Commercial and attracts highway traffic including both passenger vehicles and commercial trucks. To the north and east, large commercial, agricultural, and industrial sites also attract large vehicles and commercial traffic off the interstate. The Property is sandwiched between commercial economic hubs and the Applicant wishes to develop on the Property to complement those surrounding uses. First, the Property is well suited for an RV Park due to its proximity to the interstate corridor, the direct access off of the state highway, its parcel size, and its proximity to a travel center and transportation fuel supply. Second, its location along a route well-traveled by commercial and agricultural users is ideal for the Jack-E Up machine shop because the products are designed for use on recreational and agricultural trailers. Third, the location of the Property is ideal for the wind turbine service office because there is immediate access to transportation infrastructure that wind turbine service technicians use to access the wind power projects of Umatilla County."

“Applicant’s Reason 3 – Economic Benefit. The Property is a small parcel (approximately 11 acres). However, even with the limited uses available for the Property due to its small size and the Applicant’s limited use overlay request, the Property has the potential to make a high-value contribution to the economy of the County because of the multiplier effect of locating businesses that are core to the regional economy. For example, massive investments by out of state corporations in technology hubs may provide an initial spike in construction-related employment. As those projects come online, they demand massive amounts of energy but fewer and fewer employees. In contrast, these Applications would locate service industries that employ local citizens, like wind turbine service technicians, to serve local economic interests, like wind farms. Therefore, the multiplier effect of investment here upon the county at large is substantial even though the physical footprint impacted by the Applications is only a small parcel.

This economic opportunity would come with very little change to the rural landscape. Use of the existing structures for a wind maintenance office would create an economic benefit for the County tax base and promote a growing job source for County residents. Availability of wind turbine service and maintenance providers is an industry-critical matter. The County has supported wind power development, and now those projects require service and maintenance. Accordingly, the wind farm service office would support local job creation in an industry that has become critical to the County. The United States Department of Labor states that “[e]mployment of wind turbine service technicians is projected to grow 108 percent from 2014 to 2024, much faster than the average for all occupations.”¹ As of May 2016, the mean annual wage for wind service technicians in Oregon was \$57,330.2 Siting a turbine maintenance office on the Property allows the expansion of a facility which can support local skilled job growth and benefit the residents of the County. The County should find that the reasons described above justify an exception for the Property.

In addition to the regional benefits offered by a wind turbine service office, the proposed RV Park would contribute to the County tax base and facilitate the growth of the County’s tourism industry. One of Umatilla County’s stated economic goals is to promote tourism. Specifically, the stated goal is to continue representation of local and regional groups, promote regional tourism efforts and outdoor recreation opportunities. The addition of an RV Park promotes local and regional tourism by adding accessible accommodations that are convenient for RV tourists and recreationalists visiting or traveling through the County.”

Planning Response: The Applicant’s reasons exception request is not one of the specific types of uses in OAR 660-004-0022 (2)-(11) therefore, the reasons exception is evaluated under “need” and “location” for the rezoning of EFU land to Rural Retail/Service Commercial to pursue commercial development and/or redevelopment of the proposed exception property.

Planning Response Applicant’s Reason 1:

Reason 1 – the Applicant discusses the quality of the farmland proposed for exception. Although the farmland soils are not prime soils the land has been productive farmland with water rights. The property water rights have been since transferred (Exhibit 2) from the parcel. The Applicant’s reason includes “. . . climatic conditions make it difficult to grow crops without irrigation.” Although most crop production is tied to adequate water this reason appears to be self-imposed by the Applicant through the transfer the water rights to other property. Further the Applicant’s Reason 1 has not addressed “need” for the proposed exception request use(s) based on other Statewide Goals but generally provides a reason based on farmland quality and lack of current irrigation water rights.

Planning Response Applicant’s Reason 2:

Applicant’s Reason 2 – the Applicant identified two areas as economic hubs. The first area, or economic hub, is identified as located south of the exception property. This area is actually south of the adjoining L-shaped

EFU zoned 45 acre irrigated farm parcel. The Applicant identifies this area as the Space Age travel center area serving both passenger vehicles and commercial trucks. The area is a “developed and committed” exception area located at the I-84/Highway 207 Interchange designated and zoned in 1979 as Tourist Commercial.

The second area, or economic hub, identified in Applicant’s Reason 2 is located to the north and northeast of the exception parcel. The Applicant identifies this area as consisting of large commercial, agricultural, and industrial sites that attract large vehicles and commercial traffic from the interstate. This area is actually comprised of several specific County exception areas north of the Umatilla River.

One area in this described economic hub is located along the west side of Highway 207 at the intersection of Highway 207 and Feedville Road. This triangular shaped area is approximately 15 acres designated Agri-Business. Within this Agri-Business zoned area are two farm implement businesses, the John Deere dealership, RDO, and the Case Tractor dealership, Central Machinery Sales. Across from the Agri-Business area, on the east side of Highway 207 and south side of Feedville Road, is approximately 40 acres of rural Industrial zoned land. This area is between the west side of Highway 207 and a railroad spur line located to the east that serves as the County Industrial area’s east boundary. The industrial area is currently developed with a fueling station, Bud Rich potato storage sheds and Shearer’s Foods, a potato chip processor.

Southeast of Shearer’s Foods, between the U. P. Railroad and the Umatilla River is the energy facility, Calpine (Iermiston Power Partnership). Calpine is developed on Heavy Industrial zoned land along Simplot Road, east of Highway 207. Farther to the east (of Calpine) is the Union Pacific ‘Hinkle’ Railroad Facility. The Hinkle railyard serves as a repair facility for rail cars and in part consists of the Union Pacific Railroad administrative offices and fueling facilities.

The Industrial land uses specified above are identified under Hinkle #4 in the Industrial Needs Analysis of the County Comprehensive Plan. Agri-Business areas are identified on Comprehensive Plan page 18-384 and Tourist Commercial areas are listed on Comprehensive Plan page 18-276.

The Applicant indicated the property “is sandwiched between commercial economic hubs and the Applicant wishes to develop on the [proposed exception] Property to complement those surrounding uses.”

The proposed exception property is located on land that could be described as located between the Tourist Commercial areas to the south and the County Agri-business and Industrial zoned areas to the north the Umatilla River; however, the exception property does not adjoin either of these areas nor is the parcel “sandwiched,” crammed, or squeezed, in between these two described areas. Rather, if the Goal 3 exception is approved and the rezone adopted, the exception parcel would be a single parcel of commercial zoned property among EFU zoned land.

The Applicant provided three sub-reasons under Reason 2. The *first* sub-reason describes the exception property is well suited for an RV Park due to parcel size, its proximity to the interstate corridor, access from the State Highway 207 and proximity to Space Age travel center and a fuel supply. The *second* sub-reason describes the exception property as ideal for the Jack-E Up machine shop because the products are designed for use on recreational and agricultural trailers. The *third* sub-reason describes the exception property as ideal for use by wind turbine service technicians for access to transportation infrastructure to the wind power projects in Umatilla County. Although all three sub-reasons under Reason 2 are provided in support of the Applicant’s desire for three of the five proposed uses: RV Park, Jack-E Up machine shop and trailer hitch sales, and wind turbine service facility. These commercial use sub-reasons could also be used as support for other similarly zoned and situated parcels such as the adjoining parcel to the Applicant’s parcel or simply for parcels situated along Highway 207 and in the vicinity of the interchange to Interstate I-84.

Planning Response Applicant's Reason 3:

Applicant's Reason 3 – Economic Benefit. The Applicant includes that although the parcel is small and with limiting commercial uses that could be developed on the exception property, the parcel has the potential to contribute high-value to the economy of the County.

The exception property's contribution to the economy of the County is explained due to a multiplier effect from businesses locating here that are core to the regional economy. The Applicant provides an example of out of state corporations making massive investments in technology hubs that may provide an initial spike in construction-related employment. The Applicant goes on to say these projects demand massive amounts of energy but fewer and fewer employees as they come online.

Although the multiplier effect is valuable in calculating the potential economic benefit from capital investments under macroeconomics it does not explain why there is need for the list of businesses proposed by the Applicant at the exception site. Additionally, market demand alone does not establish need.

Under the Economic Benefit reason the Applicant includes:

“... service industries that employ local citizens, like wind turbine service technicians, to serve local economic interest, like wind farms. Use of existing structures on the exception property for a wind maintenance office would create an economic benefit for the County tax base and promote a growing job source for County residents.”

The Applicant also informs that wind service technician wages and the general job growth (2014-2024) in the wind service industry is an added reason as to why the exception property justifies the Goal 3 reasons exception. Also offered is the siting of a turbine maintenance office on the exception property “allows the expansion of a facility which can support local skilled job growth and benefit the residents of the County.” However, why the facility must be located on resource land such as the exception property is not fully explained, or why the proposed exception property location is better than a current wind turbine maintenance office location, or why an office could not be located on other similarly situated land is not provided.

The wind turbine maintenance office/facility, located elsewhere, currently provides a benefit to the County tax base. Moving this facility to the Applicant's property may benefit the Applicant; however, the benefit to the County remains whether the facility shifts locations from one County location to another County location. This does not explain why this use must be located on Goal 3 protected resource land.

The Applicant continues that the proposed RV Park also would contribute to the County tax base and facilitate growth of County tourism by adding accessible accommodations that are convenient for RV tourists and recreationalists visiting or traveling through the County. However, why the use requires a location on Goal 3 protected resource land is not fully explained or justified.

(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) The “alternative areas” standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

Applicant's Response: “Applicant determined that there are no alternative areas are available that would reasonably accommodate Applicant’s uses and do not require an exception. Based on review of the County zoning requirements, Applicant found that the only zoning that allowed the desired uses is the RRSC zone. The Applicant proposes uses that are low impact and rural, and depend on agricultural commercial customers, rural commercial customers, and the traveling public. The County should find that the Applicant’s finding that similar types of areas in the vicinity could not accommodate the proposed uses is justified under these rules.

1. RV Park. The RV Park requires a location close to an interstate highway to facilitate access by the traveling public outside of congested urban areas that would make the site impracticable for large RVs. No city wants its streets clogged with RVs. This location would attract tourism activity without imposing a burden on the core area of a Umatilla County city. To evaluate alternative sites appropriate for the RV Park, Applicant reviewed all RRSC zoned properties within Umatilla County that were five acres or greater, as required by UCDC’s minimum lot size requirement for RV Parks. Applicant could not evaluate alternatives within the UGB because, by nature, there is no RRSC zoning within the UGB.

2. Machine or welding shop. The Jack-E Up business produces and sells its trailer hitch components to agricultural producers and recreationalists. Jack-E Up intends to market products manufactured in Umatilla

County to the RV Park customers, among others. The properties reviewed for an RV Park as described above were then reviewed for ones that would also accommodate a machine shop.

3. Wind turbine office. The office for wind turbine service technicians requires access to main roads to facilitate efficient access to wind power projects. Alternative zones that the Applicant may have considered for the first two uses would not permit this use. The wind farm service provider has communicated its desire to be centrally-located to certain projects by siting their office on the Property.

The Applicant determined that similar types of areas in the vicinity could not reasonably accommodate the proposed uses. The County should find that the proposed exceptions satisfy these rules.”

Planning Response:

A reasons exception requires an alternative-site analysis. (OAR 660-033-0020, ORS 197.732 (2)(c)(B)) The Applicant must describe the alternative-sites and explain the criteria and process used to identify potential suitable alternative sites. Then relate the criteria and process to the “need” for the Applicant’s proposed uses. Also, alternative sites should not be eliminated because an alternative site requires a conditional use permit. Cost can be a factor but is not by itself a sufficient justification for excluding an alternative site. The criteria and process are not justified by conclusory statements to eliminate potential alternative sites. Additionally, the Applicant must address a list of four questions and answer why, or why not.

The Applicant “. . . determined that there are no alternative areas are available that would reasonably accommodate Applicant’s uses and do not require an exception.” This statement is used as justification for excluding ‘all alternative sites.’ Additional information is not provided to explain site criteria and selection process for choosing or eliminating alternative sites. Thus, Planning is unable to evaluate sites or the Applicant’s process for selecting or eliminating alternative sites or making the determinations that sites are, or are not reasonable. In addition the Applicant must address four questions under OAR 660-004-0020 (2)(b)(B)(i-iv) and provide why, and why not, to each. This was not done. Instead the Applicant lists the three main proposed uses, i.e. RV Park, Machine or Welding Shop and Wind Turbine Office and provides general statements.

Alternative Sites:

Alternative site areas that do not require an exception could be located either within a city UGB (City of Hermiston’s UGB and city limits located one mile north of the Applicant’s property on the north side of Feedville Road) or within the County’s existing exception areas. Other potential alternative sites may be within the UGBs of Stanfield and Echo especially the areas close to the I-84 interchange located between Stanfield and Echo.

The Agri-business and Industrial areas along Highway 207 and Feedville Road are County exception areas and are one of two areas described by the Applicant as economic hubs. However, the Applicant has not identified alternative sites but generally made conclusionary statements that “no alternative areas are available that would reasonably accommodate Applicant’s uses and do not require an exception.”

County Planning reached out to West County area cities for information on the availability of alternative sites that would not require an exception. Properties were identified for size, zoning and access to transportation routes. This resulted in discussions for several sites with access either to a State Highway or paved County Road located within city UGBs that could accommodate uses proposed by the Applicant.

In addition, County Planning reached out to West County cities and posed questions regarding the Applicant’s statements on potential RV congestion in urban areas and whether alternative sites located within cities or city

UGBs are impractical for large RVs and should be characterized as not reasonable alternative locations for RV Parks. The answer was a firm and resounding NO. Instead, Planning received information on four possible site areas within city UGBs including a site along State Highway 395 south of Hermiston, areas north of Stanfield on Highway 395 and commercial zoned areas on the north side of the I-84/395 interchange were identified as appropriate zoned. A location north of Echo along Thielsen also was identified by the City of Echo as appropriately zoned for uses proposed by the Applicant.

Also, posed to cities was the Applicant's statement, "No city wants its streets clogged with RVs." Again, this was not the opinion shared by the cities contacted by the County Planning Department. Therefore, it appears these statements were offered not as fact but as generally accepted truth, because who would want congestion or additional large RVs maneuvering on city streets? However, the Applicant's statements are not confirmed as fact, or even as the opinion of West County cities, as confirmed through Planning's contact with Hermiston, Stanfield, Echo, and the City of Umatilla.

Apparently, the Applicant did not evaluate alternatives within area UGBs as the Applicant includes the following statement, "Applicant could not evaluate alternatives within the UGB because, by nature, there is no RRSC zoning within the UGB."

It is true the Applicant would not find RRSC County zoning within the city limits or UGBs; however, looking for RRSC county zoning in the UGB is not the expectation under the rule. The Applicant is however, expected at a minimum, to generally describe alternative-sites and explain the criteria and process used to identify sites and address OAR 660-004-0020 (2)(b)(B)(i-iv) and provide why, and why not.

Zoning Review:

The Applicant indicates a review of County Zones was done to find zoning that fits the Applicant's proposed uses. This review led to the Applicant's request to change the zone from EFU to the RRSC zoning (with LU Overlay). Although the exception request for the RV Park is based in part on accommodating the traveling public, and the purpose of the County Rural Tourist Commercial (RTC) Zone is to serve the traveling public, and likewise Space Age travel center located at the I-84/Highway 207 interchange is zoned RTC, the RTC zone is not the zoning the Applicant requests.

Trailer Hitch Fabrication & Sales:

The Applicant's use of the exception property for a trailer hitch fabrication and sales business is a use the Applicant wishes to establish through a zoning permit under the use as a "blacksmith or machine shop," a permitted use in the RRSC zone. The Applicant intends to market trailer hitches to agricultural producers, RV Park customers (recreationalists), among others. How this meets a rural use vs. an urban use was based on that the County has a State acknowledged Rural Retail/Service Commercial zone that permits a "blacksmith or machine shop."

The Applicant provides, "The Jack-E Up business produces and sells its trailer hitch components to agricultural producers and recreationalists. Jack-E Up intends to market products manufactured in Umatilla County to the RV Park customers, among others." Marginally offered is that the use of the exception property as a trailer hitch fabrication and sales business is due to location, "the exception property as ideal for the Jack-E Up machine shop because the products are designed for use on recreational and agricultural trailers." As with the RV Park no attempt appears to be made by the Applicant to describe alternative-sites and explain the criteria and process used to identify potential suitable alternative sites and address OAR 660-004-0020 (2)(b)(B)(i-iv) as well as, provide why, and why not.

410

Wind Turbine Service:

The Applicant's use of the exception property as a wind turbine service facility by service technicians is addressed, as requiring access to main roads for efficient access to wind power projects. Planning expects what the Applicant is saying here is the access to the State Highway is efficient for dispatching wind technicians to work at area wind projects. Further the Applicant has support from a wind farm service provider that affirms this position. The same could be said of all the locations (properties) with access to the State Highway including properties located within the economic hubs the Applicant identified earlier.

However, that is not what the rule is asking. The Applicant is to describe alternative-sites and explain the criteria and process used to identify potential suitable alternative sites and provide why sites are determined or not determined to be available to reasonably accommodate Applicant's uses.

Additionally, the Applicant must specifically address the following:

- Can the proposed use be reasonably accommodated on non-resource land that would not require an exception . . . ? If not, why not?
- Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to non-resource use . . . including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?
- Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?
- Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

Planning Summary:

The Applicant states it was determined there are no alternative areas available that would reasonably accommodate Applicant's uses that do not require an exception. And that the, "Applicant could not evaluate alternatives within the UGB because, by nature, there is no RRSC zoning within the UGB." Also, "The Applicant determined that similar types of areas in the vicinity could not reasonably accommodate the proposed uses."

The Applicant did not describe or address generally alternative areas or provide additional information on the questions of why, or why not, areas were determined or not determined reasonable to accommodate the Applicant's uses.

Finding and Conclusion:

The County finds the Applicant has not described or addressed alternative areas or provided additional information on the questions of why, or why not, areas were determined or not determined as reasonable to accommodate the Applicant's uses.

The County finds and concludes the Applicant has not fully satisfied requirements to remove farmland protections under Goal 3 through a reasons exception.

(c) "The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site." The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the



proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

Applicant's Response: "The long-term environmental, economic, social, and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the Property.

The Applications propose limited construction and therefore limited environmental impact. The impact of approving an exception for the limited uses Applicant proposed for the Property would be far less than approval of exception on resource land currently in agricultural production because the structures necessary to support the wind farm service facility are already in place.

The Property is near the Umatilla River. Applicant acknowledges the regulatory requirements for floodplain, stormwater, and erosion control and that these requirements will be met by the development.

The removal of the Property from the resource base will have positive economic impact because it will use the property for its best economic purpose while sparing the loss of actual high value farmland if the wind turbine service facility were sited where it is currently approved for siting. The change in use will promote economic growth for the County's tourism industry, the County tax base, and to surrounding industrial and tourist commercial businesses. There will be a no increased energy burden or public facility burden as a result of development of the Property as opposed to the same development on other resource land."

Planning Response:

"The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site." Properties similarly situated that also would require a zone change and/or exception were not offered or considered by the Applicant.

A review of the aerial and zoning map for the Applicant's property reveals the property adjoining the Applicant's property (L-shaped 45 acre EFU parcel) to the south also adjoins the Rural Tourist Commercial zoned property, the Space Age travel center. Although this property is also EFU zoned and would require a Goal 3 exception a portion of this adjoining property also runs along the west side of Space Age. This area is outside of a designated flood hazard and floodway and could be considered an alternative development area that would be significantly less impactful for RV development because the area is outside of the FEMA designated floodway located on the Applicant's property. Although, the adjoining property may, or may not, be a preferred alternative the site for other uses proposed by the Applicant. Development of the RV Park



outside of the FEMA designated flood hazard area and floodway would reduce potential environmental adverse impacts.

The Applicant proposes to use an existing structure on the property for wind turbine technicians to dispatch to area wind farms for the purpose of maintaining and servicing wind turbines. Currently technicians are located elsewhere in Umatilla County and therefore moving technicians from one location to another location on the Applicant's exception property may transfer some economic benefit to the Applicant but would not appear to change an economic benefit to the County by moving and switching locations.

The Applicant did not provide numbers for employees or employment opportunities. It is assumed that construction of the RV Park would use a temporary work force. After construction it is assumed the park may employ one or two persons to oversee and manage the park. The Jack-E Up trailer hitch fabrication and sales business is assumed to be an existing business operating elsewhere and would relocate to the exception property. It is not known whether additional employees would be needed or hired for the Jack-E Up business since this information was not in the application materials. The technicians servicing wind turbine projects is also an existing operation currently located elsewhere in the County and as a result of relocating to the Applicant's property it is not known whether this would trigger an increase in the current technician workforce.

The Applicant also offers that energy consequences could be reduced by wind turbine technicians locating on the Applicant's property due to the exception properties central location to Umatilla County wind projects. It is assumed energy reduction would be due to less fuel consumption since technicians would have fewer miles to travel. However, the exception property could not be verified as centrally located due to that the Applicant did not provide information identifying the wind projects the wind turbine technicians would be centrally located to, additionally, most of the County's approved and permitted wind projects are established in the northeast part of the County and how the exception property is centrally located to those facilities is not explained.

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Applicant's Response: "As detailed in the response to OAR 660-004-0020(2)(a) the proposed uses will provide rural and agricultural services to the surrounding rural, agricultural, and tourist commercial uses. The proposed uses will be rural scale and low impact, as required by the RRSC zone. The proposed uses will be screened from adjacent properties, the County road, and Highway 207 by fencing, as illustrated by the Development Plan. Therefore, the County should find that the proposed exception complies with this rule."

Planning Response: Although the applicant states the exception property uses are rural scale and low impact and fencing is proposed for screening purposes the RV Park facility, one of the proposed uses, requires visibility for visitors to find the Park and access the facility. Further fencing does not describe adjacent uses or address how impacts related to each proposed use with adjacent uses will be rendered compatible.

Findings:

County Planning finds the Applicant has not presented adequate information addressing compatibility in identifying and addressing adjacent uses with the Applicant's proposed uses; therefore, the County cannot

explain or make findings that the proposed uses are compatible, or will be made compatible, and thus satisfy OAR 660-004-0020 (2)(d) and ORS 197.732 (2)(c)(D).

V. UMATILLA COUNTY DEVELOPMENT CODE

A. Umatilla County Development Code – Amendments

Umatilla County Development Code (UCDC), Amendments, Sections 152.750 through 152.755 provides information on initiating an amendment, processing an amendment, and imposing conditions on amendments. Additionally, UCDC Section 152.751 requires compliance with provisions of the County Comprehensive Plan and the Transportation Planning Rule, Oregon Administrative Rules (OAR) 660, Division 12, and the Umatilla County Transportation Plan (TSP), subject to *Traffic Impact Analysis in UCDC Section 152.019*.

The applicant acknowledges the procedural requirements of sections 152.750 through 152.755.

1. RRSC, Rural Retail/Service Commercial.

§ 152.251 PURPOSE.

The RRSC, Rural Retail/Service Commercial, Zone is designed to comply with Goal 14 and provide areas outside of urban growth boundaries and unincorporated communities where specific commercial activities require larger sites than are available inside an urban growth boundary and provide for retail and service- oriented commercial activities to accommodate rural residences. This zone is applied to commercial lands outside unincorporated communities and urban growth boundaries for which an exception to Goal 14 has not been approved.

The intent of the Rural Retail/Service Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact.

Applicant's Response: "The uses proposed by the Applicant for the Property are service-oriented commercial activities that serve rural customers and that require a larger site than available within the UGB. The Applicant is not proposing urban uses of the Property and therefore is not requesting a Goal 14 exception. The proposed uses are designed to provide services to rural businesses, the traveling public and rurally-sited renewable energy facilities. The proposed uses are rural-scale, low-impact and require minimal construction. Therefore, the County should find that the Applications meet the purpose of the RRSC zone."

§ 152.252 USES PERMITTED.

(B) Uses Permitted with a Zoning Permit. In the RRSC Zone, the following uses and their accessory uses are permitted upon the issuance of a zoning permit pursuant to § 152.025 and subject to the requirements of §§152.254 through 152.256 of this chapter:

- (4) Blacksmith or machine shop;**
- (14) Office building;**

44

(18) Service-oriented businesses.

§ 152.253 CONDITIONAL USES PERMITTED.

In a RRSC Zone, the following uses and their accessory uses are permitted, subject to the requirements of §§ 152.610 through 152.616 and 152.254 and 152.256 of this chapter and upon the issuance of a zoning permit:

- (A) Accessory dwelling (one only) for the owner or operator of each existing permitted use as provided in §152.616(X);**
- (F) Mobile home park, travel trailer park as provided in §152.616(NN);**
- (I) Welding shop as provided in §§ 152.616.**

Applicant's Response: "The Applicant submitted a Conceptual Development Plan ("Development Plan") for the Property as Exhibit D to the Applications. As indicated by the plan, the Applications propose development of the Undeveloped Portion as a travel trailer park ("RV Park"). The Applications do not propose additional development to the Developed Portion, but propose to use the existing buildings for the uses listed above. Applicant intends, subject to additional permitting from the County, to use the existing shop building as a machine or welding shop for fabricating and selling trailer hitch products produced by Jack-E Up LLC ("Jack-E Up"). Applicant also intends, subject to entering into agreements with third parties and additional permitting from the County, to use the existing house as an office for wind service technicians to provide maintenance and repair services to wind power projects, or alternatively as an accessory dwelling for the operator of RV Park. If the third party agreements are not secured, Applicant would alternatively propose to use a shop building as an office for a different business. The County should find that the uses identified on the Development Plan are, subject to Applicant obtaining additional permits, allowed in the RRSC Zone."

Planning Response: The Applicant offers two alternative uses. One alternate use is the shop building as an office for a different business. The second alternate use proposes use of the existing farm dwelling as a caretaker dwelling in association with managing the proposed RV Park. Little information is provided by the Applicant to justify or offer reasons for the two alternative uses and therefore, the proposed alternative uses cannot be meaning fully evaluated.

2. LU, LIMITED USE OVERLAY ZONE

§ 152.530 PURPOSE.

The purpose of the LU Overlay Zone is to limit the list of permitted uses and general activities allowed in the underlying zone when a plan amendment and zone change rezones a parcel to that underlying zone through the taking of an exception to a statewide land use planning goal under ORS 197.732.

Applicant's Response: "The Applications request the County apply the LU Overlay zone to limit the list of uses allowed in the RRSC zone in conjunction with requesting an exception to Goal 3. The County should find that Applicant's requested application of the LU Overlay zone is consistent with this purpose of the LU Overlay Zone."

§ 152.531 APPLICABILITY. The LU Overlay Zone is an overlay zone which may be applied, where appropriate, to plan amendments/zone changes affected by either a "physically developed" exception under ORS 197.732(1)(a), an "irrevocably committed" exception under ORS 197.732(1)(b), or a "reasons" exception under ORS 197.732(1)(c).

Applicant's Response: "The Applications request a "reasons" exception to Goal 3 under ORS 197.732 (1)(c). The request is limited to specific uses and the Applications justify only those uses. Therefore, the County should find that it is appropriate to apply the LU Overlay zone to the Property to limit the uses consistent with the exception."

§ 152.532 PROCEDURES. The LU Overlay Zone shall be applied through the plan amendment and rezoning process at the time the underlying plan and/or zone designation is being changed.

Applicant's Response: "The Applications request a plan amendment and rezone. Therefore, it is appropriate to apply the LU Overlay zone to the Property at this time."

§ 152.533 PERMITTED USES. The LU Overlay Zone, when adopted, shall carry out the requirement of Oregon Administrative Rules 660-04-0018 that where a goal exception is taken, permitted uses shall be limited to those uses justified by the exception statement.

Applicant's Response: "As explained below, the Applications have justified an exception to Goal 3 to allow development of rural commercial uses, including the RV Park and the other potential uses described in the response above to UCDC § 152.252 that do not require additional development of the property. The responses below to OAR 660-04-0018 and OAR 660-04-0020 contain these justifications and are incorporated in this response. Consistent with OAR Chapter 660, Division 04, the permitted uses under the LU Overlay zone should be limited to these uses. If the LU Overlay zone is so limited for the Property, the County should find that the Applications satisfy this standard."

§ 152.534 USE LIMITATIONS. The following limitations shall apply to the underlying zone when the LU Overlay Zone is applied:

(A) In all cases, the hearings body shall establish that:

(1) The uses and general activities subject to the rezoning are required to be limited to those uses and general activities justified in the goal exception taken.

Applicant's Response: "As explained below, Applicant has justified an exception to Goal 3 to allow development of rural commercial uses, including an RV Park, and the other potential uses described in the response above to UCDC § 152.252 that do not require additional development of the property. The approximate location, size, and layout of these uses is identified in the Development Plan. Therefore, the uses and activities allowed by the LU Overlay zone for the Property should be limited accordingly."

(2) A review of all zones in the most current version of this chapter demonstrates that no existing zone adequately limits the uses and general activities.

Applicant's Response: "No existing zone adequately limits the uses and general activities. The Applications justify reasons why particular limited uses should be allowed on the Property, and

410

while an unlimited RRSC zone would allow the same uses, there are two ways in which the general RRSC zone does not adequately limit the uses on the Property. First, they do not limit the size of the proposed uses and activities. A future owner of the Property could develop larger, more intensive uses on the Property under the RRSC zone without the LU Overlay zone than those justified by these Applications, including for example, a motel, restaurant, retail sale outlet, and utility facility. Second, in the absence of the LU Overlay zone, the RRSC zoning district would allow a future owner of the Property to develop other uses in a manner that could have substantial and adverse effects on surrounding agricultural uses. Therefore, the County should find that no existing zone adequately limits the uses and general activities on the Property, and the LU Overlay zone is necessary.”

Planning Response: A local government may take a reasons exception, if justified, and must limit the uses to only those uses justified by the reasons that meet the reasons exception criteria in OAR 660-004-0020 and 660-004-0022.

(3) The requirements and standards of this section shall apply in addition to those specified in this chapter for the underlying zone and any other applicable overlay zones.

(B) The requirements and standards of this section shall apply in addition to those specified in this chapter for the underlying zone and any other applicable overlay zone.

Applicant’s Response: “Applicant acknowledges the requirements of these subsections.”

§ 152.535 ADOPTION. The ordinance adopting the underlying zone and the LU Overlay Zone shall set forth those specific uses and general activities which will be permitted or conditional uses. The description of the permitted and conditional uses may be qualified as necessary to achieve the purpose of the LU Overlay Zone.

Applicant’s Response: “As explained above, Applicant is proposing to develop rural commercial uses, including an RV Park, and other uses that do not require additional development of the existing structures on the Property. The approximate location, size, and layout of these uses is identified in the Development Plan. The ordinance adopting the zone change should detail the specific permitted or conditional uses accordingly.”

§ 152.536 SITE PLAN REQUIREMENTS; APPROVAL.

(A) In addition to limiting the uses in the underlying zone where the LU Overlay Zone is applied, the county may also require approval of the location of buildings, access, parking, screening and other site planning considerations in order to assure the compatibility of the permitted uses within the area.

(B) The process for reviewing the site plan shall be described at the time of the LU Overlay Zone application. Site plan requirements may be added by specific reference in the LU adopting ordinance. Specifications and standards of the underlying zone remain in effect unless specifically altered by the site plan approval. Separate site plan approval shall not be required for any uses subject to a conditional use permit.

Applicant's Response: "The Applications include the Development Plan that identifies the approximate location, size, and layout of the existing buildings and planned construction for the RV Park, and access, parking and screening for the Property. The County should approve this Development Plan with the rezone."

Planning Response: The County 'may' require approval of the location of buildings, access, parking, screening and other site planning considerations for the purpose of assuring compatibility of the permitted uses within the area. The LU overlay site plan requirement is similar to the compatibility requirement in OAR 660-004-0020 (2)(d), except the site plan is discretionary not mandatory. If the Applicant's request is approved, elements of the site plan can and will change as development plans are finalized; therefore, the County will not issue an site plan approval through the amendment request and will defer the site plan review until the amendments are adopted and finalized. The site plan would be limited to only the uses justified by the reasons exception.

3. TRAFFIC IMPACT STUDY

§ 152.019 TRAFFIC IMPACT STUDY.

(A) Purpose: The purpose of this section of the code is to implement Section 660- 012- 0045 (2) (e) of the State Transportation Planning Rule that requires the County to adopt a process to apply conditions to specified land use proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Analysis must be submitted with an application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Analysis; and who is qualified to prepare the analysis.

Applicant's Response: "Applicant acknowledges the purpose of this section, has submitted a TIA with the application as Exhibit E, and, as described below, fully complied with this section."

(B) Applicability: A Traffic Impact Analysis shall be required to be submitted to the County with a land use application, when one or more of the following actions apply:

(1) A change in plan amendment designation; or...

Applicant's Response: "The Applications propose a change in the plan designation for the Property. Therefore, a TIA is required. Applicant has submitted a TIA prepared in accordance with this Section with the Applications."

(C) Traffic Impact Analysis Requirements

(1) Preparation. A Traffic Impact Analysis shall be prepared by a professional engineer. The Traffic Impact Analysis will be paid for by the applicant.

Applicant's Response: "Applicant has paid for a TIA dated June 2017. That TIA was prepared by Spencer Montgomery and Shae Zanto of J-U-B ENGINEERS, Inc., 1201 Adams Avenue, La Grande, Oregon 97850. Shae Zanto is a registered professional engineer. A copy of the TIA is

48

included with the Applications as Exhibit E. The County should find that the Applications are consistent with this requirement.”

(2) Transportation Planning Rule Compliance as provided in §152.751.

Applicant's Response: “The Applications would restrict development of the Property to the uses under the LU Overlay zone as detailed on the Development Plan. The Applications propose several alternative uses for the existing structures on the Property. However, the TIA evaluates the maximum intensity of use possible under the LU Overlay zone, even though this level of development is not proposed, and the TIA indicates that the amendments will not "significantly affect" any existing or planned transportation facilities for purposes of the TPR. Based upon this testimony, the County should find that the Applications are consistent with this requirement.”

(3) Pre-filing Conference. The applicant will meet with the Umatilla County Public Works Director and Planning Director prior to submitting an application that requires a Traffic Impact Analysis. The County has the discretion to determine the required elements of the TIA and the level of analysis expected. The County shall also consult the Oregon Department of Transportation (ODOT) on analysis requirements when the site of the proposal is adjacent to or otherwise affects a State roadway.

Applicant's Response: “Applicant held a pre-application conference with County Planning on July 21, 2017. JUB consulted with ODOT and County Planning in the preparation of the TIA and implemented County Planning and ODOT comments into the final TIA that is submitted with these Applications. The County should find that this requirement is satisfied.”

(4) For development proposed within the Umatilla Army Chemical Depot boundary of the 1-82/Lamb Road or I- 84/ Army Depot Access Road Interchange Area Management Plan (IAMP) Management Area Prior to the construction and completion of near-term improvements projects (Projects A and B) identified in the 1-82/Lamb Road IAMP, the following additional submittal requirements may be required:

Applicant's Response: “The Property is not located within the Umatilla Army Chemical Depot boundary of the 1-82/Lamb Road or 1-84/Army Depot Access Road Interchange Area Management Plan. The County should find this requirement is not applicable.”

(D) Approval Criteria: When a Traffic Impact Analysis is required; approval of the proposal requires satisfaction of the following criteria:

(1) Traffic Impact Analysis was prepared by an Oregon Registered Professional Engineer qualified to perform traffic engineering analysis;

Applicant's Response: “Shae Zanto is an Oregon registered professional engineer and is qualified to perform traffic engineering analysis. The County should find that the TIA satisfies this requirement.”

(2) If the proposed action shall cause a significant effect pursuant to the Transportation Planning Rule, or other traffic hazard or negative impact to a transportation facility, the Traffic Impact Analysis shall include mitigation measures that meet the County's Level-of-

Service and/or Volume/Capacity standards and are satisfactory to the County Engineer, and ODOT when applicable; and

Applicant's Response: "The TIA indicates that approval of the Applications will not cause a significant effect pursuant to the TPR or other traffic hazard or negative impact to a transportation facility. Therefore, no mitigation measures are required. The County should find that the TIA satisfies this requirement."

- (3) The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:**
- (a) Have the least negative impact on all applicable transportation facilities;**
 - (b) Accommodate and encourage non-motor vehicular modes of transportation to the extent practicable;**
 - (c) Make the most efficient use of land and public facilities as practicable;**
 - (d) Provide the most direct, safe and convenient routes practicable between on-site destinations, and between on-site and off-site destinations; and**
 - (e) Otherwise comply with applicable requirements of the Umatilla County Code.**

Applicant's Response: "In preparing the TIA, JUB evaluated alternative access points, traffic flow designs and site layouts to determine the best overall design to meet the criteria described above. The Development Plan included with these Applications that proposed site design which meets the criteria above. The TIA determined that criteria above is best met with development of a reserved access point from the Property to Highway 207. That reservation is detailed in the Deed includes as Exhibit F. The proposed Highway 207 access would be constructed to meet applicable requirements of the Umatilla County Code. The County should find that the Applications and the TIA satisfy this requirement."

(E) Conditions of Approval: The County may deny, approve, or approve a proposal with appropriate conditions.

(1) Where the existing transportation system is shown to be impacted by the proposed action, dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways may be required to ensure that the transportation system is adequate to handle the additional burden caused by the proposed action.

(2) Where the existing transportation system is shown to be impacted by the proposed action, improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed action may be required.

Applicant's Response: "As indicated by the TIA, approval of the Applications in accordance with the limitation of the LU Overlay zone and Development Plan, will not adversely impact the existing transportation system. Therefore, the County should find that the TIA satisfies this requirement."

B. FH, Flood Hazard Overlay Zone

Sub-Sections

152.351 Statutory Authorization, Findings of Fact, Purpose and Objectives



- 152.352 Definitions
- 152.353 General Provisions
- 152.354 Administration
- 152.355 Provisions for Flood Hazard Reduction
- 152.356 Variance and Appeal Procedures
- 152.357 Penalties for Violations
- 152.358 Severability
- 152.359 Abrogation and Greater Restrictions

Planning Response: Future development on properties within designated FEMA flood hazard areas and floodways, such as the exception property, are required to demonstrate compliance with the Flood Hazard Overlay Zone and address the appropriate sub-section in 152.355.

VI. TRANSPORTATION ANALYSIS – GOAL 12 FINDINGS AND CONCLUSIONS

A. Transportation Rule – OAR 660-012-0060

Statewide Planning Goal 12 is based on factors interpreted in the state administrative rules, OAR Chapter 660 Division 12. The rules require that if an amendment to an acknowledged comprehensive plan or land use regulation (including a zoning map) is determined to significantly affect an existing or planned transportation facility, then the local government must follow OAR 660-012-0060.

OAR 660-012-0060 (1) provides in relevant part: 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 . . .

OAR 660-012-0060 (2) provides in relevant part: 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);**
- (b) Change standards implementing a functional classification system; or**
- (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.**

Applicant's Information:

“The proposed Amendments will not create a significant transportation impact. The proposed use anticipates only a minor increase in Average Daily Trips (ADT) at the Property. No upgrades or

improvements will be necessary to the existing permitted Property access at Stanfield Meadows Road, and at Highway 207.

1. OAR 660-012 and Umatilla County TSP.

- (1) If an amendment to a functional plan...
- (2) If a local government determines that there would be a significant effect

Planning Response - Goal 12 Transportation: The Applicant focuses responses relevant to OAR 660-012-0060 in addressing the Umatilla County Development Code (UCDC) requirements for a Traffic Impact Analysis (TIA) as provided in UCDC Section 152.019 below.

B. Traffic Impact Analysis

(B) Applicability: A Traffic Impact Analysis shall be required to be submitted to the County with a land use application, when one or more of the following actions apply (Section 152.019):

(1) A change in plan amendment designation; or

(2) The proposal is projected to cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation manual; and information and studies provided by the local reviewing jurisdiction and/or ODOT:

(a) An increase in site traffic volume generation by 250 Average Daily Trips (ADT) or more (or as required by the County Engineer). The latest edition of the Trip Generation manual, published by the Institute of Transportation Engineers (ITE) shall be used as standards by which to gauge average daily vehicle trips; or

(b) An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 20 vehicles or more per day; or

(c) The location of the access driveway does not meet minimum intersection sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or vehicles queue or hesitate, creating a safety hazard; or

(d) A change in internal traffic patterns that may cause safety problems, such as back up onto the highway or traffic crashes in the approach area; or

(e) Any development proposed within the Umatilla Army Chemical Depot boundary of the I-82/Lamb Road or I-84/Army Depot Access Road Interchange Area Management Area prior to the completion of near-term improvements projects (Projects A and B) identified in the I-82/Lamb Road IAMP; or



(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.

(C) Traffic Impact Analysis Requirements:

(1) Preparation. A Traffic Impact Analysis shall be prepared by a professional engineer. The Traffic Impact Analysis will be paid for by the applicant.

(2) Transportation Planning Rule Compliance as provided in § 152.751

(3) Pre-filing Conference. The applicant will meet with the Umatilla County Public Works Director and Planning Director prior to submitting an application that requires a Traffic Impact Analysis. The County has the discretion to determine the required elements of the TIA and the level of analysis expected. The County shall also consult the Oregon Department of Transportation (ODOT) on analysis requirements when the site of the proposal is adjacent to or otherwise affects a State roadway.

(D) Approval Criteria:

When a Traffic Impact Analysis is required; approval of the proposal requires satisfaction of the following criteria:

(1) Traffic Impact Analysis was prepared by an Oregon Registered Professional Engineer qualified to perform traffic engineering analysis;

(2) If the proposed action shall cause a significant effect pursuant to the Transportation Planning Rule, or other traffic hazard or negative impact to a transportation facility, the Traffic Impact Analysis shall include mitigation measures that meet the County's `Level-of-Service and/or Volume/Capacity standards and are satisfactory to the County Engineer, and ODOT when applicable; and

(3) The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:

(a) Have the least negative impact on all applicable transportation facilities;

(b) Accommodate and encourage non-motor vehicular modes of transportation to the extent practicable;

(c) Make the most efficient use of land and public facilities as practicable;

(d) Provide the most direct, safe and convenient routes practicable between on-site destinations, and between on-site and off-site destinations; and

(e) Otherwise comply with applicable requirements of the Umatilla County Code.

(E) Conditions of Approval:

The County may deny, approve, or approve a proposal with appropriate conditions.

(1) Where the existing transportation system is shown to be impacted by the proposed action, dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways may be

required to ensure that the transportation system is adequate to handle the additional burden caused by the proposed action.

(2) Where the existing transportation system is shown to be impacted by the proposed action, improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed action may be required.

Applicant's TIA Information - Proposed Development:

The proposed development includes retaining the solar panel use, adding an approximately 4.25 acre Recreational Vehicle Park, and using the existing home and farm out-buildings for a wind turbine service office, machine or welding shop, nursery³ or accessory building for the operator of the RV Park. The conceptual Site Plan is included in [TIA] Appendix C.

As is typical with most traffic studies, a growth rate for background traffic is used to apply to existing traffic volumes to account for growth in traffic that is the result of development outside the study area. Historical traffic volumes on SR 207 available from ODOT indicate that traffic volumes have grown from approximately 4,100 in 2010 to 4,400 in 2015, an annual growth rate of slightly over 1% per year.

To estimate the new trips that could be generated by the proposed development the 9th Edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual was used. This is a nationally recognized compilation of trip generation rates for common land uses. The General Light Industrial trip generation rate was used because it best approximates the anticipated use of the wind turbine service office. Rather than use the trip generation rate for an RV Park, a higher estimate using the rate for Mobile Home Park was used to be conservatively high given that many RV Parks in the region seem to be used on more of a permanent residence basis. The trip generation rates shown in Table 2 below are those reported in the Trip Generation Manual (the ITE Trip Generation Manual identifies the rate for RV Park as 0.98 trips per acre during the PM peak hour, or approximately 4 trips for that usage for this particular property).

TIA Table 2. Trip Generation

Description/ ITE code	Units	ITE Vehicle Trip Generation Rates				Expected Units	Total Trips		Distribution of Trips	
		Weekday	PM	PM In	PM Out		Daily	PM Hour	PM In	PM Out
General Light Industrial 110	Acres	51.8	7.26	22%	78%	5.5	285	40	9	31
Mobile Home Park	Acres	39.61	4.45	63%	37%	4.27	169	19	12	7

³ Nursery was not one of the Applicant's listed uses. However, plant or tree nurseries typically are considered farm uses or as a commercial activity in conjunction with a farm use.

54

240										
General Office 710	KSF ²	11.03	1.49	17%	83%	2	22	3	1	2
Total							476	62	22	40

As shown in the table, 476 average weekday trips are anticipated, with 62 PM peak hour trips (22 inbound and 40 outbound).

Two access options are being considered. Access Scenario 1 assumes that access would solely be provided from Stanfield Meadows Road. Along with background growth described above, these new trips were added to the existing traffic volumes at the study intersection, with 50 percent of new trips to/from the north and 50% to/from the south, consistent with existing traffic patterns at the intersection. Forecast PM peak hour traffic volumes for year 2022 under Scenario 1 are shown in [TIA] Figure 2.

For Access Scenario 2 it was assumed that the development would construct a new site access near the southeastern corner of the 10 acre parcel, a location which has previously been identified and approved by ODOT, see [TIA] Appendix D. Sight distance at this new intersection is excellent, with well over 1500' of sight distance in each direction far surpassing the required 720' identified in ODOT manuals.

The total PM peak Hour traffic volumes for year 2022 for Access Scenario 2 are shown in [TIA] Figure 3 for both study intersections.

Traffic Operations Analysis

The traffic volumes shown in Figures 2 and 3 were evaluated for traffic operations to determine the anticipated delay and Level of Service for both Scenario 1 and 2. With the reconstruction of SR 207 in the vicinity of the subject parcel a continuous two-way left turn lane was constructed and was included in the analysis, providing an exclusive northbound right turn lane into the site. The results of the analysis are summarized in Table 3, with the LOS worksheets included in [TIA] Appendix B.

Table 3.
2022 Build Scenario Delay, Level of Service and volume to capacity ratios

Intersection	Scenario 1	Scenario 2
SR 207/Stanfield Meadows Road	EB – 15.2/C, 0.14	WB – 14.5/B, 0.07
SR 207/Proposed Project Site Access	N/A	EB – 10.9/B, 0.07

LEGEND

15.21/C, 0.14 Delay (in seconds) and Level of Service, volume to capacity ratio
NB = northbound, SB = southbound, WB = westbound, EB = eastbound

As shown in Table 3, intersection Levels of Service at all study intersections are anticipated to be good, with LOS C or better for all stop controlled approaches to SR 207. The evaluation for the new site access was performed with a single eastbound lane.

Turn Lane Analysis

At the request of ODOT an evaluation of left and right turn lanes on SR 207 was performed. The ODOT Analysis and Procedures Manual states:

“A left turn lane improves safety and increases the capacity of the roadway by reducing the speed differential between the through and the left turn vehicles. Furthermore, the left turn lane provides the turning vehicle with a potential waiting area until acceptable gaps in the opposing traffic allow them to complete the turn.”

“The purpose of a right turn lane at an unsignalized intersection is to improve safety and to maximize the capacity of a roadway by reducing the speed differential between the right turning vehicles and the other vehicles on the roadway.”

Exhibits 7-1 and 7-2 from the ODOT Analysis Procedures Manual were used to determine the need for turn lanes at study intersections and are shown below.

Examination of [TIA] Exhibit 7-1 below shows that the intersection of SR 207/Stanfield Meadows Road currently needs no exclusive left turn lanes. Under Access Scenario 1, although the left turn volumes are low at the SR 207/Stanfield Meadows Road intersection, the intersection could benefit from both a northbound and southbound left turn lane based on the volumes used in this analysis of 15 left turns both northbound and southbound and 630 Opposing plus Advancing vehicles in the through lanes. For Access Scenario 2 only a southbound left turn is necessary, which is the result of the existing 15 southbound left turn vehicles. Neither access Scenario will add vehicles to the southbound left turn. Even though a northbound left turn lane is provided on SR 207 in the vicinity of the subject property, the analysis is shown for that movement as well, showing that under the development assumptions of this analysis the northbound left turn lane would not be needed.

It is recommended when development of the RV Park occurs that the new access to the site, evaluated in Access Scenario 2, be constructed which provides a safer access because of the existing two-way left turn lane on SR 207.

Examination of [TIA] Exhibit 7-2 below shows that for Access Scenario 2 no exclusive southbound right turn lane is needed under the development assumptions of this analysis.

Applicant's TIA Summary and Recommendations

Situated on the west side of and adjacent to State Highway 207, north of Interstate 84 and south of the City of Hermiston and the Umatilla River in Umatilla County, Oregon is the 3R Valve, LLC 10 acre parcel.

The current use of the parcel is primarily for solar panels, however there is an existing home and some outbuildings previously used for farm equipment. The owner of the property proposes to retain the existing solar panel use, add an approximately 4.25 acre RV Park, and use the existing buildings for a wind turbine service office, machine or welding shop, nursery or accessory dwelling for the operator of the RV Park. The land is currently zoned agricultural and thus the proposed land use is not permitted. The owner is seeking to rezone the property to Retail/Service Commercial Zone (RRSC), with a Limited-Use Overlay, which would allow the proposed use of the existing facilities. This Traffic Impact Analysis was performed consistent with the Umatilla County Development Ordinance Section 152.019 (B)(1) to document potential traffic impacts as a result of the proposed ReZone of the 10 acre parcel.



The bridge that carries SR 207 over the Umatilla River just north of the site was recently reconstructed and now includes a two-way left-turn lane from north of the bridge to just north of I-84 south of the study area.

For the purposes of trip generation, this study used the rates for a mobile home park to be conservatively high, given that many RV parks in the region seem to be used on more of a permanent residence basis. New trips for the proposed development were added to the study intersections for two access scenarios 1) with access to the development provided by Stanfield Meadows Road and 2) with a new access to the site taken from SR 207 as previously identified and approved by ODOT. Intersection Levels of Service at all study intersections are anticipated to be good under all Access Scenarios, with LOS C or better for all stop controlled approaches to SR 207.

An evaluation of the need for left and right turns for safety purposes was also performed. Under Access Scenario 1, although the left turn volumes are low at the SR 207/Stanfield Meadows Road intersection, the intersection could benefit from both a northbound and southbound left turn lane. Access Scenario 2 requires no left or right turn lanes at the proposed new site access.

It is recommended that when development of the RV park occurs that the new access to the site be constructed which provides a safer access because of the existing two-way left-turn lane on SR 207.

Planning Response and Findings: County Planning finds Scenario 1 would solely use Stanfield-Meadows Road for access to the exception property. County Planning finds access under Scenario 1 would benefit from both a northbound and southbound left turn lane at the State Highway 207/Stanfield-Meadows intersection.

County Planning finds access under Scenario 2 would use access to State Highway 207 from the southeast corner of the exception property. The access under Scenario 2 is the recommended and safer access to the exception property as access to the Applicant's proposed RV Park.

County Planning finds and concludes the Scenario 2 access to State Highway 207 is the preferred access.

County Planning finds and concludes based on the Traffic Impact Analysis the proposed amendments and zone change would not significantly affect a transportation facility.

VII. AFFECTED AGENCIES

The following agencies are notified of the application request:

City of Hermiston, City of Stanfield, City of Echo, Oregon Department of Transportation, Oregon Water Resources, Oregon Department of Environmental Quality, Oregon Department of Agriculture, Oregon Department of Land Conservation & Development, Oregon Building Codes Agency, Umatilla County Assessor, Umatilla County Public Works, Umatilla County Sheriff's Department, Umatilla County Fire District #1 (Hermiston Rural) and Westland Irrigation District

VIII. CONCLUSION

The applicant has requested a “reasons” exception, as provided in OAR 660-004-0020 and 0022 to allow for three uses and two alternate uses on the Applicant’s property. Three exception processes are provided for in State rules, “developed,” “committed” and “reasons.” The “reasons” exception is most demanding to satisfy of three exception paths.

The local government’s approval of a reasons exception to remove protections under Statewide Planning Goal 3 must be based on findings of fact supported by substantial evidence in the record and by statements of reasons that demonstrate the standards for an exception are met. The Applicant must demonstrate “need” for each proposed use and show the County cannot satisfy one or more Oregon Statewide Planning Goals or meet requirements of its Comprehensive Plan without accommodating the proposed uses at the proposed exception “location.”

Justifying a reasons exception requires an alternative site analysis to satisfy ORS 197.732 (2)(c)(B) and the analysis must explain the criteria used to identify suitable alternative sites that relate to the alleged need. In other words the findings must show why the proposed use(s) require resource land. Conclusory statements or arbitrary criteria are insufficient. Additionally, the proposed uses justified by the reasons exception must be compatible with adjacent uses or conditioned to reduce adverse impacts.

IX. OPTIONS FOR PLANNING COMMISSION MOTIONS

A. Motion to Recommend Denial Based on Evidence in the Record

I, Commissioner _____, make a motion to recommend denial of the 3R Valve, LLC, Goal 3 reasons exception, plan amendment and zone change amendment, numbers T-17-075, P-121-17 and Z-312-17, to the Board of County Commissioners, based on the foregoing Findings of Fact and Conclusions of Law.

B. Motion to Recommend Approval with Additional Findings

I, Commissioner _____, make a motion to recommend approval of the 3R Valve, LLC, Goal 3 exception, plan amendment and zone change amendment, numbers T-17-075, P-121-17 and Z-312-17, to the Board of County Commissioners with the following additional Findings of Fact_____.

X. BOARD OF COMMISSIONERS DECISION OPTIONS

A. Denial

Based upon the foregoing Findings of Fact and Conclusions of Law, where it has not been demonstrated the request is in compliance with the County Comprehensive Plan and the State Administrative Rules for a reasons exception to Goal 3, the 3R Valve LLC, amendment request does not satisfy the criteria to rezone resource (EFU) zoned property to commercial (RRSC) zoning and therefore cannot be approved.

B. Approval

Based upon the foregoing Findings of Fact and Conclusions of Law, where it has been demonstrated the request is in compliance with the County Comprehensive Plan and the State Administrative Rules for an exception to Goal 3, the 3R Valve LLC, amendment request to rezone resource (EFU) zoned property to commercial (RRSC) zoning is approved.

DATED this ____ day of _____, 20 ____.

UMATILLA COUNTY BOARD OF COMMISSIONERS

W. Lawrence Givens, *Commissioner*

William J. Elfering, *Commissioner*

George L. Murdock, *Commissioner*



Welcome to
Umatilla County

Carol Johnson <carol.johnson@umatillacounty.net>

Local File T-17-075/Z-312-17/P 3R Valve LLC

Jinings, Jon <jon.jinings@state.or.us>

Wed, Nov 1, 2017 at 4:42 PM

To: "carol.johnson@umatillacounty.net" <carol.johnson@umatillacounty.net>

Cc: "Edelman, Scott" <scott.edelman@state.or.us>, "Murphy, Tim" <timothy.murphy@state.or.us>

Carol,

The department has conducted a quick review of materials submitted to support the exception proposal identified above. Although the short time-frame has not permitted us to complete a more detailed assessment we would like to provide our initial comments and observations.

As we understand things, the subject property is about 11 acres and is planned and zoned for Exclusive Farm Use. The applicant in this case is seeking an exception to statewide planning goal 3 (agricultural lands) in order to establish: 1) An RV Park; 2) A welding shop; 3) An office for Wind Farm Techs and 4) Possibly other related activities.

The applicant is pursuing a "reasons" exception subject to the provisions of OAR 660-004-0020 & 0022. As you know, an application for a reasons exception must satisfy the provisions of OAR 660-004-0022 before reaching the provisions of OAR 660-004-0020.

The applicant has selected the provisions of OAR 660-004-0022(1) as a basis for the exception. The criteria is listed in detail in the justification document so we will not repeat it here. However, we are not convinced that Goal 8 is available to serve as justification for an exception to Goal 3. Even if it was, we do not believe the application demonstrates how an RV park located between an existing solar array and irrigated cropland near I-84 and industrial lands on the outskirts of Hermiston, Oregon would "satisfy the recreational needs of the citizens of the state..."

We are also skeptical that Goal 9 can serve as a basis for an OAR 660-004-0022(1) particularly when, as observed by the application, Goal 9 does not generally apply outside of urban growth boundaries. Furthermore, utility scale wind development has been present

in Oregon for many years with a particular increase coming in the last 10-15 years. We have observed no need for a "wind turbine office" at any location, including areas of the state with a high prevalence of new wind energy development. We do not believe that the application has demonstrated that such a need exists. Furthermore, a common industrial activity like a welding shop is not a use required by any statewide planning goal.

Based in the above, we are unable to conclude that the materials provided for our review satisfy the provisions of OAR 660-004-0022. Therefore, there is no need to conduct a review of OAR 660-004-0020. However, we feel obligated to say that we have doubts and concerns with most every way the provisions of OAR 660-004-0020 have been addressed. We particularly disagree with any contention that the land is eligible for an exception because it is not being actively put to a profitable farm use. This is a management choice and not a reason to discount the protections furnished under Goal 3. The contention that no other lands are available that can accommodate the use is confusing when so much of the surrounding area is either inside an urban growth boundary or an exception area. A zoning map of the area will show that one can travel from Stanfield all the way to the Columbia River without hardly leaving lands planned and zoned for some level of development. The proximity of other commercial or industrial lands does not support a Goal 3 exception in the way characterized by the application. These facts are not truly relevant in this discussion except, perhaps, in that there are other locations where the identified uses could be sited. Simply stated, neither OAR 660-004-0020 or 0022 have been satisfied.

Our recommendation is that the subject property retain its current plan and zone designations. Please include this e-mail in the record of these proceedings. Feel free to contact me if you have any questions.

Jon Jinings

Jon Jinings

Community Services Specialist

Department of Land Conservation & Development

(61)

Source: UMATILLA RIVER, a tributary of the COLUMBIA RIVER

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q - Q	MEASURED DISTANCE
3 N	29 E	WM	21	SW NE	POD #1: North 76 Degrees 45 Minutes 56 Seconds East 2913.19 feet from the West ¼ Corner of Section 21

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	Tax Lot	USER	DINN
4 N	28 E	WM	33	NE NW	9.0	103	KENT MADISON	2011-01

4. Application T-11330 proposes to change the place of use of the above described rights to:

Proposed Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	Tax Lot	USER	DINN
3 N	27 E	WM	01	NW SW	9.0	4700	KENT MADISON	2011-01

5. The portion of the SECOND right to be transferred is as follows:

Certificate: 79439 issued in the name of U.S. BUREAU OF RECLAMATION (perfected under Permit 7400)

Use: SUPPLEMENTAL IRRIGATION (IS) of 9.0 ACRES

Priority Date: JULY 1, 1924

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second (or its equivalent) provided further that the right allowed herein for supplemental irrigation shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed therein

Source: MCKAY RESERVOIR (constructed under Permit R-564), a tributary of MCKAY CREEK. Water is run down the natural channels of McKay Creek and the Umatilla River and is re-diverted at Westland Irrigation District Canal

Authorized Points of Diversion:

TWP	RNG	MER	SEC	Q - Q	MEASURED DISTANCE
2 N	32 E	WM	34	NW SE	McKAY DAM
3 N	29 E	WM	21	SW NE	WESTLAND CANAL: North 76 Degrees 45 Minutes 56 Seconds East 2913.19 feet from the West ¼ Corner of Section 21

Authorized Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	Tax Lot	USER	DINN
4 N	28 E	WM	33	NE NW	9.0	103	KENT MADISON	2011-01

6. Application T-11328 proposes to change the place of use of the above described right to:

Proposed Place of Use:

TWP	RNG	MER	SEC	Q - Q	ACRES	Tax Lot	USER	DINN
3 N	27 E	WM	01	NW SW	9.0	4700	KENT MADISON	2011-01



7. The District permanent transfer application satisfies the criteria of OAR 690-385-4000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.
8. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
9. The proposed changes in place of use would not result in enlargement of the rights.
10. The proposed changes in place of use will not result in injury to other water rights.

Diminishment of a Portion of a Water Right Permit

11. On December 16, 2011, Kent Madison and Shannon Madison, owners of certain lands to which a portion of Permit 51017 and Permit 54675 are appurtenant, submitted an affidavit to diminish a portion of the water use permits from primary irrigation to supplemental irrigation for the incoming district right, and is described as follows:

Permit: 51017 (Application S-70272) in the name of KENT R. and SHANNON K. MADISON
Use: IRRIGATION of 9.0 ACRES
Priority Date: APRIL 2, 1990
Rate/Duty: ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to 4.5 acre-feet per acre for each acre irrigated during the period from March 1 to November 1 of each year. It is further limited to a diversion of not to exceed 1.5 ACRE-FEET per acre irrigated during the period from November 2 to the end of February, provided the use of water shall not exceed 4.5 ACRE-FEET for each acre in any one year
Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Points of Diversion:

TWP	RNG	MER	SEC	Q - Q	G LOT	MEASURED DISTANCES
4 N	25 E	WM	2	NE NW	7	POD 1: 150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2
5 N	27 E	WM	13	NW SW	4	POD 2: 2270 FEET NORTH AND 940 FEET EAST FROM THE SW CORNER OF SECTION 13
5 N	28 E	WM	10	NE SE		POD 3: 1960 FEET NORTH AND 350 FEET WEST FROM THE SE CORNER OF SECTION 10

Permit: 54675 (Application S-86866) in the name of KENT MADISON
Use: IRRIGATION of 9.0 ACRES
Priority Date: MAY 21, 2007



Rate/Duty: ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to 4.5 acre-feet per acre for each acre irrigated during the period from March 1 to April 14 and October 1 to November 1 of each year. It is further limited to a diversion of not to exceed 1.5 ACRE-FEET per acre irrigated during the period from November 2 to the end of February, provided the use of water shall not exceed 4.5 ACRE-FEET for each acre in any one year

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Points of Diversion:

TWP	RNG	MER	SEC	Q - Q	G LOT	MEASURED DISTANCES
4 N	25 E	WM	2	NE NW	7	POD 1: 150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2
5 N	27 E	WM	13	NW SW	4	POD 2: 2270 FEET NORTH AND 940 FEET EAST FROM THE SW CORNER OF SECTION 13

Authorized Place of Use Diminished to Supplemental Irrigation:

TWP	RNG	MER	SEC	Q - Q	Tax Lot	ACRES	PERMITTEES
3 N	27 E	WM	1	NW SW	4700	9.0	KENT MADISON

Conclusions of Law

The change in place of use proposed in Transfer Application T-11330 satisfies the requirements of ORS 540.574(3) and 540.580.

Now, therefore, it is ORDERED:

1. The change in place of use to the water rights evidenced by Certificates 76715 and 79439 proposed in Transfer Application T-11330 is approved.
2. The right to the use of water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 76715, 79439, any related decree and this Final Order approving Transfer Application T-11330.
3. The portions of Permits 51017 and 54675 described in Finding of Fact #11 are diminished from irrigation to supplemental irrigation.
4. The former places of use shall no longer be irrigated as part of these water rights.
5. The water user shall maintain and operate the existing measurement device(s) and shall make such improvements as may be required by the Department.
6. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2013.
7. A Claim of Beneficial Use (COBU) shall be submitted by Westland Irrigation District to the Department by October 1, 2014.

65

8. Water right certificates 76715 and 79439 are modified. The Department will issue superseding certificates describing the District's rights when it determines that is necessary for record keeping.

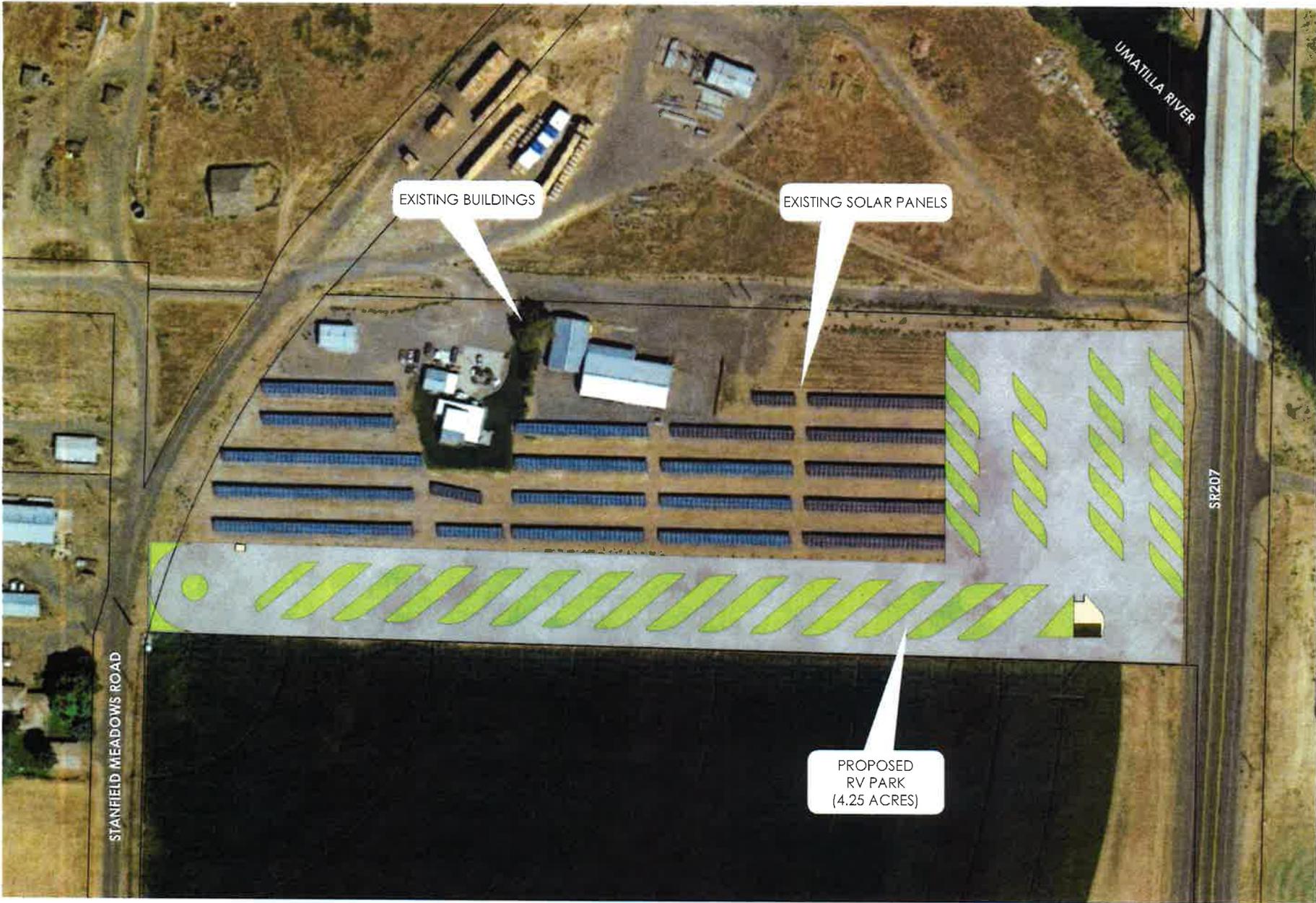
Dated at Salem, Oregon this 16 day of February, 2012.



Dwight French, Water Right Services Division Administrator for
Phillip C. Ward, Director

Mailing date: FEB 21 2012

66



EXISTING BUILDINGS

EXISTING SOLAR PANELS

PROPOSED
RV PARK
(4.25 ACRES)

STANFIELD MEADOWS ROAD

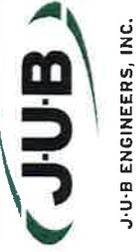
SR207

UMATILLA RIVER

LOT



3RVALVE, LLC
CONCEPTUAL SITE PLAN



J·U·B ENGINEERS, INC.

Exhibit E
to Land Use Applications

3R Valve Property ReZone

Umatilla County, Oregon

Traffic Impact Analysis

July 2017

Prepared by:



J-U-B ENGINEERS, Inc.
1201 Adams Avenue
La Grande, Oregon 97850

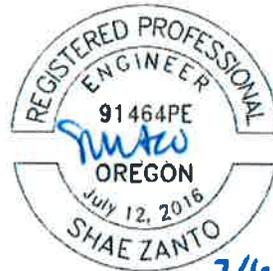
48

3R Valve Property ReZone

Umatilla County, Oregon

Traffic Impact Analysis

July 2017



EXPIRES: 6/30/2018

Prepared by:

Spencer Montgomery
Shae Zanto, PE



J-U-B ENGINEERS, Inc.
1201 Adams Avenue
La Grande, Oregon 97850

69

Table of Contents

Introduction and Background	1
Existing Conditions	2
Land Use	2
Roadway Characteristics	2
Traffic Volumes	2
Operational Analysis	4
2022 Conditions	5
Proposed Development.....	5
Traffic Operations Analysis	6
Turn Lane Analysis	9
Summary and Recommendations.....	12

List of Figures

Figure 1. Existing PM Peak Hour Traffic Volumes	3
Figure 2. 2022 Build PM Peak Hour Traffic Volumes, Access Scenario 1.....	7
Figure 3. 2022 Build PM Peak Hour Traffic Volumes Access Scenario 2	8

List of Tables

Table 1. Level of Service Criteria for Intersections	4
Table 2. Trip Generation Assumptions for Scenario 2.....	5
Table 3. 2022 Build Scenario Delay, Level of Service and volume to capacity ratios	6

Appendices

- Appendix A – Traffic Counts
- Appendix B– Level of Service Worksheets
- Appendix C – Conceptual Site Plan
- Appendix D – Access Right Agreement to SR 207 between ODOT and 3R Valve



Introduction and Background

Situated on the west side of and adjacent to State Highway 207, north of Interstate 84 and south of the City of Hermiston and the Umatilla River in Umatilla County, Oregon is the 3RValve, LLC 10 acre parcel. The current use of the parcel is primarily for solar panels, however there is an existing home and some outbuildings previously used for farm equipment. The owner of the property proposes to use these buildings for a wind turbine service office, machine or welding shop, nursery or accessory dwelling for an RV Park, as well as develop approximately half of the property as a Recreational Vehicle (RV) Park and maintain the solar panels on the property. The land is currently zoned agricultural and thus the proposed land use is not permitted. The owner is seeking to rezone the property to Retail/Service Commercial Zone (RRSC) with a Limited-Use Overlay which would allow the intended use of the existing facilities.

This Traffic Impact Analysis has been requested by the Umatilla County Planning staff to document potential traffic impacts as a result of the proposed ReZone of the 10 acre parcel. This study will summarize existing traffic conditions as well as future traffic operational conditions in 2022 with the proposed development and identify any mitigation that may be necessary to provide safety and acceptable Levels of Service (LOS) in order to meet Umatilla County and Oregon Department of Transportation (ODOT) standards. An evaluation of sight distance at a new proposed access will also be documented.



Existing Conditions

This section will document existing conditions with respect to land use, roadway characteristics, traffic volumes and traffic operations at the study intersections.

Land Use

Land use in the immediate vicinity of the subject 10 acre parcel is primarily agricultural consistent with the zoning in the area. There is, however, a substantial development approximately 800' to the south, also on the west side of SR 207, in close proximity to the I-84 interchange. This development includes the "Space Age" truck stop, which has approximately 120 spaces for semi-truck parking, 16 fueling stations for automobiles as well as fueling stations for the semi-trucks. There is also a convenience store with a fast food restaurant inside and a 90 room "Comfort Inn" hotel adjacent to the truck stop.

Roadway Characteristics

Roadways are described below, while the lane geometry for study intersections and existing PM peak hour traffic volumes are shown in Figure 1.

SR 207 is a north-south minor arterial that provides a connection from Hermiston to the north and Lexington to the south and a connection to I-84 approximately one-half mile south of the subject parcel. It has a single through lane in each direction. The bridge over the Umatilla River was recently replaced and widened to include 4' shoulders and a two-way left-turn lane approximately 500' north of the river to south of the truck stop. The speed limit is 50 MPH southbound from north of the Umatilla River until south of the truck stop, while northbound the speed limit is 45 MPH from south of I-84 to north of the river. There are no sidewalk facilities as it has roadside ditches for stormwater.

I-84 is an east-west Interstate Highway which connects Portland to the west to eastern Oregon including Hermiston near the subject parcel and Pendleton to the east. East of Pendleton I-84 heads to the south and serves southeastern Oregon to the Idaho state line. There are two lanes in each direction separated by a center median. It has a posted speed limit of 70 MPH.

Stanfield Meadows Road is a 2 lane county road which primarily functions east-west, however west of SR 207 it turns to the north. It provides access to properties in the study area. It is narrow with an approximate width of 18' and no paved shoulders. There is no posted speed limit west of SR 207. The intersection of Stanfield Meadows Road at SR 207 has a single lane for each approach with no exclusive turn lanes, however between Stanfield Meadows road and the I-84 westbound on-ramp there is a second southbound lane which serves as an exclusive right turn lane onto the freeway.

Traffic Volumes

Manual turning movement counts were collected on September 20, 2016 at the intersection of SR 207/Stanfield Meadows Road from 3:30 – 5:30 PM and are included in Appendix A. The peak hour occurred from 3:30 – 4:30 PM. PM peak hour volumes and the vicinity of the subject parcel are shown in Figure 1. The Oregon Department of Transportation records indicate that the average annual daily traffic volume on SR 207 north of I-84 is 6,800 while further to the north at the Umatilla River the daily traffic volume is 4,400. Using this data and nearby Automatic Traffic Recorder data which indicates the 30th highest hour is approximately 10.25% of the all-day traffic, it is estimated that the northbound PM peak hour volume on SR 207 at the project site is 220 vehicles and the southbound is 230 vehicles.

72

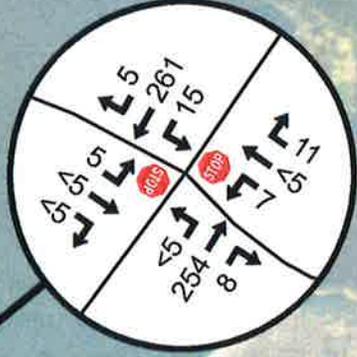
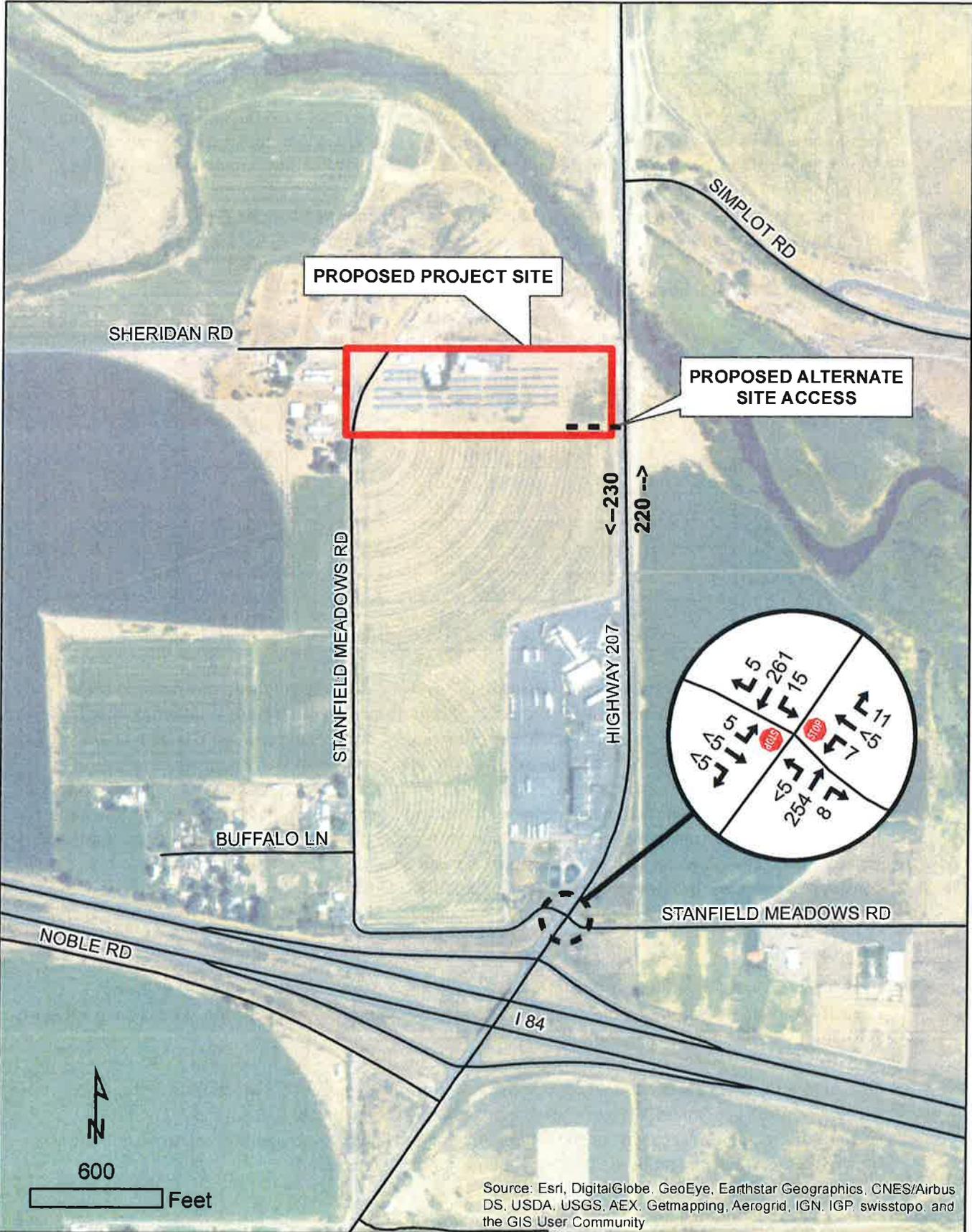


FIGURE 1
Existing PM Peak Hour
Traffic Volumes

3R VALVE PROPERTY
Rezone Traffic Impact Analysis

73

Operational Analysis

The analysis of Level-of-Service (LOS) is a means of quantitatively describing the quality of operational conditions of a roadway segment or intersection and the perception by motorists and passengers. Service levels are identified by letter designation, A – F, with LOS “A” representing the best operating conditions and LOS “F” the worst. Each LOS represents a range of operating conditions. For intersections the measure used is average control delay in seconds per vehicle. While there are several methodologies for estimating the LOS of intersections, the most commonly used is presented in the Highway Capacity Manual and is the methodology used in this study (HCM 2010). The Highway Capacity Manual LOS criteria for intersections are summarized in Table 1.

Table 1. Level of Service Criteria for Intersections

Level of Service (LOS)	Average Control Delay (seconds/vehicle)	
	Signalized Intersections	Unsignalized Intersections
A	<=10	<=10
B	>10 - < 20	>10 - < 15
C	>20 - < 35	>15 - < 25
D	>35 - < 55	>25 - < 35
E	>55 - < 80	>35 - < 50
F	>80	>50

Source: *Highway Capacity Manual 2010*, Transportation Research Board, National Research Council, Washington, D.C., 2010.

For unsignalized intersections “delay” is based on the availability of gaps in the major street to allow minor street movements to occur. The methodology prioritizes each movement at an unsignalized intersection consistent with rules that govern right-of-way for drivers. In other words major street through and right turn traffic has absolute priority over all other movements. Major street left turns must yield to opposing through traffic and right turns. Minor street through traffic and right turns yield to major street higher priority movements, and the minor street left turns have the lowest priority and must yield to all other movements. As traffic volumes increase, the availability of gaps will decrease and greater delay tends to result in driver frustration and anxiety, loss of time, unnecessary fuel consumption, and contributes to unnecessary air pollution. Umatilla County has adopted the standard for Level of Service as LOS “D” for intersections, meaning the overall intersection LOS must be “D” or better.

Peak hour traffic volumes and existing intersection geometry were evaluated using the Highway Capacity Software to determine the delay and LOS at the existing study intersection. The LOS worksheet calculations are included in Appendix B.

The existing conditions analysis indicates for the stop controlled approaches at the SR 207 Stanfield Meadows Road experiences 13.9 seconds of average delay for the eastbound approach and 12.3 seconds of average vehicle delay for the westbound approach, with each operating at an acceptable LOS of B. Volume to capacity ratios are 0.02 eastbound and 0.04 westbound.

2022 Conditions

This section evaluates traffic volumes at the study intersections for future conditions with the proposed development under two access scenarios.

Proposed Development

The proposed development includes retaining the solar panel use, adding an approximately 4.25 acre Recreational Vehicle Park, and using the existing home and farm out-buildings for a wind turbine service office, machine or welding shop, nursery or accessory building for the operator of the RV Park. The conceptual Site Plan is included in Appendix C.

As is typical with most traffic studies, a growth rate for background traffic is used to apply to existing traffic volumes to account for growth in traffic that is the result of development outside the study area. Historical traffic volumes on SR 207 available from ODOT indicate that traffic volumes have grown from approximately 4,100 in 2010 to 4,400 in 2015, an annual growth rate of slightly over 1% per year.

To estimate the new trips that could be generated by the proposed development the 9th Edition of the Institute of Transportation Engineers (ITE) *Trip Generation Manual* was used. This is a nationally recognized compilation of trip generation rates for common land uses. The General Light Industrial trip generation rate was used because it best approximates the anticipated use of the wind turbine service office. Rather than use the trip generation rate for an RV Park, a higher estimate using the rate for Mobile Home Park was used to be conservatively high given that many RV Parks in the region seem to be used on more of a permanent residence basis. The trip generation rates shown in Table 2 below are those reported in the *Trip Generation Manual* (the ITE Trip Generation Manual identifies the rate for RV Park as 0.98 trips per acre during the PM peak hour, or approximately 4 trips for that usage for this particular property).

Table 2. Trip Generation

Description/ ITE Code	Units	ITE Vehicle Trip Generation Rates				Expected Units	Total Trips		Distribution of Trips	
		Weekday	PM	PM In	PM Out		Daily	PM Hour	PM In	PM Out
General Light Industrial 110	Acres	51.8	7.26	22%	78%	5.5	285	40	9	31
Mobile Home Park 240	Acres	39.61	4.45	63%	37%	4.27	169	19	12	7
General Office 710	KSF ²	11.03	1.49	17%	83%	2	22	3	1	2
TOTAL							476	62	22	40

As shown in the table, 476 average weekday trips are anticipated, with 62 PM peak hour trips (22 inbound and 40 outbound).

75

Two access options are being considered. Access Scenario 1 assumes that access would solely be provided from Stanfield Meadows Road. Along with background growth described above, these new trips were added to the existing traffic volumes at the study intersection, with 50 percent of new trips to/from the north and 50% to/from the south, consistent with existing traffic patterns at the intersection. Forecast PM peak hour traffic volumes for year 2022 under Scenario 1 are shown in Figure 2.

For Access Scenario 2 it was assumed that the development would construct a new site access near the southeastern corner of the 10 acre parcel, a location which has previously been identified and approved by ODOT, see Appendix D. Sight distance at this new intersection is excellent, with well over 1500' of sight distance in each direction far surpassing the required 720' identified in ODOT manuals.

The total PM peak Hour traffic volumes for year 2022 for Access Scenario 2 are shown in Figure 3 for both study intersections.

Traffic Operations Analysis

The traffic volumes shown in Figures 2 and 3 were evaluated for traffic operations to determine the anticipated delay and Level of Service for both Scenario 1 and 2. With the reconstruction of SR 207 in the vicinity of the subject parcel a continuous two-way left turn lane was constructed and was included in the analysis, providing an exclusive northbound right turn lane into the site. The results of the analysis are summarized in Table 3, with the LOS worksheets included in Appendix B.

Table 3. 2022 Build Scenario Delay, Level of Service and volume to capacity ratios

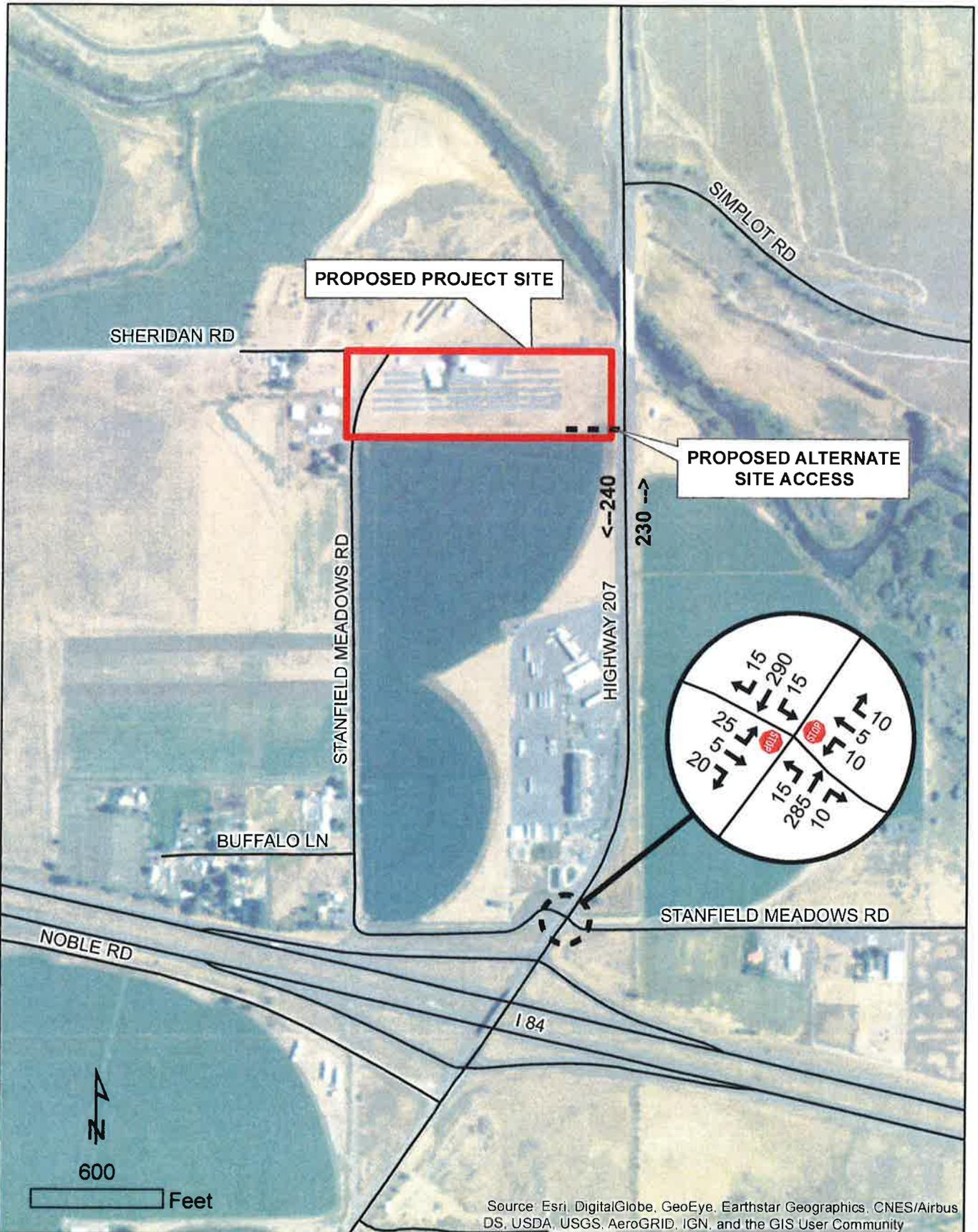
Intersection	Scenario 1	Scenario 2
SR 207/Stanfield Meadows Road	EB -- 15.2/C, 0.14 WB -- 15.0/B, 0.07	EB—14.2/B, 0.04 WB-14.5/B, 0.07
SR 207/Proposed Project Site Access	N/A	EB—10.9/B, 0.07

LEGEND

15.21/C, 0.14 Delay (in seconds) and Level of Service, volume to capacity ratio
 NB = northbound, SB = southbound, WB = westbound, EB = eastbound

As shown in Table 3, intersection Levels of Service at all study intersections are anticipated to be good, with LOS C or better for all stop controlled approaches to SR 207. The evaluation for the new site access was performed with a single eastbound lane.





Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



FIGURE 2
2022 Build PM Peak Hour Traffic Volumes
Scenario 1
(without new access to SR 207)

3R VALVE PROPERTY
Rezone Traffic Impact Analysis

577

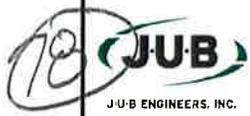
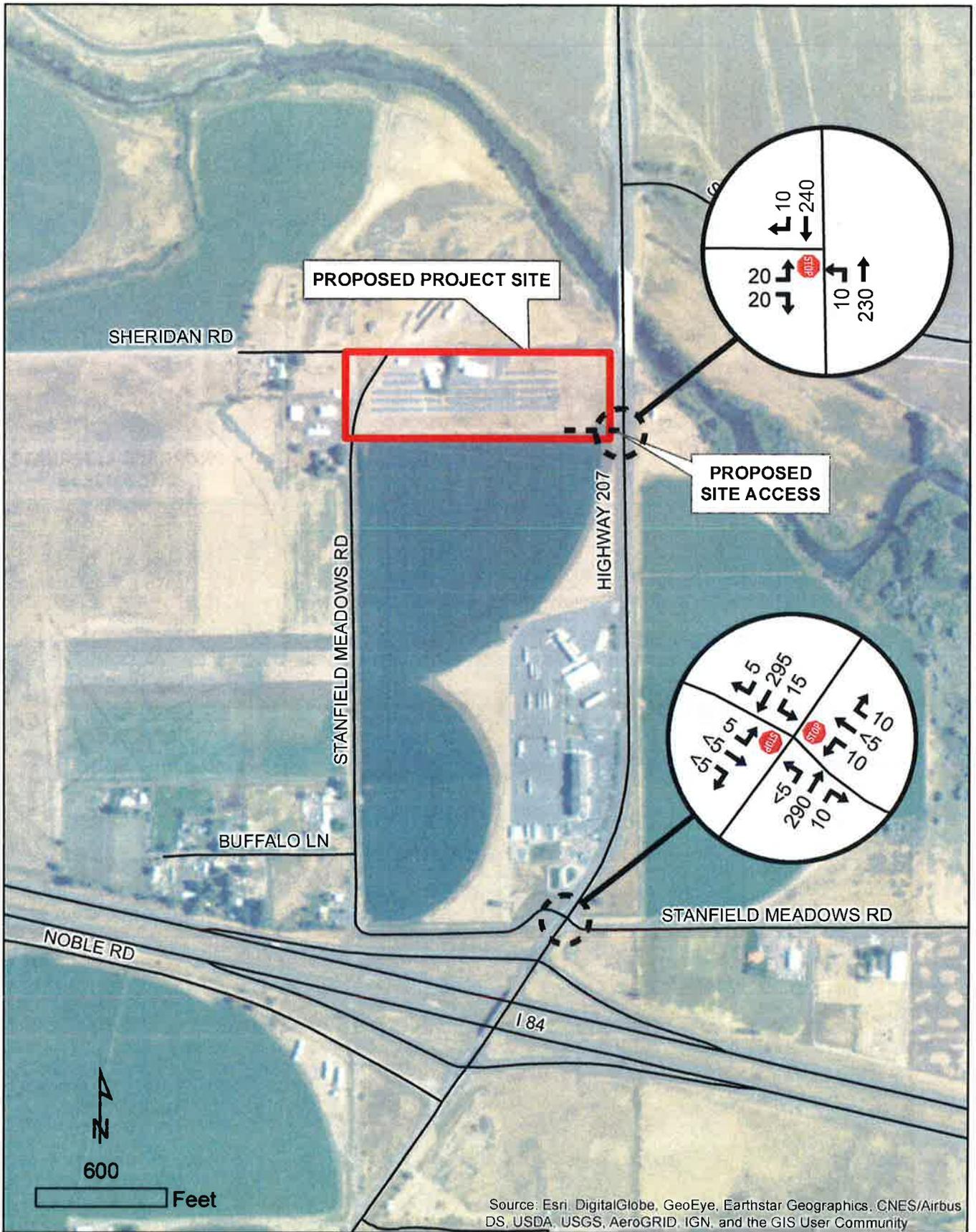


FIGURE 3
 2022 Build PM Peak Hour Traffic Volumes
 Scenario 2
 (with new access to SR 207)

3R VALVE PROPERTY
 Rezone Traffic Impact Analysis

Turn Lane Analysis

At the request of ODOT an evaluation of left and right turn lanes on SR 207 was performed. The ODOT Analysis and Procedures Manual states:

“A left turn lane improves safety and increases the capacity of the roadway by reducing the speed differential between the through and the left turn vehicles. Furthermore, the left turn lane provides the turning vehicle with a potential waiting area until acceptable gaps in the opposing traffic allow them to complete the turn.”

“The purpose of a right turn lane at an unsignalized intersection is to improve safety and to maximize the capacity of a roadway by reducing the speed differential between the right turning vehicles and the other vehicles on the roadway.”

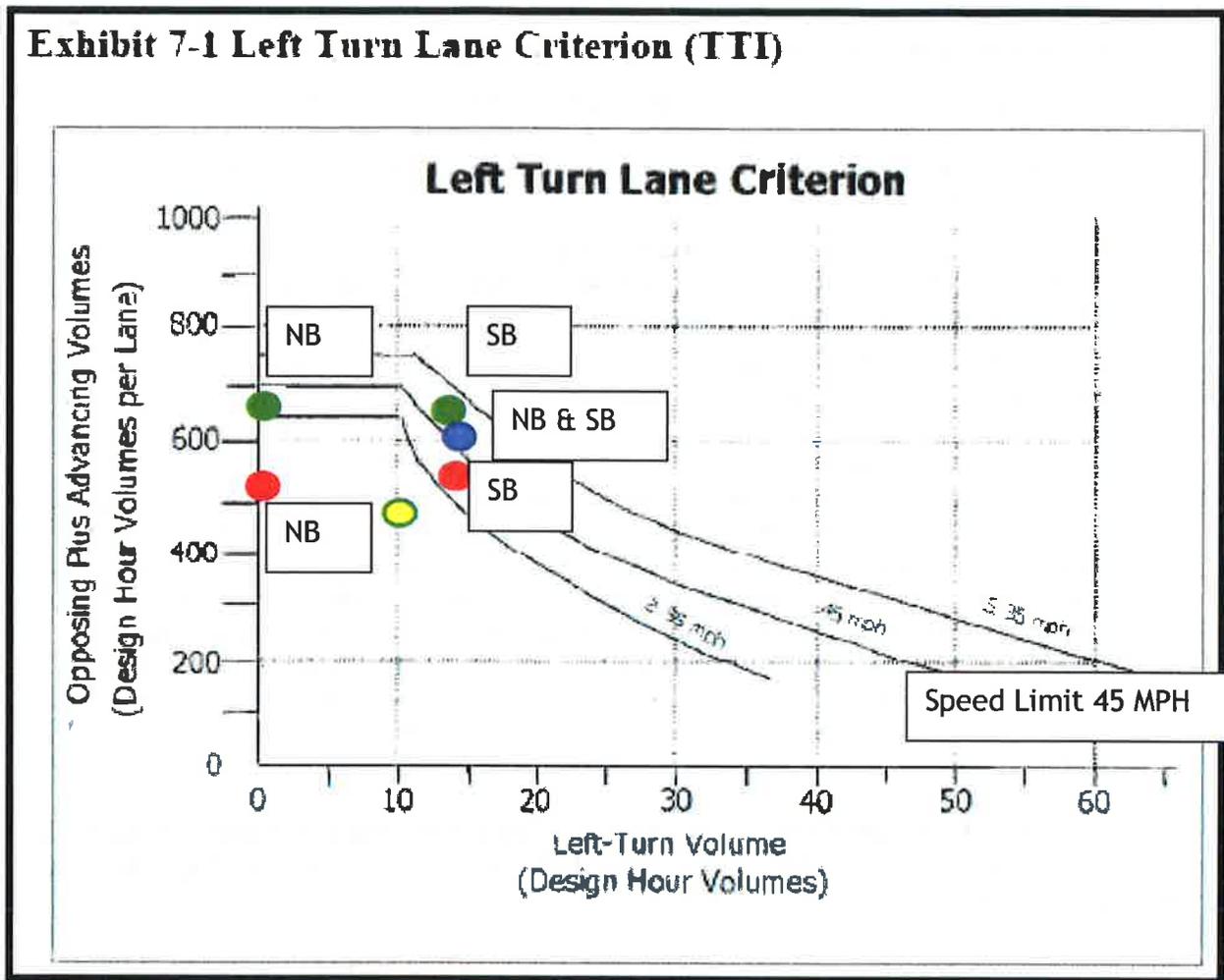
Exhibits 7-1 and 7-2 from the ODOT Analysis Procedures Manual were used to determine the need for turn lanes at study intersections and are shown below.

Examination of Exhibit 7-1 below shows that the intersection of SR 207/Stanfield Meadows Road currently needs no exclusive left turn lanes. Under Access Scenario 1, although the left turn volumes are low at the SR 207/Stanfield Meadows Road intersection, the intersection could benefit from both a northbound and southbound left turn lane based on the volumes used in this analysis of 15 left turns both northbound and southbound and 630 Opposing plus Advancing vehicles in the through lanes. For Access Scenario 2 only a southbound left turn is necessary, which is the result of the existing 15 southbound left turn vehicles. Neither access Scenario will add vehicles to the southbound left turn. Even though a northbound left turn lane is provided on SR 207 in the vicinity of the subject property, the analysis is shown for that movement as well, showing that under the development assumptions of this analysis the northbound left turn lane would not be needed.

It is recommended when development of the RV Park occurs that the new access to the site, evaluated in Access Scenario 2, be constructed which provides a safer access because of the existing two-way left-turn lane on SR 207.

Examination of Exhibit 7-2 below shows that for Access Scenario 2 no exclusive southbound right turn lane is needed under the development assumptions of this analysis.

Exhibit 7-1 Left Turn Lane Criterion (TTI)

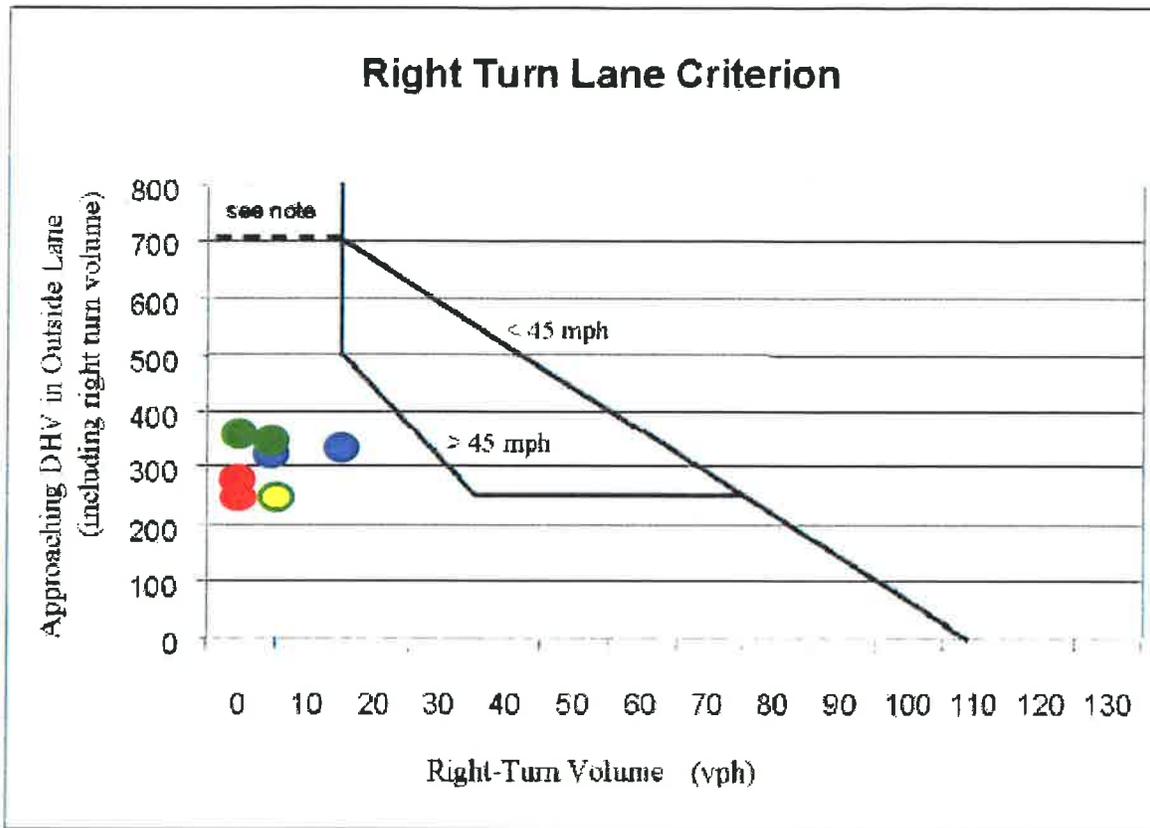


*(Advancing Volume/Number of Advancing Through Lanes) + (Opposing Volume/Number of Opposing Through Lanes)

- Existing - SR 207/Stanfield Meadows Road
- Access Scenario 1 – SR 207/Stanfield Meadows Road
- Access Scenario 2 - SR 207/Stanfield Meadows Road
- Access Scenario 2 -- SR 207/new Site Access

20

Exhibit 7-2 Right Turn Lane Criterion



Note: If there is no right turn lane, a shoulder needs to be provided. If this intersection is in a rural area and is a connection to a public street, a right turn lane is needed.

- Existing-- SR 207/Stanfield Meadows Road
- Access Scenario 1 - SR 207/Stanfield Meadows Road
- Access Scenario 2 - SR 207/Stanfield Meadows Road
- Access Scenario 2 – SR 207/new Site Access

31

Summary and Recommendations

Situated on the west side of and adjacent to State Highway 207, north of Interstate 84 and south of the City of Hermiston and the Umatilla River in Umatilla County, Oregon is the 3RValve, LLC 10 acre parcel. The current use of the parcel is primarily for solar panels, however there is an existing home and some outbuildings previously used for farm equipment. The owner of the property proposes to retain the existing solar panel use, add an approximately 4.25 acre RV Park, and use the existing buildings for a wind turbine service office, machine or welding shop, nursery or accessory dwelling for the operator of the RV Park. The land is currently zoned agricultural and thus the proposed land use is not permitted. The owner is seeking to rezone the property to Retail/Service Commercial Zone (RRSC), with a Limited-Use Overlay, which would allow the proposed use of the existing facilities. This Traffic Impact Analysis was performed consistent with the Umatilla County Development Ordinance Section 152.019 (B)(1) to document potential traffic impacts as a result of the proposed ReZone of the 10 acre parcel.

The bridge that carries SR 207 over the Umatilla River just north of the site was recently reconstructed and now includes a two-way left-turn lane from north of the bridge to just north of I-84 south of the study area.

For the purposes of trip generation, this study used the rates for a mobile home park to be conservatively high, given that many RV parks in the region seem to be used on more of a permanent residence basis. New trips for the proposed development were added to the study intersections for two access scenarios 1) with access to the development provided by Stanfield Meadows Road and 2) with a new access to the site taken from SR 207 as previously identified and approved by ODOT. Intersection Levels of Service at all study intersections are anticipated to be good under all Access Scenarios, with LOS C or better for all stop controlled approaches to SR 207.

An evaluation of the need for left and right turns for safety purposes was also performed. Under Access Scenario 1, although the left turn volumes are low at the SR 207/Stanfield Meadows Road intersection, the intersection could benefit from both a northbound and southbound left turn lane. Access Scenario 2 requires no left or right turn lanes at the proposed new site access.

It is recommended that when development of the RV park occurs that the new access to the site be constructed which provides a safer access because of the existing two-way left-turn lane on SR 207.



APPENDIX A

Traffic Counts

SR 207/Stanfield Meadows Road 9/20/16

Time	Northbound			Southbound			Eastbound			Westbound			Total Volume	
	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	15 minute	Hourly
3:30 - 3:45	0	57	1	4	71	1	2	0	0	3	1	1	141	570
3:45 - 4:00	0	57	1	3	60	1	0	0	0	1	0	4	127	545
4:00 - 4:15	1	67	4	5	69	2	2	1	1	2	0	4	158	547
4:15 - 4:30	0	73	2	3	61	1	1	0	0	1	0	2	144	500
4:30 - 4:45	2	49	4	1	49	1	2	0	1	5	0	2	116	469
4:45 - 5:00	1	64	4	2	50	2	1	0	0	3	1	1	129	
5:00 - 5:15	2	54	2	2	46	0	0	0	0	4	0	1	111	
5:15 - 5:30	0	55	0	3	50	1	1	0	0	2	0	1	113	
TOTAL	6	476	18	23	456	9	9	1	2	21	2	16	1039	

Peak Hr Total	1	254	8	15	261	5	5	1	1	7	1	11	570
pk Period	500	501	488	479	12	42	39	17	1039	1039			
	IN	OUT	IN	OUT	IN	OUT	IN	OUT	IN	OUT			
	263	270	281	269	7	24	19	7	570	570			

84

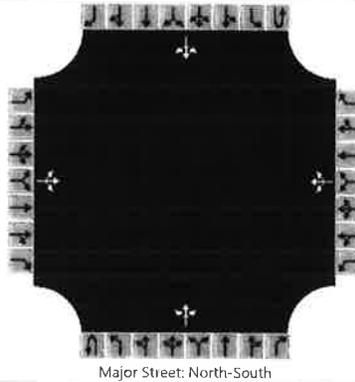
APPENDIX B

Level of Service Worksheets

HCS 2010 Two-Way Stop-Control Report

General Information				Site Information			
Analyst	Montgomery			Intersection	SR 207/Stanfield Meadows		
Agency/Co.	JUB Engineers			Jurisdiction	Umatilla County		
Date Performed	10/25/2016			East/West Street	Stanfield Meadows Rd		
Analysis Year	2016			North/South Street	SR 207		
Time Analyzed	Existing 2016 PM Peak			Peak Hour Factor	0.90		
Intersection Orientation	North-South			Analysis Time Period (hrs)	0.25		
Project Description	3RValve						

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound				
	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R	
Movement																	
Priority		10	11	12		7	8	9	1U	1	2	3	4U	4	5	6	
Number of Lanes		0	1	0		0	1	0	0	0	1	0	0	0	1	0	
Configuration			LTR				LTR				LTR				LTR		
Volume, V (veh/h)		5	1	1		7	1	11		1	254	8		15	261	5	
Percent Heavy Vehicles (%)		3	3	3		29	0	9		0				7			
Proportion Time Blocked																	
Percent Grade (%)		0				0											
Right Turn Channelized		No				No				No				No			
Median Type/Storage	Undivided																

Critical and Follow-up Headways

Base Critical Headway (sec)		7.1	6.5	6.2		7.1	6.5	6.2		4.1				4.1			
Critical Headway (sec)		7.13	6.53	6.23		7.39	6.50	6.29		4.10				4.17			
Base Follow-Up Headway (sec)		3.5	4.0	3.3		3.5	4.0	3.3		2.2				2.2			
Follow-Up Headway (sec)		3.53	4.03	3.33		3.76	4.00	3.38		2.20				2.26			

Delay, Queue Length, and Level of Service

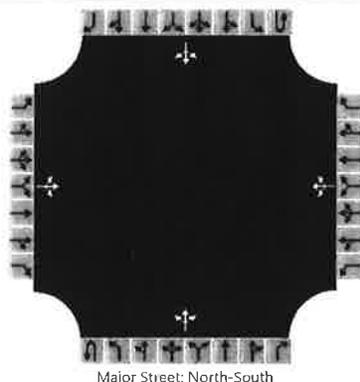
Flow Rate, v (veh/h)			8			21				1				17			
Capacity, c (veh/h)			411			513				1277				1244			
v/c Ratio			0.02			0.04				0.00				0.01			
95% Queue Length, Q ₉₅ (veh)			0.1			0.1				0.0				0.0			
Control Delay (s/veh)			13.9			12.3				7.8				7.9			
Level of Service, LOS			B			B				A				A			
Approach Delay (s/veh)		13.9				12.3				0.0				0.6			
Approach LOS		B				B											



HCS 2010 Two-Way Stop-Control Report

General Information				Site Information			
Analyst	Montgomery			Intersection	SR 207/Stanfield Meadows		
Agency/Co.	JUB Engineers			Jurisdiction	Umatilla County		
Date Performed	6/13/2017			East/West Street	Stanfield Meadows Rd		
Analysis Year	2022			North/South Street	SR 207		
Time Analyzed	2022 PM Peak Scenario 1			Peak Hour Factor	0.90		
Intersection Orientation	North-South			Analysis Time Period (hrs)	0.25		
Project Description	3RValve						

Lanes



Major Street: North-South

Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Movement																
Priority		10	11	12		7	8	9	1U	1	2	3	4U	4	5	6
Number of Lanes		0	1	0		0	1	0	0	0	1	0	0	0	1	0
Configuration			LTR				LTR				LTR				LTR	
Volume, V (veh/h)		25	5	20		10	5	10		15	285	10		15	290	15
Percent Heavy Vehicles (%)		3	3	3		29	0	9		0				7		
Proportion Time Blocked																
Percent Grade (%)	0				0											
Right Turn Channelized	No				No				No				No			
Median Type/Storage	Undivided															

Critical and Follow-up Headways

Base Critical Headway (sec)		7.1	6.5	6.2		7.1	6.5	6.2		4.1				4.1		
Critical Headway (sec)		7.13	6.53	6.23		7.39	6.50	6.29		4.10				4.17		
Base Follow-Up Headway (sec)		3.5	4.0	3.3		3.5	4.0	3.3		2.2				2.2		
Follow-Up Headway (sec)		3.53	4.03	3.33		3.76	4.00	3.38		2.20				2.26		

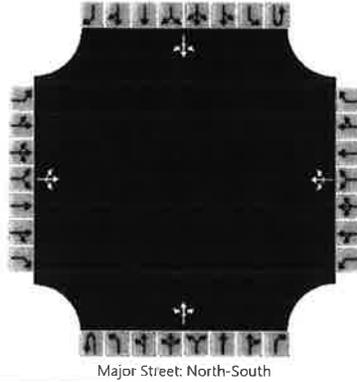
Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)			56				28				17				17	
Capacity, c (veh/h)			409				388				1232				1206	
v/c Ratio			0.14				0.07				0.01				0.01	
95% Queue Length, Q ₉₅ (veh)			0.5				0.2				0.0				0.0	
Control Delay (s/veh)			15.2				15.0				8.0				8.0	
Level of Service, LOS			C				C				A				A	
Approach Delay (s/veh)	15.2				15.0				0.5				0.5			
Approach LOS	C				C											

HCS 2010 Two-Way Stop-Control Report

General Information				Site Information			
Analyst	Montgomery			Intersection	SR 207/Stanfield Meadows		
Agency/Co.	JUB Engineers			Jurisdiction	Umatilla County		
Date Performed	6/13/2017			East/West Street	Stanfield Meadows Rd		
Analysis Year	2022			North/South Street	SR 207		
Time Analyzed	2022 PM Peak Scenario 2			Peak Hour Factor	0.90		
Intersection Orientation	North-South			Analysis Time Period (hrs)	0.25		
Project Description	3RValve						

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound				
	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R	
Movement																	
Priority		10	11	12		7	8	9	1U	1	2	3	4U	4	5	6	
Number of Lanes		0	1	0		0	1	0	0	0	1	0	0	0	1	0	
Configuration			LTR				LTR				LTR				LTR		
Volume, V (veh/h)		5	5	5		10	5	10		5	290	10		15	295	5	
Percent Heavy Vehicles (%)		3	3	3		29	0	9		0				7			
Proportion Time Blocked																	
Percent Grade (%)		0				0											
Right Turn Channelized		No				No				No					No		
Median Type/Storage		Undivided															

Critical and Follow-up Headways

Base Critical Headway (sec)		7.1	6.5	6.2		7.1	6.5	6.2		4.1				4.1		
Critical Headway (sec)		7.13	6.53	6.23		7.39	6.50	6.29		4.10				4.17		
Base Follow-Up Headway (sec)		3.5	4.0	3.3		3.5	4.0	3.3		2.2				2.2		
Follow-Up Headway (sec)		3.53	4.03	3.33		3.76	4.00	3.38		2.20				2.26		

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)			18				28			6				17			
Capacity, c (veh/h)			410				406			1237				1200			
v/c Ratio			0.04				0.07			0.00				0.01			
95% Queue Length, Q ₉₅ (veh)			0.1				0.2			0.0				0.0			
Control Delay (s/veh)			14.2				14.5			7.9				8.0			
Level of Service, LOS			B				B			A				A			
Approach Delay (s/veh)		14.2				14.5				0.2					0.5		
Approach LOS		B				B											



HCS 2010 Two-Way Stop-Control Report

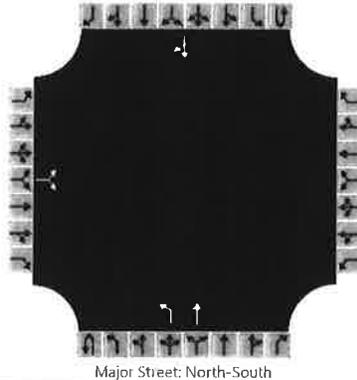
General Information

Analyst	Montgomery
Agency/Co.	JUB Engineers
Date Performed	6/13/2017
Analysis Year	2022
Time Analyzed	2022 PM Peak Scenario 2
Intersection Orientation	North-South
Project Description	3RValve

Site Information

Intersection	SR 207/3RValve Site Acces
Jurisdiction	Umatilla County
East/West Street	Site Access
North/South Street	SR 207
Peak Hour Factor	0.90
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound					
	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R		
Movement																		
Priority		10	11	12		7	8	9	1U	1	2	3	4U	4	5	6		
Number of Lanes		0	0	0		0	0	0	0	1	1	0	0	0	1	0		
Configuration			LR							L	T					TR		
Volume, V (veh/h)		20		20						10	230				240	10		
Percent Heavy Vehicles (%)		3		3						0								
Proportion Time Blocked																		
Percent Grade (%)		0																
Right Turn Channelized		No					No					No						
Median Type/Storage		Left Only									1							

Critical and Follow-up Headways

Base Critical Headway (sec)		7.1		6.2						4.1						
Critical Headway (sec)		6.43		6.23						4.10						
Base Follow-Up Headway (sec)		3.5		3.3						2.2						
Follow-Up Headway (sec)		3.53		3.33						2.20						

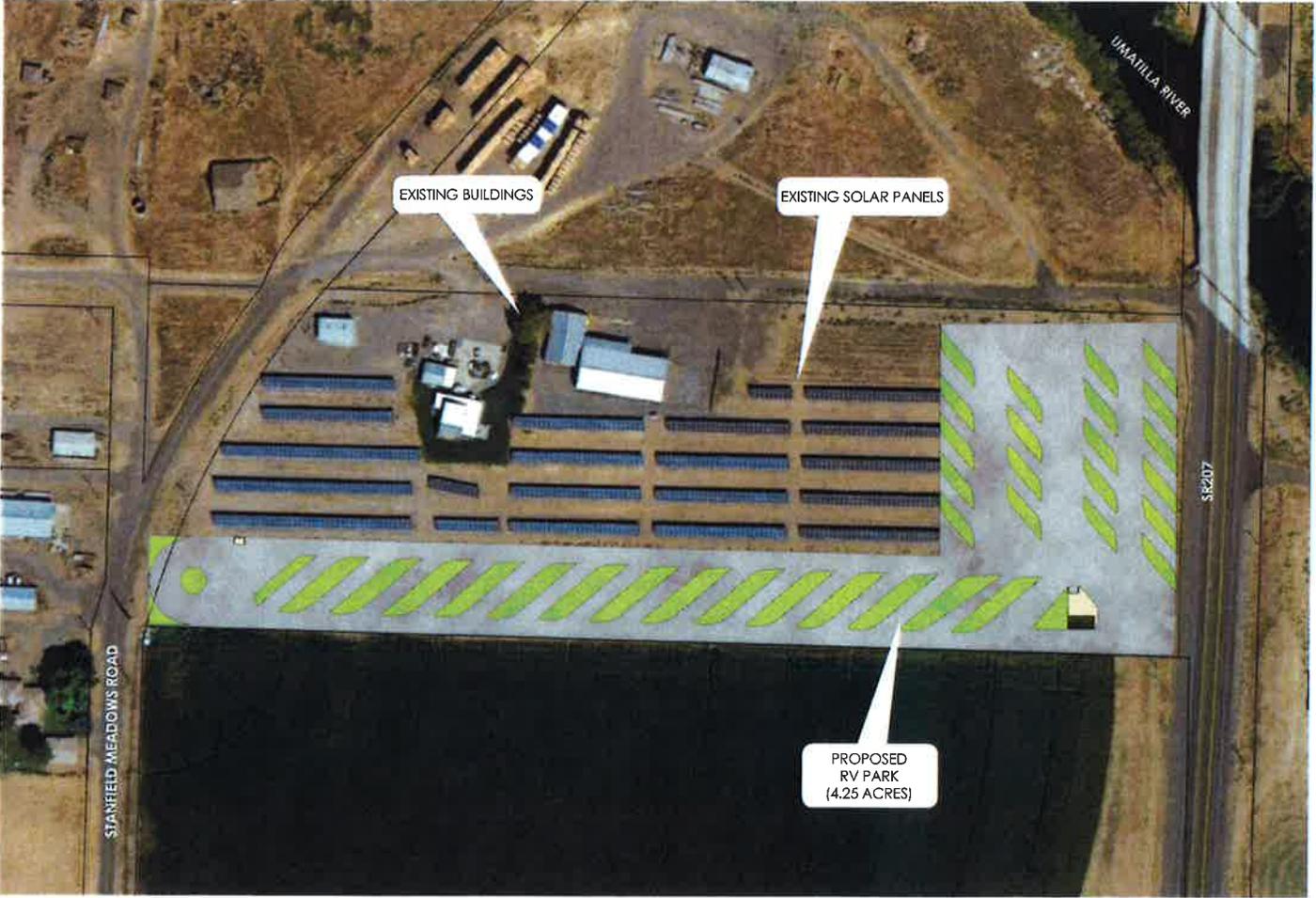
Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)			44							11						
Capacity, c (veh/h)			655							1297						
v/c Ratio			0.07							0.01						
95% Queue Length, Q ₉₅ (veh)			0.2							0.0						
Control Delay (s/veh)			10.9							7.8						
Level of Service, LOS			B							A						
Approach Delay (s/veh)		10.9										0.3				
Approach LOS		B														

89

APPENDIX C

Conceptual Site Plan



3R VALVE, LLC
CONCEPTUAL SITE PLAN



91

APPENDIX D

**Access Right Agreement
to SR 207 between ODOT and 3R Valve**

92

WARRANTY DEED

3R VALVE, LLC, an Oregon limited liability company, Grantor, for the true and actual consideration of \$1,300.00 does convey unto the STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION Grantee, fee title to the property described Parcel 1 on Exhibit "A" dated 2/12/2013, attached hereto and by this reference made a part hereof.

TOGETHER WITH all abutter's rights of access, if any, between the Hermiston Highway and Grantor's remaining real property, EXCEPT, however,

Reserving access rights for the service of Grantor's remaining property, to and from said remaining property to the abutting highway at the following place(s), in the following width(s):

Hwy. Engr's Sta.	Side of Hwy.	Width
36+25	Right (West)	30'

The access rights reserved herein are subject to, and may only be exercised in accordance with, the statutes and administrative rules applicable to access control and road approaches. Such access is contingent upon issuance of an approach road permit, and no access rights may be exercised or construction of an approach road begun unless, and until, a standard Approach Road Permit application is submitted and a permit issued by the Oregon Department of Transportation. The approach road may only be constructed or maintained upon issuance of such permit and in accordance with such permit. If the State constructs the approach road during a highway project, Grantor is required to sign a standard Approach Road Permit to ensure proper operation and maintenance of the approach road.

RETURN TO AND TAX STATEMENT TO:
OREGON DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY SECTION
4040 FAIRVIEW INDUSTRIAL DRIVE SE, MS#2
SALEM OR 97302-1142

Map and Tax Lot #: 4N-28-33B-103

Property Address: 29701 Stanfield Meadows Rd
Hermiston, Oregon 97838

93

Grantor also grants to Grantee, its successors and assigns, a temporary easement for a work area for construction purposes over and across the property described as **Parcel 2 on Exhibit "A" dated 2/12/2013**, attached hereto and by this reference made a part hereof.

IT IS UNDERSTOOD that the temporary easement rights herein granted shall terminate three (3) years from the date hereof or upon completion of the above-mentioned construction project, whichever is sooner.

IT IS ALSO UNDERSTOOD that the temporary easement herein granted does not convey any right or interest in the above-described Parcel 2, except as stated herein, nor prevent Grantor from the use of said property; provided, however that such use does not interfere with the rights herein granted.

Grantor covenants to and with Grantee, its successors and assigns, that grantor is the owner of said property which is free from encumbrances, except for easements, conditions, and restrictions of record, and will warrant the same from all lawful claims whatsoever, except as stated herein.

Grantor agrees that the consideration recited herein is just compensation for the property or property rights conveyed, including any and all reduction in value to Grantor's remaining property, if any, which may result from the acquisition or use of said property or property rights. However, the consideration does not include damages resulting from any use or activity by Grantee beyond or outside of those uses expressed herein, if any, or damages arising from any negligence.

In construing this document, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this document shall apply equally to corporations and to individuals.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.



The statement above is required by law to be included in this instrument. PLEASE NOTE: the property described in this instrument is not a "lot" or "parcel" as defined in ORS 92.010 or 215.010. Nevertheless, the property is a legally created unit of land as described in ORS 92.010 (9) (d) or (e).

It is understood and agreed that the delivery of this document is hereby tendered and that terms and obligations hereof shall not become binding upon the State of Oregon Department of Transportation, unless and until accepted and approved by the recording of this document.

Dated this 14 day of June, 2013.

3R VALVE, LLC, an Oregon limited liability company

[Signature]
Member / Manager

Member / Manager

STATE OF OREGON, County of Umatilla

Dated June 14, 2013. Personally appeared the above named Kent Madison

and _____, Member(s) / Manager(s) of 3R Valve, LLC, an Oregon limited liability company, who acknowledged the foregoing instrument to be their voluntary act. Before me:



Stacey J Wells
Notary Public for Oregon
My Commission expires 03/19/2017

Accepted on behalf of the Oregon Department of Transportation

[Signature]

(95)

STATE OF OREGON, by and through its
DEPARTMENT OF TRANSPORTATION

By *Stephanie Anderson*
Stephanie Anderson
Region 5 Right of Way / Survey Manager

STATE OF OREGON, County of Union

Dated June 25, 2013. Personally appeared Stephanie Anderson, who being sworn, stated that she is the Region 5 Right of Way and Survey Manager for the State of Oregon, Department of Transportation, and that this document was voluntarily signed on behalf of the State of Oregon by authority delegated to her. Before me:



Leslie A. Hasse
Notary Public for Oregon
My Commission expires 12-13-14

96

Parcel 1 - Fee

A parcel of land lying in the NE¼NW¼ of Section 33, Township 4 North, Range 28 East, W.M., Umatilla County, Oregon and being a portion of that property described in that Warranty Deed to 3R Valve, LLC, recorded June 14, 2011 as Document No. 2011-5790364 in Book R579, Page 0364 of Umatilla County Deed Records; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Westerly side of the center line of the relocated Hermiston Highway, which center line is described as follows:

Beginning at Engineer's center line Station 16+98.42; said station being 1,009.67 feet South and 25.50 feet West of the Center quarter corner of Section 28, Township 4 North, Range 28 East, W.M.; thence South 0°48'49" East 198.04 feet; thence on a 11,459.16 feet radius curve left (the long chord of which bears South 1°52'27" East 424.18 feet) 424.20 feet; thence South 2°56'05" East 75.81 feet; thence on a 11,459.16 feet radius curve right (the long chord of which bears South 1°52'22" East 424.74 feet) 424.76 feet; thence South 0°48'39" East 574.81 feet; thence on a 11,459.16 feet radius curve right (the long chord of which bears South 0°14'39" West 421.94 feet) 421.96 feet; thence South 1°17'56" West 78.73 feet; thence on a 11,459.16 feet radius curve left (the long chord of which bears South 0°14'34" West 422.50 feet) 422.52 feet; thence South 0°48'49" East 685.19 feet to Engineer's center line Station 50+04.45.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
34+32.00		34+90.00	66.67 in a straight line to 75.00
34+90.00		36+40.00	75.00 in a straight line to 73.00
36+40.00		38+30.00	73.00 in a straight line to 67.00

Bearings are based upon the Oregon Coordinate System of 1983(CORS 1996) (epoch 2002), north zone.

This parcel of land contains 4,448 square feet, more or less.

97

**Parcel 2 - Temporary Easement For Work Area (3 years or duration of Project,
whichever is sooner)**

A parcel of land lying in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 4 North, Range 28 East, W.M., Umatilla County, Oregon and being a portion of that property described in that Warranty Deed to 3R Valve, LLC, recorded June 14, 2011 as Document No. 2011-5790364 in Book R579, Page 0364 of Umatilla County Deed Records; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Westerly side of the center line of the relocated Hermiston Highway, which center line is described in Parcel 1.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
31+00.00		34+90.00	105.00 in a straight line to 107.00
34+90.00		36+40.00	107.00 in a straight line to 83.00
36+40.00		44+30.00	83.00 in a straight line to 75.00

EXCEPT therefrom Parcel 1.

This parcel of land contains 9,645 square feet, more or less.

98

REGISTERED
PROFESSIONAL
LAND SURVEYOR

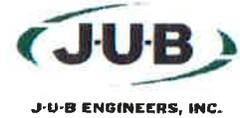
Robert E. Butler

OREGON
JULY 26, 1996
ROBERT E. BUTLER
2733

EXPIRES 12/31/2013

Exhibit G
to Land Use Applications

Potential Water and Wastewater Peak Day Demands
PLANNING LEVEL ESTIMATE
Panel View RV Park
3R Valve, LLC
August 4, 2017



Type of Establishment	Establishment Details	Water Demand ¹		Wastewater Demand ²	
		Gallons Per Day (gpd)/Unit	Establishment Total (gpd)	Gallons Per Day (gpd)/Unit	Establishment Total (gpd)
Laundry Mat	2 Machines 20 Washings per Day Total	50 gpd/ washing	1,000	500 gpd/machine	1,000
RV Park	27 Spaces	100 gpd/space	3,375	100 gpd/space	2,700
Bath House	54 people per day	10 gpd/person	540	10 gpd/person	540
SUB-TOTAL DEMAND			4,915		4,240
Landscaping ³	500 ft ² Landscaping per Space	100 gpd/1,000 sf	1,350	--	--
TOTAL DEMAND			6,265		4,240

¹Water demand determined using the following publication: Water System Design Manual, December 2009, Table 5-2: Guide for Average Daily Nonresidential Water Demand.

²Wastewater demand determined using the following publication: OAR 340-071-0220 Onsite Wastewater Treatment Systems - Standard Subsurface Systems, Table 2: Quantities of Sewage Flows.

³Landscaping to use recycled Class A Effluent water.

99

Exhibit K
to Land Use Applications

RECEIVED

JUN 27 2011

UMATILLA COUNTY
RECORDS

11-012-AP

DATE PERMIT FORM ISSUED: _____

ISSUED BY: _____

FEE: 15⁰⁰

UMATILLA COUNTY DEPARTMENT OF PUBLIC WORKS
3920 WESTGATE
PENDLETON, OREGON 97801

PERMIT APPLICATION FORM
FOR
CONSTRUCTION OF ROAD APPROACHES ONTO COUNTY AND PUBLIC ROADS
AND PRIVATE ROAD CROSSINGS OF COUNTY AND PUBLIC ROADS

I (We) Kent Madison
(Please Print or Type Names)

29299 Madison Rd Echo OR 541 376-8107
(Address) 97826 (Telephone Number)

hereby respectfully request permission to access Umatilla County Road
No. 1332 Stanfield Meadows
(Road Name)

or Public Road _____ located

In the NW of Section 33, Township 4N, Range 28E
(1/4 Section)

E.W.M. with a(n) (Approach Road) (Private Crossing), the location of which is more particularly described by the attached sketch (attach copy of assessor's map, available at Road Dept., with approach location shown and a sketch of the proposed approach showing width, length, culvert locations, etc.) I (We) agree to defend, indemnify and hold harmless Umatilla County and its officials and employees from all claims, liability and causes of action that arise from or relate in any way to my (our) construction of approach roads to county and public roads.

5-31-11

[Signature]
Signature of Permittee

100

APPROVALS

Robin Ockman _____ 6-1-11
(Section Foreman or Assistant Public Works Director) (Date)

Culvert Required? Y N Size _____

Tom L. [Signature] _____ 6/9/11
(Public Works Director) (Date)

Permission is hereby granted by the Umatilla County Board of Commissioners, pursuant to Oregon Revised Statutes 375.305 to 374.325 to make the aforesaid installation in accordance with all specifications. The Permittee as indicated above shall at all times be responsible and liable for any and all damages arising from or caused by this installation and this permit may be revoked at any time.

PERMISSION GRANTED THIS 7 DAY OF June, 2011.

UMATILLA COUNTY BOARD OF COMMISSIONERS

William B. [Signature]
Chairman

[Signature]
Commissioner

[Signature]
Commissioner



**ATTEST:
OFFICE OF COUNTY RECORDS**

By: [Signature]
Records Officer



(101)

Exhibit N
to Land Use Applications

Comprehensive Plan Amendment Map



102

MEETING MINUTES

OCTOBER 19, 2017

SCHUMANN WIND PROJECT CONDITIONAL USE PERMIT REQUEST #C-1289-17 & SCHUMANN WIND PROJECT LAND USE DECISION #LUD-219-17, Schumann Wind, LLC, Applicant; A. Brooks Lieuallen, Patrick Kelly & Ferguson Ranch, Inc., Property Owners

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, October 19, 2017
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

** **

COMMISSIONERS

PRESENT: Gary Rhinhart, Vice Chair, Tammie Williams, Clive Kaiser, Cecil Thorne, Suni Danforth, Tami Green, Don Marlatt

ABSENT: Randy Randall, Chair, Don Wysocki

STAFF: Bob Waldher, Planning Director, Carol Johnson, Senior Planner, Tierney Dutcher, Administrative Assistant

** ****

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

CALL TO ORDER

Commissioner Rhinhart called the meeting to order at 6:30 p.m. and read the opening statement.

MINUTES

Commissioner Rhinhart asked the Planning Commission to review the minutes from the September 28, 2017 meeting. Commissioner Kaiser moved to adopt the minutes as written. The motion was seconded by Commissioner Danforth. Motion carried by consensus.

NEW HEARING

SCHUMANN WIND PROJECT CONDITIONAL USE PERMIT REQUEST #C-1289-17 & LAND USE DECISION #LUD-219-17, Schumann Wind, LLC, Applicant; A. Brooks Lieuallen, Patrick Kelly & Ferguson Ranch, Inc., Property Owners. The applicant requests a Conditional Use Permit to construct and operate an 8 MW wind project on land owned by A. Brooks Lieuallen located 6 miles north of the City of Athena, west of Pine Creek and east of Harris Road. The wind turbines would be on property identified as Tax Lot 1600 on Assessor Map 5N34 & Tax Lot 2700 on Assessors Map 5N35. The application includes a request for a Land Use Decision for an associated transmission line extending southeast from the Lieuallen property across lands owned by Patrick Kelly and Ferguson Ranch Inc. where the transmission line connects to an existing underground transmission line serving the wind project located on Ferguson Ranch property.

The Conditional Use Permit Standards applicable to the applicant's request are found in the Umatilla County Development Code Sections 152.616 (HHH), 152.615, 152.061. The applicable Land Use Decision Standards for the transmission line are found in Umatilla County Development Code Sections 152.617 (II) (7).

STAFF REPORT

Carol Johnson, Senior Planner, stated that the applicant, Schumann Wind, LLC requests a Conditional Use Permit (CUP) to construct and operate an 8 megawatt (MW) wind project on Exclusive Farm Use (EFU) zoned land owned by Brooks Lieuallen. The project would consist of either 4 or 5 turbines,

depending on their availability. The applicable Conditional Use criteria are found in the Umatilla County Development Code (UCDC) Sections 152.616 (HHH), 152.615, 152.061. Mrs. Johnson stated that the findings consist of a list of conditions for the Commissioners consideration.

The applicant is also requesting a Land Use Decision (LUD) for a utility facility necessary for the project transmission line. Standards for the transmission line are found in UCDC Sections 152.617 (II) (7). The transmission line would extend 2-3 miles (mi.) southeast from the Lieuallen property across lands owned by Patrick Kelly and Ferguson Ranch Inc. The transmission line would then connect to an existing underground transmission line serving the neighboring Chopin Wind project located on Ferguson Ranch property.

The project area is located approximately 5-6 mi. north of the City of Athena. The request follows the County's Land Use Public Hearing process with the Planning Commission making the decisions on both the CUP and LUD. The applicant is present and available to provide project details and answer any questions.

TESTIMONY

Applicant Testimony: Daniel Duke, VP Development, BayWa Wind LLC, 5901 Priestly Dr., Suite #300, Carlsbad, California and Joerg Beland, VP Constructions & Operations, BayWa Wind LLC, 3365 Executive Dr., Suite 1470, San Diego, California. Mr. Duke stated that the local project team is present including; Patrick Gregg, Corey, Byler & Rew, PO Box 218, Pendleton, Oregon; Micah Engum, Alexander Project Services, 404 SE Dorian, Suite 226, Pendleton, Oregon and Jerry Baker, Avian Expert, WEST, PO Box 662, Athena, Oregon. Joining the meeting via speakerphone is Bruce Walker, Acoustical Engineer, Walker Consulting, 676 West Highland Dr., Camarillo, California. Mr. Duke stated that Mr. Walker is a recognized noise expert who specializes in wind turbine noise control research and consulting.

Mr. Duke stated that the company's general approach to every project is grounded in the concept of being a good neighbor. They have projects throughout the entire United States, primarily in rural agricultural and ranching communities. They have built relationships with thousands of land owners, project partners, regulatory entities and government agencies in those rural communities. They believe they should be noticed as little as possible by the surrounding land owners with an effort to minimize impacts in development. Mr. Duke stated that the primary way they have avoided impacts on this project is to use existing facilities to the maximum extent possible. There is an existing BayWa project, Chopin, on the adjoining property. They will use the entire transmission line route from the point of connection on the Ferguson property all the way down to the existing substation on the west end. There will be no construction related to the proposed Schumann project because they will utilize the existing built facilities at the site allowing them to avoid installing a brand new alternative transmission line route. The Schumann Wind project will consist of a 2.3 mile transmission line, an overhead stretch over Pine Creek, then back underground from the project to the existing Schumann turbine #1.

Mr. Duke stated that the project planners have produced a well thought out transportation plan. The project team coordinated with Tom Fellows, Umatilla County Public Works Director and Nancy Parker, City of Athena, to ensure that their planned transportation route will have minimal impacts. On the east

side of the project site where they are building interconnection to the existing Chopin Wind Project, they will have a minimal amount of traffic that will occur, but no new construction. They understand the sensitivities of agricultural operations and will continue to work with land owners to ensure the best experience possible. The project team has followed the necessary steps to ensure compliance with various County Ordinances, Standards and Conditions of Approval. They have confirmed with their noise expert that they have met all requirements and setbacks associated with the noise ordinance. Their surveyor is doing some preliminary work on turbine locations at this time. They have kept in contact with the Denton family, at Waterman and Sanders Road, which is the closest home to the 2 mi. buffer. Mr. Baker has confirmed that there are no issues with avian species at this time. The avian monitoring plan has been reviewed and submitted to both the US Fish & Wildlife Service and Oregon Department of Fish & Wildlife.

Commissioner Rhinhart asked about the other sites they have looked at for their project that do not include high value farm ground. Mr. Duke stated that when you look at the constructible lands within the wind lease area and overlay that with the high value soils located on the property, finding somewhere to build becomes difficult. They have explored various alternatives on the site and considered the best to place the turbines. In looking at the available land within the County, when you consider the 2 mi. set back noise ordinance, the available land for this kind of project is significantly limited. The team has looked at alternative sites but was unable to find a better option.

Commissioner Danforth asked if the substation will be getting upgraded. Mr. Beland stated that the substation will not need upgrades. They will have a small metering yard on the first property where they intertie to the existing transmission line underground. The two projects will be separately metered by PacifiCorp. Everything that is currently in the substation will remain the same. Commissioner Danforth asked about how many H-Structures will be used for the transmission line crossing Pine Creek. Mr. Beland stated that they have not yet determined what kind of structure they will use. They may use an H-Structure or a steel structure, which may be a single pole. They will figure that out after they have more geotechnical engineering information. The project will consist of 4, maximum 5, total structures.

Commissioner Rhinhart asked how many acres of high value farm ground will be taken out of production, including the windmill sites and the new roads that will access the windmills. Mr. Duke stated that the only new roads will be onsite and used to access the turbines and transmission line. Mr. Beland stated that the total high value farm land that will be taken out of production will be less than 5 acres.

Commissioner Danforth asked if an ambient noise study has been done or if the data has been projected using computer modeling. Mr. Walker stated that they used computer studies because the computed noise levels of the turbine at the 2 mi. setback requirement is so low that it is impossible to measure ambient levels. Mr. Beland stated that the ambient noise level is already masking the noise that a turbine can produce in a 2 mi. distance.

Commissioner Kaiser stated that one of the biggest impacts of the project will be the environmental issues. He asked if they have been working with the Executive Director of the Blue Mountain Wildlife rehabilitation center in Pendleton, Lynn Tompkins, for bird rehab. Mr. Baker stated that there has been no need to work with them on this project. Commissioner Kaiser asked why they are working with Mike

Denny out of College Place, when we have a local resident expert available. Mr. Beland stated that a requirement under the Conditional Use Permit for the Chopin Wind Project was to include input from 2 local residents, unaffiliated with the project. It was a request by the Blue Mountain Alliance that Mike Denney be one of those people. The Schumann Project team feels he is very knowledgeable of the area and windfarms as he has been involved in a number of technical oversight committees. They support the idea of him being involved and consider him to be an asset when it comes to reviewing the impacts and making sure the correct measures are taken to achieve the proper conclusions. Commissioner Kaiser asked what the carcass count is. Mr. Duke stated that after 1 year at the site they have found 4 bats and 4 birds; 1 junco and 3 horned larks. Commissioner Rhinhart asked if they can expect a large amount of bat fatalities with this project. Mr. Baker stated that they have concluded the first year of monitoring of the Chopin Wind Project, but he is hesitant to discuss results because they have not done the analysis. He did confirm that there were several bat fatalities found on the project site, but the casualty count is well within the range of similar historical projects. Commissioner Rhinhart asked how often they check the sites. Mr. Baker said they conducted a survey monthly, and twice monthly in the fall. Commissioner Rhinhart stated that the Schumann site will be surveyed one a month and he feels that's the bare minimum. He asked if they would consider monitoring the areas more than once a month. Mr. Duke stated that they will commit to whatever the data supports. If the data supports the need to do additional searches, then they will do that. Commissioner Rhinhart stated that bats are endangered and most people feel part of the reason is because of the windfarms. Mr. Baker stated that he is very concerned about bats. They are a mammal and have one offspring per year, so if a pregnant female is killed it impacts the population. He assured them that the industry continues to do a lot of research and work to minimize bat casualties. Commissioner Rhinhart asked how they would manage the issue if they see a lot of fatalities. Mr. Duke stated that they would revisit the survey methodology and data collection efforts and have other agencies provide direction. Commissioner Kaiser asked if there is any way to mitigate the bats, in terms of sonar. Mr. Baker stated that they are constantly working to find ways to deter bats. Mr. Duke stated that they avoid the issues by doing pre-project surveys and studies to ensure there is not a bat migration corridor where they are siting their projects.

Commissioner Danforth asked about the oil in the turbine head leaking. She asked if it would be able to leak out of the turbine onto the ground. Mr. Beland stated that they have containment areas to catch any oil that may escape from the motor. The entrance door to the turbine is approximately 15 feet (ft.) above the ground. The bottom of the turbine is sealed with cement, silicone and foam so nothing can come in or out from the bottom. They are designed in a way that contains the oil and keeps it from contaminating the surrounding areas.

Neutral Testimony: Larry Nye, 245 South 3rd, Athena, Oregon. Mr. Nye stated that he is an activist in grass roots politics. He is concerned about windmill projects impeding on private land owners. He believes that windmills should be considered a manufacturing plant because it takes a natural resource, turns it into a product, and ships it out. He asked why these windmills have to be built on high value farm land. He wants to know if there is any cap on how many windmills can be located in a certain area. Commissioner Rhinhart stated that there is no cap. If the wind is out there, and they can prove that it is profitable, that's what drives the industry. Mr. Nye asked if the money produced stays in Umatilla County. Commissioner Rhinhart stated that some does, not all.

Commissioner Williams stated that the Umatilla County Planning Commission spent a lot of time working on the regulations for wind projects in Umatilla County. They have made the regulations for the County very strict and have limited numerous places for windmills in the County. Even though there is no cap on how many windmills can be in a certain area, the regulations have made it so there are very few locations where a windmill can be placed. An applicant must be very precise and careful in order to meet the criteria. Mr. Nye stated that it is very clear that somebody is doing a lot of work in evaluating these applications, but he wants to be sure everyone is aware that the momentum is not slowing down. He believes that we are a multiple use county and the windmills have an effect on us. Commissioner Rhinhart stated that he prefers to see projects like this, scattered between lots of land owners, rather than large projects where only one land owner benefits. The farming industry can be tough at times so a farmer that has a few windmills on his fields is diversifying.

Neutral Testimony: Jess & Granella Thompson, 51949 Johnson Road, Weston, Oregon. Mr. Thompson stated that they have some concerns. The BayWa project group have expressed that they do their best to treat the farmers well and being neighborly, but that is not what he experienced on Staggs Road during the Chopin Wind Project construction. The trenching project turned into a digging project which kept the road in construction mode for 6 weeks, which included their winter wheat harvest. They were held back 5-10 acres a day. They tried using 3 trucks but could not keep up because the road speed was reduced to 5-15 mph during that time. They requested the County and BayWa to grade and water the road to make improvements for harvest, but neither one would do it. Other farmers who farm along Sanders Road have contacted Mr. Thompson and asked how they were treated. He advised the land owners to get promises in writing because he feels that they did not follow through with many of the things they said. He suggests that the BayWa group work better with farmers, especially along Sanders and Waterman Roads and to be mindful of harvest. Mrs. Thompson asked if there is only one tower that will be hauled in on the Staggs Road side of Pine Creek. Mr. Beland confirmed that is the plan, one tower and no additional big hauls.

Commissioner Green stated that she is very disturbed that the Thompsons had to put up with this interruption during harvest, after they were told that would not happen. Mr. and Mrs. Thompson stated that they harvest around the first of August for approximately 4 days. They emailed the BayWa project staff as they got closer to harvest time. The trenching was supposed to take place in June for 2.5 days. Instead, it started July 19th and took 6 weeks to complete. Commissioner Danforth asked if the Thompsons contacted the County with the problem they were having on the road. Mrs. Johnson stated that she received several emails and shared them with BayWa. Commissioner Williams asked if they would be more comfortable if they had something in writing. Mrs. Thompson said yes, they would like to have a condition placed on the approval that states that they cannot be there during wheat harvest.

Applicant Rebuttal: Daniel Duke, VP Development, BayWa Wind LLC, 5901 Priestly Dr., Suite #300, Carlsbad, California and Joerg Beland, VP Constructions & Operations, BayWa Wind LLC, 3365 Executive Dr., Suite 1470, San Diego, California. Patrick Gregg, Corey, Byler & Rew, PO Box 218, Pendleton, Oregon; Micah Engum, Alexander Project Services, 404 SE Dorian, Suite 226, Pendleton, Oregon; Jerry Baker, Avian Expert, WEST, PO Box 662, Athena, Oregon and (via speakerphone) Bruce Walker, Acoustical Engineer, Walker Consulting, 676 West Highland Dr., Camarillo, California.

Mr. Beland stated that they had a project plan, but things do not always work out according to that plan. Originally, in construction of the Chopin Wind Project, they planned to trench the road on Staggs Road which would have been approximately a 2.5 day job. Instead, they were forced to excavate the cable trench and a trencher was not available. They had to find some other way because the turbines were lined up and could not wait. They tried to do their best to keep the neighboring land owners informed. They realize they caused an inconvenience, but it was not avoidable. He stated that it was unfortunate that it happened during the time period of harvest but they were under strict time constraints due to agreements made with PacifiCorp, which did not allow for much flexibility. Mr. Beland stated that the proposed Schumann Wind Project will require no construction on Staggs Road. The main reason the Thompsons were so impacted is because they had to add a mile of county road to extend to the Ferguson property and build the transmission line from the project to the substation. This will not happen again.

Commissioner Kaiser asked if they can wait to start the project until after August 10th to ensure they will not interrupt harvest again. Mr. Duke stated that he does not know when they will start the project. The start date depends on when the permits are obtained and turbines and equipment are ready. Mr. Duke stated that the intent is to get permits this year and begin the project in early spring, but there are many variables at play. Mr. Beland stated that nothing will be built on County Roads with the exception of small road improvements around corners so they are able to get large haul vehicles around, but those will be removed later. In being able to use the existing transmission line, impacts will be minimal and they will have greater flexibility. They have learned a lot from the Chopin project and intend to continue to improve.

Commissioner Danforth stated that last year at the hearing for the Chopin Wind Project, she asked the BayWa project team if they had any possible other projects. She was told there were no additional upcoming projects, even though she believes this project may have been in the preliminary planning stages at that time. She asked again if there are any other projects coming up on any of the surrounding properties. Mr. Duke stated no, the available land that remains is not enough to do any kind of additional development in the area.

Commissioner Danforth stated that she would like to make sure that after the build they will provide proof that they have placed the turbine outside the 2 mi. setback from the closest residence. Mr. Beland stated that they do a survey before and after to prove the turbines comply with the ordinance.

Commissioner Danforth is disturbed by the fact that there was only a computer model study done for noise, and no actual real data used. She pointed out that Condition of Approval #7 states that a credible noise study may be required to verify that noise impacts in all wind directions are in compliance with state standards. Mr. Duke stated that they did do a noise study and there is no value to taking noise measurements at locations beyond the 2 mi. setback. Commissioner Danforth is concerned that the results are based on calculations with no baseline to start. Mr. Walker stated that the fact that the existing Chopin turbines are so close to residences, they already put the level so high that they mask all other noise. There are no circumstances in which this project will not be compliant with the state regulations. Mr. Beland stated that there is no need to make that measurement when it is already certain. He believes the standard set for a 2 mi. setback makes noise studies obsolete. Commissioner Danfield stated that she knows two property owners that live greater than 2 mi. away from wind projects. Depending on the wind direction, they do hear the turbines. She is concerned about the cumulative effect

and feels that if there is no base or fact for ambient wind noise in a certain area then you have nothing to base anything off of, regardless of computer modeling. Mr. Beland disagreed and stated that the computer modeling that is in place is based on a number of measurements and there is a lot of fine tuning involved to make them project specific, so cumulative effects have been taken into consideration. Additional discussion about ambient noise and calculations for scientific measurements were discussed.

Commissioner Danforth stated that she is sorry there are not additional neighboring property owners present at the meeting because she wants to be sure the project will not disrupt the common farming practices in the area.

Commissioner Rhinhart closed the hearing for deliberation.

DELIBERATION

Commissioner Rhinhart stated that on page 57-58 of the commissioner's packet they outline the Precedent and Subsequent Conditions of Approval for the project. He asked if any of the conditions protect the farmers on the roads. Mr. Duke stated that #7 requires that the project staff to consult with land owners prior to construction and to implement measures to reduce or avoid impacts to local farming practices. Commissioner Rhinhart asked if that condition could be strengthened. Mrs. Johnson stated that it is difficult to express to one group they cannot use the public road, while another group can.

Commissioner Williams made a motion to approve Schumann Wind Project Conditional Use Permit Request #C-1289-17 and Land Use Decision #LUD-219-17 and approve the information presented for the record as well as the correction from Commissioner Danforth (page 58 under Subsequent Conditions "Chopin" should be "Schumann") and the Precedent and Subsequent Conditions of Approval for the project. The motion was seconded by Commissioner Marlatt. Motion passed with a vote of 7:0.

OTHER BUSINESS

Mr. Waldher stated that the Planning Commission Bylaws were adopted in 1980 and not much has been changed. He provided a copy of the Bylaws to the Planning Commission and asked them to review them for any changes that may need to be considered.

Mr. Waldher asked the Planning Commission if they would be open to meeting at 6 pm instead of 6:30 pm. We have already sent notice for the November meeting to start at 6:30pm, and we do not plan to have a hearing in December, unless something changes. He proposed that we try out a 6 pm start time starting in January 2018. The group agreed that they would rather meet earlier, if possible.

Mr. Waldher stated that the Bylaws require election of officers at the October meeting. Commissioner Williams recommended Commissioner Danforth to be the new Chair. Commissioner Marlatt nominated Commissioner Rhinhart. Commissioner Rhinhart stated that Commissioner Danforth would be a great Chair. A vote was made and the group unanimously approved Suni Danforth as the new Chair. Commissioner Rhinhart will remain Vice Chair.

Next meeting of the Commission is moved up one week to Thursday, November 16, 2017 to be held at the Justice Center, 4700 NW Pioneer Place, Pendleton.

ADJOURNMENT

Commissioner Rhinhart adjourned the meeting at 8:34 p.m.

Respectfully submitted,

Tierney Dutcher
Administrative Assistant

(Minutes adopted by the Planning Commission on _____)