



## PLANNING DEPARTMENT

P.O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

### AGENDA

**Morrow County Planning Commission**  
**Tuesday, December 8, 2020 7:00 pm**  
**Bartholomew Building**  
**Heppner, Oregon**

**See Electronic Meeting Information on Page 2**

#### Members of Commission

Jeff Wenzholz, Chair  
Stacie Ekstrom  
Greg Sweek

Mifflin Devin, Vice Chair  
Wayne Seitz  
Rod Taylor

Stanley Anderson  
Karl Smith  
Brian Thompson

#### Members of Staff

Tamra Mabbott, Planning Director  
Stephen Wrecsics, GIS Planning Tech  
Dianna Strong, Office Assistant

Stephanie Case, Planner II  
Justin Nelson, County Counsel  
Gregg Zody, Community Development Director

1. Call to Order
2. Roll Call
3. Pledge of Allegiance: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands: one nation under God, indivisible with liberty and justice for all."
4. Minutes: October 27, 2020
5. Public Hearings to begin at 7:00 pm (COMMISSION ACTION REQUIRED):

**Land Partition LP-N-486-20: Gerald Kingery, Owner and Applicant.** The property is described as tax lot 100 of Assessor's Map 5N 27E 21A. The property is zoned Rural Residential (RR) and located east of the City of Irrigon on Highway 730. Subject property is located outside the Irrigon Urban Growth Boundary. Request is to partition a 9.92-acre parcel to create 2 parcels. Criteria for approval includes the Morrow County Zoning Ordinance (MCZO) Article 3 Section 3.040 Rural Residential Zone and Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning.

**Land Partition/Replat LP-S-487-20 R-S-059-20: Morrow County, Applicant and City of Heppner and Morrow Soil & Water Conservation, Owners.** The property is described as tax lots 300 and 1000 of Assessor's Map 2S 26E 27AC. The property is zoned Light Industrial (M) and located northwest of the City of Heppner near the intersection of Riverside and Fuller Canyon inside the Heppner Urban Growth Boundary. Request is to reconfigure approximately 1.36-acres to create 3 parcels. Criteria for approval includes Heppner City Code 11-3-7 and MCSO Article 5 Land Partitioning.

**AZ-133-20 Zoning Ordinance Amendment. Morrow County, Proponent.** This action is to update Article 9 Administrative Provisions of the MCZO. The criteria for approval are found in MCZO Article 8. This is the first of at least two public hearings with the final hearing before the Board of Commissioners.

**AZ-134-20 Zoning Ordinance Amendment. Morrow County, Proponent.** This action is to update Article 3 of the MCZO for the purpose of creating a Rural Residential 10-Acre Zone (RR10). The criteria for approval are found in MCZO Article 8, Statewide Planning Goal 10 Housing, Oregon Administrative Rule Chapter 660 Division 8. This is the first of at least two public hearings with the final hearing before the Board of Commissioners.

6. Correspondence
7. Public Comment
8. Adjourn

**Next Meeting**

January 19, 2020 at 7:00 p.m. Location: TBA

**ELECTRONIC MEETING INFORMATION:**

Morrow County Planning is inviting you to a scheduled Zoom meeting. Join Zoom Meeting.

<https://zoom.us/j/93017513430?pwd=eVdWdJLNkx6WIRyZXRvdUh0OHFwdz09>

**Meeting ID:** 930 1751 3430      **Password:** 318269

One tap mobile

+12532158782,,93017513430#,,,,,0#,,318269# US (Tacoma)

+13462487799,,93017513430#,,,,,0#,,318269# US (Houston)

Zoom Call-In Numbers for Audio Only:

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

+1 301 715 8592 US (Washington D.C)

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

**Meeting ID: 930 1751 3430**

Find your local number: <https://zoom.us/j/93017513430>

Should you have any issues connecting to the call please call 541-922-4624 or email Tamra Mabbott at [tmabbott@co.morrow.or.us](mailto:tmabbott@co.morrow.or.us).

*This is a public meeting of the Morrow County Planning Commission, and may be attended by a quorum of the Morrow County Board of Commissioners. Interested members of the public are invited to attend. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours before the meeting to Tamra Mabbott at (541) 922-4624, or by email at [tmabbott@co.morrow.or.us](mailto:tmabbott@co.morrow.or.us).*

**PRELIMINARY FINDINGS OF FACT  
LAND PARTITION REQUEST  
LP-N-486-20**

**REQUEST:** To partition an approximately 9.92-acre property into two parcels.

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**APPLICANT** Gerald Kingery  
P.O. Box 771  
Irrigon, Oregon 97844

**OWNERS** Kingery Limited Partnership  
P.O. Box 771  
Irrigon, Oregon 97844

**PROPERTY DESCRIPTION:** Tax Lot 100 of Assessor's Map 5N 27E 21A.

**PROPERTY LOCATION:** Approximately two-miles east of Irrigon City Limits along the north side of Hwy 730.

**FINDINGS OF FACT:**

**I. BACKGROUND INFORMATION:**

The subject parcel is zoned Rural Residential and is located outside of the Irrigon Urban Growth Boundary (UGB). The subject property has an existing shop building and is currently being used as pasture ground. The applicant is proposing to create two parcels, with proposed parcel 1 at approximately 4.5-acres, and proposed parcel two approximately 5.4-acres in size.

**II APPROVAL CRITERIA:**

Morrow County Subdivision Ordinance Article 5 Land Partitions will apply. Criteria are listed below in **bold type**, followed by a response in standard type.

**MORROW COUNTY SUBDIVISION ORDINANCE ARTICLE 5 LAND PARTITIONS SECTION 5.030. REQUIREMENTS FOR APPROVAL. No application for partitioning shall be approved unless the following requirements are met:**

**1. Proposal is in compliance with the County and affected City Comprehensive Plan and applicable Zoning.**

The proposed land partition meets the requirements of the Zoning Ordinance and Comprehensive Plan relative to minimum parcel size. The applicant will need to submit both a preliminary and final partition plat to be in compliance with this Article and ORS Chapter 92. This is recommended and listed as a Condition of Approval.

**2. Each parcel is suited for the use intended or offered; including, but not limited to, sewage disposal approval and guaranteed access.**

The applicant has proposed two parcels in the Rural Residential Zone; each proposed parcel is of an adequate size to satisfy the 2-acre minimum size for this zone. The applicant has indicated that the future intended use for both proposed parcels is residential in nature. Access for proposed parcel 1 is along Highway 730 at an existing access point previously approved by the Oregon Department

of Transportation (ODOT). Access for proposed parcel 2 will be via an easement across a portion of Tax Lot 4500 (also owned by the Applicant) to an additional previously approved access point along Highway 730. It is recommended and listed as a Condition of Approval that the Applicant submits proof of all access points approved by ODOT. As of the date of these findings, the Applicant has submitted with their application email correspondence with ODOT in which both access points as they currently exist are, per ODOT, "considered legal" and in a portion of Highway 730 that is not Access Controlled. It is recommended and listed as a Condition of Approval that all easements, existing or proposed, be shown on the Final Partition Plat.

To ensure buildability of each parcel, proposed parcels 1 and 2 will need to obtain site suitability from Umatilla County Health (Uco. Health). This is recommended and listed as a Condition of Approval.

3. **All required public service and facilities are available and adequate or are proposed to be provided by the partitioner.**  
Electricity and telephone services are available in the area, Applicant will need to work with local providers for future service. No other public services or facilities are available.
4. **Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities.**  
The current parcel is zoned rural residential and surrounding uses are residential in nature, this action will not prevent the proposed or surrounding parcels to continue to be used as such. The proposal will not have any identifiable adverse impacts on public services or natural resources of the area. Planning staff would find this criterion met.
5. **An approved water rights diversion plan as applicable.**  
Preliminary Findings of Fact were referred to the County Watermaster and Oregon Water Resources Department (OWRD). It is recommended that the applicant comply with any recommendations of the County Watermaster and OWRD based on this review.
6. **Flag lots will not be permitted when the results would be to increase the number of properties requiring direct and individual access from a State Highway or other arterial. Flag lots may be permitted to achieve planning objectives under the following conditions:**
  - a. **When flag lot driveways are separated by at least twice the minimum frontage distance.**
  - b. **The driveway must meet driveway standards described in Article 8, Section 8.020.V.**
  - c. **The lot meets the minimum lot area of the zoning district, without including the driveway.**
  - d. **Only one flag lot shall be permitted per private right-of-way or access easement.**  
This provision does not apply as no flag lots are proposed.
7. **The depth of any lot will not be restricted as long as a buildable parcel is proposed.**  
The application meets this criterion as buildable parcels are being proposed at 4.5-acres, and 5.4-acres in size. All proposed parcels would meet the minimum acreage for the RR zone.

8. **No plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company will be approved unless the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.**

The applicant should be aware that this property is located in an area designated for water quality concerns by the Oregon Department of Environmental Quality. The subject property is in the Lower Umatilla Basin Groundwater Management Area (LUBGWMA). The Department of Environmental Quality designated the LUBGWMA in 1990 due to elevated nitrate concentrations in groundwater. It is recommended that wells used for drinking water be tested at least annually to determine nitrate concentrations. More information about the LUBGWMA can be found at <http://www.oregon.gov/deq/wq/programs/Pages/GWP-Management-Areas.aspx>

This property is within the West Extension Irrigation District (WEID) and were provided a copy of these findings. Applicant will need to get the approval of WEID. This is recommended and listed as a condition of approval.

9. **The Commission will deny an application for partitioning when it can be shown by the Commission that the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern creating more than three (3) parcels without subdividing.** This provision does not apply to this application as no more than 3 parcels are currently being proposed.

10. **In addition to the requirements set forth above, the following factors may be considered for approval or disapproval of an application for land partitioning is a geographical or other factor identified by other, appropriate professionals or Plans such as the requirements of the Comprehensive Plan, FEMA requirements, Byways rules, etc., requires it:**

- a. **Placement and availability of utilities.**
- b. **Safety from fire, flood and other natural hazards.**
- c. **The same improvements may be required for a partitioning as required of a subdivision, if required it will be installed by the applicant.**
- d. **Possible effects on natural, scenic and historical resources.**
- e. **Need for onsite or offsite improvements.**
- f. **Need for additional setback, screening, landscaping and other requirements relative to the protection of adjoining and area land uses. If the proposed partition is located within an Urban Growth Boundary, the affected city must be given notice according to the respective Joint Management agreement.**
- g. **In the approval of a land partition, the need for street and other improvements will be considered and may be required as a Condition of Approval at a different standard than for a subdivision.**

Planning staff would not recommend any additional requirements based on the factors above.

III **LEGAL NOTICE PUBLISHED:** November 17, 2020  
East Oregonian

November 18, 2020  
Heppner Gazette-Times

IV **AGENCIES NOTIFIED:** Greg Silbernagel, Watermaster; Beverly Bridgewater, WEID; Larry Burns, Irrigon Rural Fire Protection District; Justin Nelson, Morrow County Counsel; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director; Stephen Haddock, Morrow County Surveyor; Matt Kenny, Morrow County Surveyor; Jevra Brown, Division of State Lands; Teresa Penninger and Thomas Lapp, Oregon Department of Transportation.

V **PROPERTY OWNERS NOTIFIED:** November 18, 2020

VI **HEARING DATE:** December 8, 2020  
Morrow County Bartholomew Building  
Heppner, Oregon 97836

VII **PLANNING COMMISSION ACTION:** Staff recommend approval subject to the following **Precedent Conditions of Approval**. These conditions must be completed before the Planning Director may sign the final partition plat or before the land may be deeded to a third party.

1. Submit both a preliminary and final partition plat to be in compliance with Article 5 of the Morrow County Subdivision Ordinance and ORS Chapter 92.
2. Obtain site-suitability from Umatilla County Health for Proposed Parcels 1 and 2.
3. Obtain approval from the West Extension Irrigation District (WEID).
4. Obtain ODOT approval for all Access Points.
5. All easements, existing or proposed, be shown on the Final Partition Plat.

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Jeff Wenholz, Chair

Date

**ATTACHMENTS:**

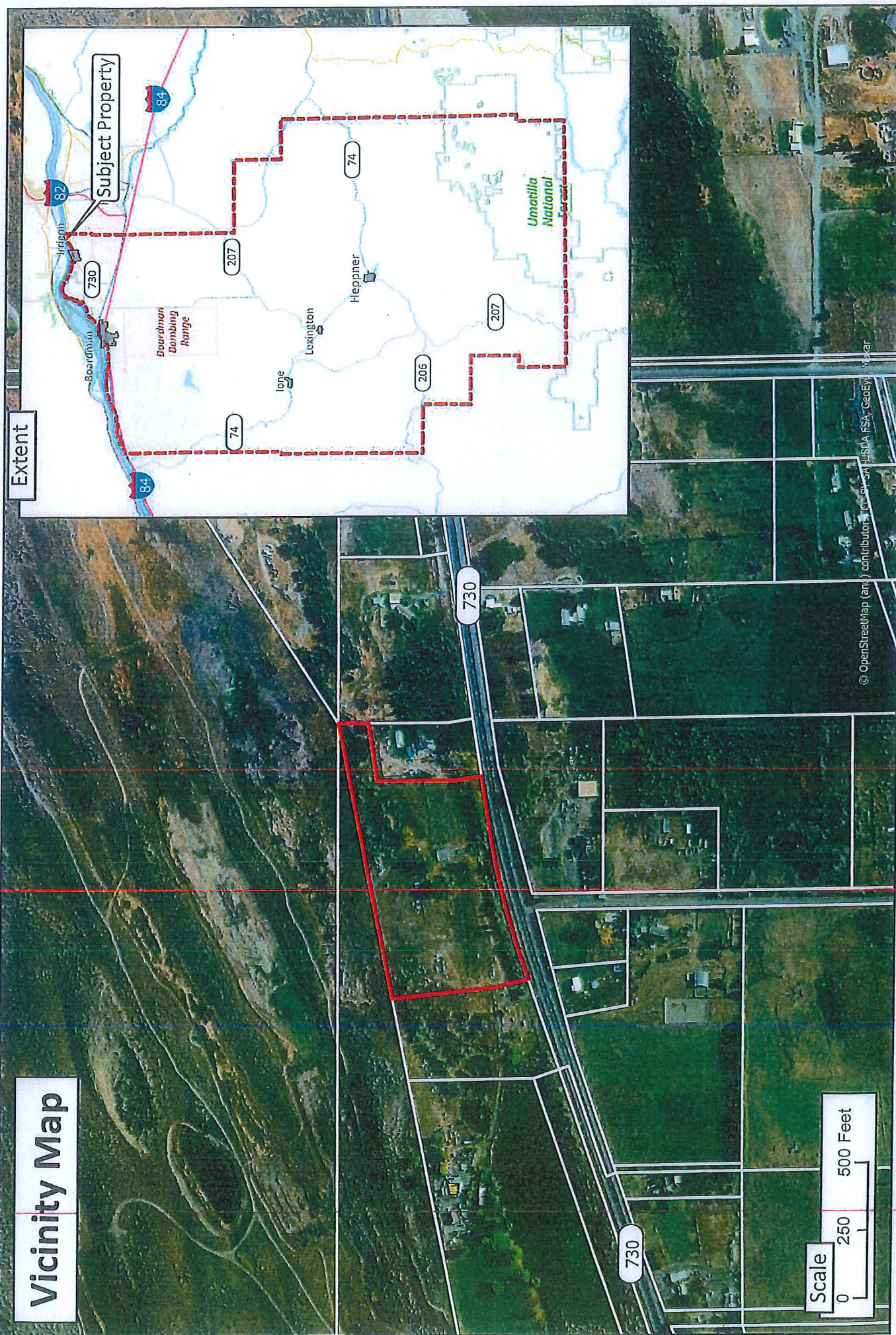
Vicinity Map

Preliminary Plan

ODOT Emails (10/6/20 & 10/20/20)

4

# Vicinity Map





Extent

Subject Property



**LP-N-486-20**  
 Gerald Kingery  
 5N 27E 21A TL100

### Legend

-  Tax Lots
-  Subject Property



Cartography By: Stephen Wrecesics  
 Morrow County Planning Department  
 Coordinate System: NAD83 Oregon GIC Lambert ft  
 Datum: North American 1983  
 Projection: Lambert Conformal Conic

Date Saved: 10/28/2020 1:38 PM  
 Refer: 25 Planning/Land Parcel/Land Parcels to the Herbman Parcel of the County 2020/10/28/2020







From: LAPP Thomas  
Sent: Tuesday, October 6, 2020 11:57 AM  
To: aktrade@webtv.net  
Subject: Presumed to be Permitted driveway. 5N2721A tax lot #100 & #4500.

Mrs. Kingery,

I researched the status of your existing driveway at mile point 178.25, left side on the Columbia River Highway 0002/US730. The driveway has not been previously recognized with a use permit by ODOT, but is considered legal.

The property is not in an access controlled section of the highway, therefore your driveway has a status of 'Presumed to Be Permitted' as a common law abutter's right for highway access. The department considers the the ongoing use of this highway approach to be legal for the current use, which is for a residence and surrounding property.

Please contact me again if additional information is needed.

Sincerely,

Thomas Lapp  
District 12 Permit Specialist  
1327 SE 3<sup>rd</sup> Street  
Pendleton, OR 97801  
Ph (541)278-3450  
Fax (541)276-5767

Tax lot #100, Map 5N2721A. Existing driveway at MP 178.40 left side of highway.

LAPP Thomas <Thomas.Lapp@odot.state.or.us>

Tue 10/20/2020 10:03 AM

To: aktrade@webtv.net <aktrade@webtv.net>

Mrs. Kingery,

I checked the approach inventory and access control research for the driveway serving tax lot #100 at MP 178.40, on assessor's map 5N2721A. I find that this existing approach fits the status of Presumed to be Permitted, and is considered legal for the current use which appears to be a residence and remaining property. I base this status on the access report provided for ODOT 2012 Project plans 43V-139 that shows no access control to the property. This is a project recognized approach on plan sheet #7 at engineer's station 180+40.

Thomas Lapp  
District 12 Permit Specialist  
1327 SE 3<sup>rd</sup> Street  
Pendleton, OR 97801  
Ph (541)278-3450  
Fax (541)276-5767

**PRELIMINARY FINDINGS OF FACT  
LAND PARTITION/REPLAT REQUEST  
LP-S-487-20  
R-S-059-20**

**REQUEST:** To reconfigure approximately 1.36 acres into 3 parcels to allow the siting of a Morrow County Sheriff's Department building on proposed parcel 1.

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**APPLICANT:** Morrow County  
PO Box 788  
Heppner, OR 97836

**PROPERTY OWNERS:** City of Heppner  
PO Box 756  
Heppner, OR 97836

Morrow Soil & Water Conservation  
PO Box 127  
Heppner, OR 97836

**PROPERTY DESCRIPTION:** Tax Lots 300 and 1000 of Assessor's Map 2S 26 27AC

**PROPERTY LOCATION:** Between Riverside and Hwy 74 near Fuller Canyon Road

**I FINDINGS OF FACT:**

Zoning of the parcel is Light Industrial within the Heppner Urban Growth Boundary. The subject property is the current location of the fire hall and is connected to city water and sewer services. This proposal would reconfigure existing parcels and create a new parcel for the construction of a building for the Sherriff's Department.

**II APPROVAL CRITERIA:**

For the land partition Morrow County Subdivision Ordinance Article 5 Land Partitions will apply. Compliance with Heppner City Code, Title 11 Zoning, Chapter 3 Use Zones, Section 11-3-7 also applies for the proposal as the land is within the Heppner Urban Growth Boundary Criteria are listed below in **bold type**, followed by a response in standard type.

**MORROW COUNTY SUBDIVISION ORDINANCE ARTICLE 5 LAND PARTITIONS SECTION 5.030. REQUIREMENTS FOR APPROVAL. No application for partitioning shall be approved unless the following requirements are met:**

**1. Proposal is in compliance with the County and affected City Comprehensive Plan and applicable Zoning.**

The proposed land partition, if approved in conjunction with the City of Heppner's Development Code, does meet the requirements of the Zoning Ordinance and Comprehensive Plan. Zoning of the parcel is Light Industrial within the Heppner Urban Growth Boundary and the application complies with the Heppner City

Code as demonstrated below. The applicant will need to submit both a preliminary and final partition plat to be in compliance with this Article and ORS Chapter 92. This is recommended and listed as a Condition of Approval.

2. **Each parcel is suited for the use intended or offered; including, but not limited to, sewage disposal approval and guaranteed access.**  
City services will be connected to the proposed new parcels and access will be obtained off Riverside Avenue via access easements. It is recommended and listed as a condition of approval that the access and utility easements be shown on the final partition plat.
3. **All required public service and facilities are available and adequate or are proposed to be provided by the partitioner.**  
Power and telephone services are available and the property is located within the Heppner Rural Fire Protection District. This criterion is met.
4. **Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities.**  
This parcel abuts the City of Heppner's Industrial Zone and designated truck route. The adjoining properties are vacant excepting the fueling station to the Southwest and the firehall which is situated on the subject property. The addition of a public building at this location would increase traffic minimally and the maintenance of the property will improve the area. This criterion is met.
5. **An approved water rights diversion plan as applicable.**  
This provision does not apply to this application.
6. **Flag lots will not be permitted when the results would be to increase the number of properties requiring direct and individual access from a State Highway or other arterial. Flag lots may be permitted to achieve planning objectives under the following conditions:**
  - a. **When flag lot driveways are separated by at least twice the minimum frontage distance.**
  - b. **The driveway must meet driveway standards described in Article 8, Section 8.020.V.**
  - c. **The lot meets the minimum lot area of the zoning district, without including the driveway.**
  - d. **Only one flag lot shall be permitted per private right-of-way or access easement.**

This provision does not apply as no flag lots are proposed.
7. **The depth of any lot will not be restricted as long as a buildable parcel is proposed.**  
The application meets this criterion as a buildable parcel is proposed.
8. **No plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company will be approved unless the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.**  
This property is within the boundaries of the City of Heppner Public Drinking Water district and has City service.

9. The Commission will deny an application for partitioning when it can be shown by the Commission that the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern creating more than three (3) parcels without subdividing.

This provision does not apply to this application.

10. In addition to the requirements set forth above, the following factors may be considered for approval or disapproval of an application for land partitioning is a geographical or other factor identified by other, appropriate professionals or Plans such as the requirements of the Comprehensive Plan, FEMA requirements, Byways rules, etc., requires it:
- a. Placement and availability of utilities.
  - b. Safety from fire, flood and other natural hazards.
  - c. The same improvements may be required for a partitioning as required of a subdivision, if required it will be installed by the applicant.
  - d. Possible effects on natural, scenic and historical resources.
  - e. Need for onsite or offsite improvements.
  - f. Need for additional setback, screening, landscaping and other requirements relative to the protection of adjoining and area land uses. If the proposed partition is located within an Urban Growth Boundary, the affected city must be given notice according to the respective Joint Management agreement.
  - g. In the approval of a land partition, the need for street and other improvements will be considered and may be required as a **Condition of Approval at a different standard than for a subdivision.**

Previous actions on this property, including the previous land partition, indicate that this parcel has had an elevation survey and the elevation is above the base flood elevation. Staff would not recommend any additional requirements and would deem this criterion met.

**HEPPNER CITY CODE TITLE 11 ZONING CHAPTER 3 USE ZONES SECTION 11-3-7 LIGHT INDUSTRIAL ZONE, M:**

**A. Permitted Uses In M Zone: In an M zone the following uses and their accessory uses are permitted outright:**

**Feed store.**

**Manufacturing, repairing, compounding, processing and storage.**

**Public uses.**

**Wholesale distributing facility or warehouse.**

Application has been made for a land partition with the proposed use being a storage building for the Morrow County Sheriff's Department, which is a public use. This criterion has been met and would apply to the dimensional standards below.

**B. Conditional Uses Permitted In M Zone: In an M zone the following uses and their accessory uses are permitted when authorized in accordance with chapter 5 of this title:**

**Automobile and truck service stations.**

**Utility structure.**

This criterion is not applicable as the proposed use is a use allowed outright in the Light Industrial Zone.

**C. Dimensional Standards In M Zone:** In an M zone the following dimensional standards shall apply: the lot area shall be adequate to meet the needs of the establishment, the requirements of the Oregon state structural specialty code and fire and life safety code, the requirements of the city's fire zones and shall provide adequate space for parking and loading pursuant to chapter 9 of this title.

1. **Front setback shall be:**

a. **Thirty feet (30') on Heppner Highway, and**

b. **Twenty five feet (25') along Riverside Avenue.**

This criterion would not apply as this property does not have direct frontage on Heppner Highway or Riverside Avenue.

2. **Parking and loading shall be screened as described in landscape section of the city's ordinance. Landscape screen shall be a minimum of five feet (5') in width.**

This would apply at the time of development and the applicant will work with the City of Heppner to assure that parking requirements are adequate.

3. **Structures shall have a ten foot (10') minimum landscape buffer between the building and parking areas on the side facing public right of way. The building entry will be clearly articulated.**

This would apply at the time of development and the applicant will work with the City of Heppner to assure that landscaping is adequate for the proposal.

**D. Limitations On Use:** In an M zone the following limitations and conditions shall apply:

1. **A use which creates a nuisance because of noise, smoke, odor, radiation, dust or gas is prohibited.**

The proposal would not create a nuisance as listed. This criterion is met.

2. **Materials shall be stored and ground shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or otherwise create a health hazard.**

This criterion would not be applicable to this proposal.

3. **Any use of property within one hundred feet (100') of a lot in a residential zone shall be subject to the review and approval of the planning commission. The planning commission may impose such limitations as may be required to reduce conflicts between uses. (Ord. 542, 8-11-2003)**

This property is within the Urban Growth Boundary and is subject to Morrow County processing, the Land Partition requires Morrow County Planning Commission action.

**III LEGAL NOTICE PUBLISHED:** November 17, 2020  
East Oregonian

November 18, 2020  
Heppner Gazette-Times

**IV AGENCIES NOTIFIED:** Kraig Cutsforth, City of Heppner; Teresa Penninger, Marilyn Holt, and Thomas Lapp, Oregon Department of Transportation; Ken Theimann, Watermaster; Steve Rhea, Heppner Rural Fire Protection District; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director; Stephen Haddock, Morrow County Surveyor; Matt Kenny, Morrow County Surveyor

**V PROPERTY OWNERS NOTIFIED:** November 18, 2020

VI HEARING DATE: December 8, 2020  
Bartholomew Building  
Heppner, Oregon

VII **PLANNING COMMISSION ACTION:** Staff recommend approval subject to the following **Precedent Conditions of Approval.** These conditions must be completed before the Planning Director may sign the final partition plat or before the land may be deeded to a third party:

1. Submit both a preliminary and final partition plat to be in compliance with Article 5 of the Morrow County Subdivision Ordinance and ORS Chapter 92.
2. Access and utility easements for the new parcels shall be shown on the final partition plat.

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Jeff Wenholtz, Chair Date

ATTACHMENTS: Vicinity Map  
Preliminary Plans

# Vicinity Map

74



**LP-S-487-20**  
**R-S-059-20**  
 Morrow County &  
 City of Heppner  
**2S 26E 27AC TL300 & 1000**

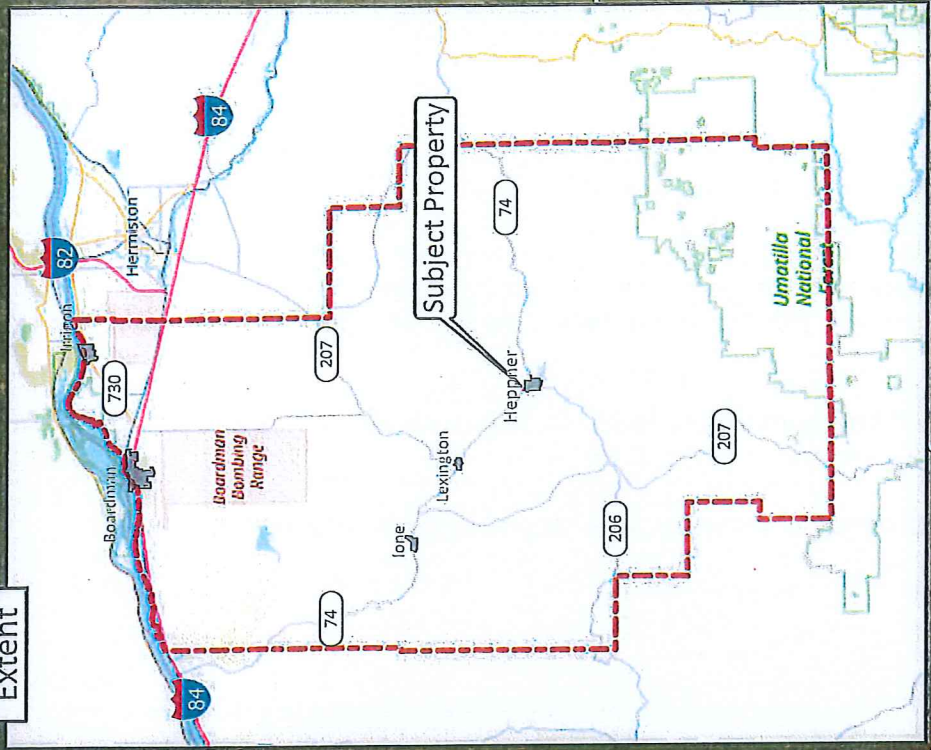


## Legend

-  Tax Lots
-  Subject Property

City of Heppner

## Extent



© OpenStreetMap (and) contributors, CC-BY-SA, GeoEye, Mapbox, Microsoft

Cartography By: Stephen Wreccics  
 Morrow County Planning Department  
 Coordinate System: NAD83 Oregon GIC Lambert ft  
 Datum: North American, 1983  
 Projection: Lambert Conformal Conic  
 Date Saved: 11/13/2020 2:35 PM  
 File: C:\Morrow\land\public\2020\2020-4-10-201\Map and Heppner





# TENTATIVE PLAN FOR A PARTITION

# PARTITION PLAN No. 2020-

Parcel 2, Partition Plat 2018-1 and Parcel 3 of Road Station located in the NE1/4 of Section 27, Township 5N, Range 2E, Willamette Meridian, Harrow County, State of Oregon.

## SHEET 1 OF 2

### NARRATIVE OF SURVEY

This partition plat was prepared at the request of Morrow County, Oregon. The plat was prepared by the Surveyor General of Morrow County, Oregon, and is subject to the provisions of the laws of Oregon relating to the partition of land. The plat was prepared on the basis of the survey conducted by the Surveyor General of Morrow County, Oregon, and is subject to the provisions of the laws of Oregon relating to the partition of land. The plat was prepared on the basis of the survey conducted by the Surveyor General of Morrow County, Oregon, and is subject to the provisions of the laws of Oregon relating to the partition of land.

### Notes:

- A For details of the existing access easement, see sheet 2 of this plat.
- B This easement for gas and irrigation pipelines has been modified by the document recorded in the county records as 2018-37574.
- C There is an existing pipeline in this easement. This pipe and easement will need to be relocated to unencumber proposed Parcel 1.
- D There is an approximately 10' gap between the location of Fallbourne Street as located by location C-174-K and the southerly line of Lot 9. It is believed that this is due to an error in the original survey. It is suggested that the surveyor consider the center line of the Railroad in and to the depot grounds.

### LEGEND

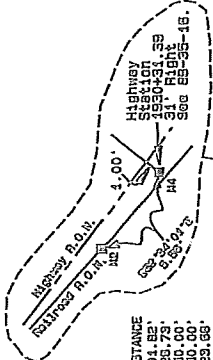
- SET 5/8" 1/2" 1/4" IRON REBAR
- STAKE
- FOUND MONUMENT AS NOTED.
- COMPUTED POINT
- FOUND 5/8" IRON REBAR FROM SURVEY 2018-17209
- PROPOSED PARCEL CORNERS
- PELLAGOURNE STREET BY SURVEY C-174-N-285
- EASEMENT BOUNDARIES
- VERNON GAS ADDITION MT. VERNON GAS ADDITION UNLESS OTHERWISE NOTED.
- DIMENSIONS LOCATING THE NEW PUBLIC SEWER EASEMENT
- OFFICE OF COUNTY RECORDS



This is a True and Exact Copy

### FOUND MONUMENT TABLE

- M4 Found 5/8" rebar from survey D-189-14. 100.00' to center Railroad Right of Way.
- M2 Found 5/8" rebar from survey D-189-14. 100.00' to center Railroad Right of Way.
- M3 Found 5/8" rebar from survey by Lot 4, Block 2 Mt. Vernon's Second Addition.
- M4 Found 5/8" rebar set by good Station 182033.55, 3rd Right. 500' Height of Hwy sup 68-35-16.



### LINE TABLE

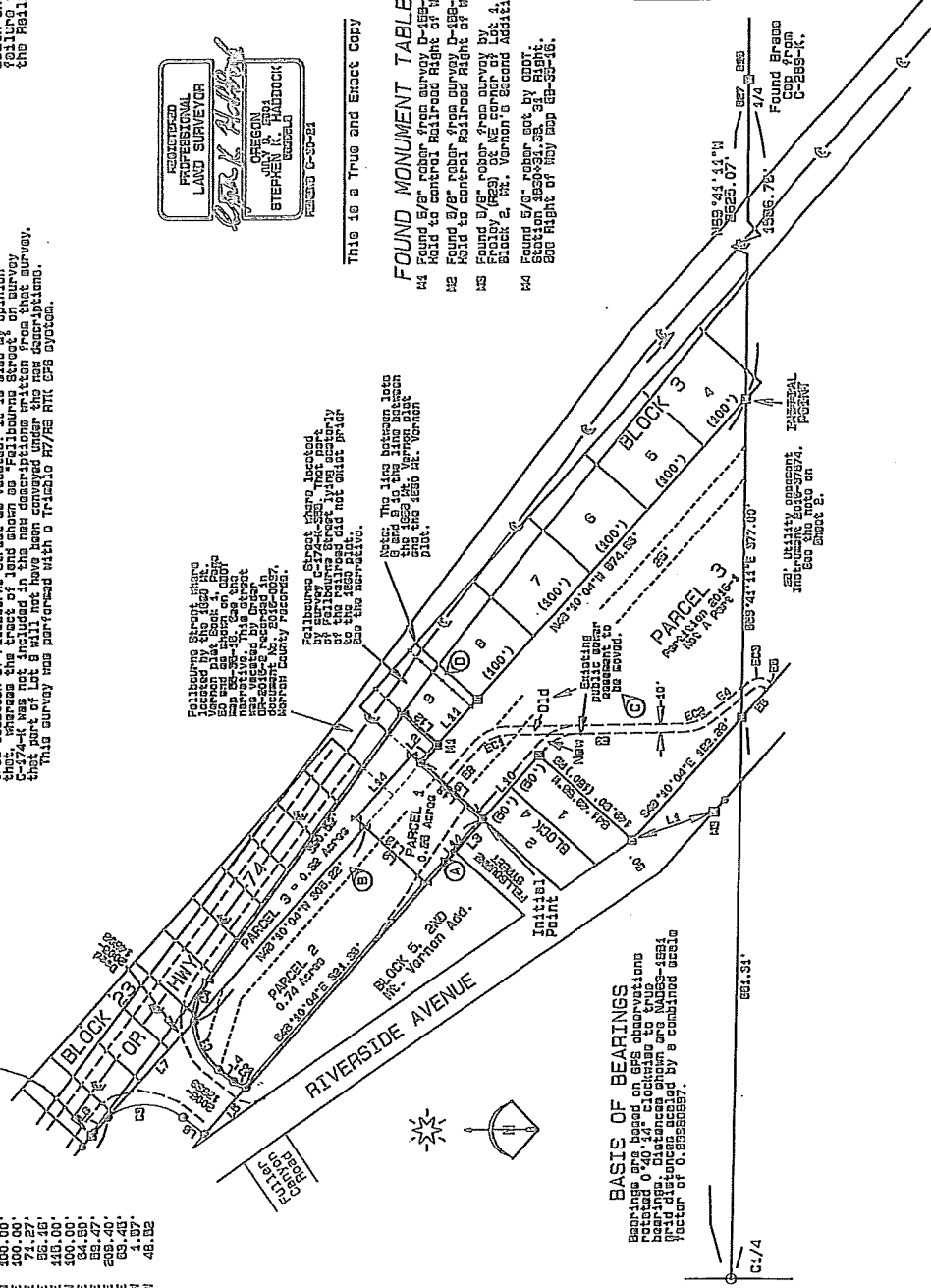
LINE No.	BEARINGS	DISTANCE
L1	S89°48'20"E	404.82
L2	N48°10'04"W	26.73
L3	N48°10'04"W	50.00
L4	S89°14'00"W	50.00
L5	N48°10'04"W	72.98
L6	S89°18'02"E	39.28
L7	N48°10'04"W	481.81
L8	N48°10'04"W	400.00
L9	S44°49'47"E	25.12
L10	N48°10'04"W	70.97
L11	S46°10'04"E	56.16
L12	N41°48'47"E	410.00
L13	N48°10'04"W	400.00
L14	N41°49'47"E	84.59
L15	S90°30'35"E	39.47
L16	S89°17'35"E	69.43
L17	S44°43'55"E	1.07
L18	N48°10'04"W	48.08

### CURVE TABLE

CURVE No.	ASC	DELTA	RADIUS	CHORD	BEARINGS
C1	67.47	51.28	65.71	71.00	83.21
C2	59.88	78.18	100.00	100.00	83.21
C3	59.88	78.18	100.00	100.00	83.21
C4	59.88	78.18	100.00	100.00	83.21
C5	59.88	78.18	100.00	100.00	83.21
C6	59.88	78.18	100.00	100.00	83.21
C7	59.88	78.18	100.00	100.00	83.21
C8	59.88	78.18	100.00	100.00	83.21
C9	59.88	78.18	100.00	100.00	83.21
C10	59.88	78.18	100.00	100.00	83.21
C11	59.88	78.18	100.00	100.00	83.21
C12	59.88	78.18	100.00	100.00	83.21
C13	59.88	78.18	100.00	100.00	83.21
C14	59.88	78.18	100.00	100.00	83.21
C15	59.88	78.18	100.00	100.00	83.21
C16	59.88	78.18	100.00	100.00	83.21
C17	59.88	78.18	100.00	100.00	83.21
C18	59.88	78.18	100.00	100.00	83.21
C19	59.88	78.18	100.00	100.00	83.21
C20	59.88	78.18	100.00	100.00	83.21
C21	59.88	78.18	100.00	100.00	83.21
C22	59.88	78.18	100.00	100.00	83.21
C23	59.88	78.18	100.00	100.00	83.21
C24	59.88	78.18	100.00	100.00	83.21
C25	59.88	78.18	100.00	100.00	83.21
C26	59.88	78.18	100.00	100.00	83.21
C27	59.88	78.18	100.00	100.00	83.21
C28	59.88	78.18	100.00	100.00	83.21
C29	59.88	78.18	100.00	100.00	83.21
C30	59.88	78.18	100.00	100.00	83.21
C31	59.88	78.18	100.00	100.00	83.21
C32	59.88	78.18	100.00	100.00	83.21
C33	59.88	78.18	100.00	100.00	83.21
C34	59.88	78.18	100.00	100.00	83.21
C35	59.88	78.18	100.00	100.00	83.21
C36	59.88	78.18	100.00	100.00	83.21
C37	59.88	78.18	100.00	100.00	83.21
C38	59.88	78.18	100.00	100.00	83.21
C39	59.88	78.18	100.00	100.00	83.21
C40	59.88	78.18	100.00	100.00	83.21
C41	59.88	78.18	100.00	100.00	83.21
C42	59.88	78.18	100.00	100.00	83.21
C43	59.88	78.18	100.00	100.00	83.21
C44	59.88	78.18	100.00	100.00	83.21
C45	59.88	78.18	100.00	100.00	83.21
C46	59.88	78.18	100.00	100.00	83.21
C47	59.88	78.18	100.00	100.00	83.21
C48	59.88	78.18	100.00	100.00	83.21
C49	59.88	78.18	100.00	100.00	83.21
C50	59.88	78.18	100.00	100.00	83.21
C51	59.88	78.18	100.00	100.00	83.21
C52	59.88	78.18	100.00	100.00	83.21
C53	59.88	78.18	100.00	100.00	83.21
C54	59.88	78.18	100.00	100.00	83.21
C55	59.88	78.18	100.00	100.00	83.21
C56	59.88	78.18	100.00	100.00	83.21
C57	59.88	78.18	100.00	100.00	83.21
C58	59.88	78.18	100.00	100.00	83.21
C59	59.88	78.18	100.00	100.00	83.21
C60	59.88	78.18	100.00	100.00	83.21

### BASIS OF BEARINGS

Bearings are based on GPS observations based on a 10' accuracy to true north. The bearings were adjusted by a combined scale factor of 0.99999997.



**PARTITION PLAN FOR**  
Morrow County  
P.O. Box 788  
Heppner, OR 97836

LOCATION: SIM/4 NE1/4, S27, T8S, R2E, W1/4;  
MORROW COUNTY, OREGON

Project Date: OCTOBER 22, 2020

Project No. 20-15      SCALE: 1" = 100'

**WITNES TREE SURVEYING**  
Stephen K. Haddock, P.L.S., C.F.S.  
Pilot Rock, Oregon 97868  
(503) 425-8582

TENTATIVE PLAN FOR A PARTITION

PARTITION PLAT NO. 2020-

A replat of Parcel 2, Partition Plat 2016-1 and Parcel 3 of deed 2008-14489 located in the NE1/4 of Section 27, Township 2 South, Range 28 East, Willamette Meridian, Morrow County, State of Oregon.

SHEET 2 OF 2

APPROVALS

I hereby certify that I have obtained and approved this partition plat in Morrow County Subdivision Ordinance on this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

GILLIAN COUNTY SURVEYOR  
ORS 92-100 (4)

This Partition Plat is hereby approved on this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

MORROW COUNTY PLANNING DIRECTOR

This Partition Plat is hereby approved on this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

MORROW COUNTY ASSESSOR /  
MORROW COUNTY TAX COLLECTOR

OWNER'S DECLARATION

We, the City of Heppner and the Morrow Soil and Water Conservation District, a Municipal Corporation, Owners of the land described herein, do hereby declare that I have caused this plat to be filed and partitioned in accordance with the Charter of the City of Heppner and the Subdivision Ordinance of Morrow County, Oregon.

Mayor, City of Heppner

President, Morrow Soil and Water Conservation District

State of Oregon  
County of Morrow

On this \_\_\_\_\_ day of \_\_\_\_\_ 2020, before me and one known to me to be the identical individuals who executed the Owner's declaration voluntarily.

Printed name: Notary Public for Oregon

Commission number: \_\_\_\_\_

My commission expires: \_\_\_\_\_

SURVEYOR'S CERTIFICATE

I, Stephen K. Haddock, a Registered Professional Surveyor in the State of Oregon, do hereby certify that I have correctly surveyed and located the legal monuments to the lands partitioned herein in accordance with the Charter of the City of Heppner and the Subdivision Ordinance of Morrow County, Oregon. The lands partitioned by this plat are described as follows:

LEGAL DESCRIPTION

All of those portions of land located in the Southwest Quarter of Section 27, Township 2 South, Range 28 East, Willamette Meridian, Morrow County, Oregon were partitioned as follows:  
Parcel 2, Partition Plat 2016-1, recorded March 10th, 2016 on Instrument No. 2016-07311, Mc Wagon's Addition, in the County of Morrow and State of Oregon, as Platted in deed and recorded on County Plat Book 84, Page 50. Also that portion of vacated Polkbourne Street that inures thereto as said street was vacated on April 15th, 1938. EXCEPTING THEREFROM PARCELS 1 AND 3 OF THIS PLAT. COUNTY HIGHWAY WITHIN the Heppner Highway (Oregon State Highway No. 207).

ALSO EXCEPTING THEREFROM: That portion described in Deed recorded on Instrument No. 2005, as Microfilm No. M-2005-16605, Morrow County Deed Record.

SUBJECT TO: Restrictions including the terms and provisions thereof, as contained in Deed to Cedar Cedar Co., 1922, as Microfilm No. M-46192, Morrow County Deed Record.

SUBJECT TO: Easement Deed and Agreement, including the terms and provisions thereof, by and between, Morrow County Grain Elevator, Inc., and the Morrow County Grain Elevator Company, as Grantee, recorded October 4, 1922, as Microfilm No. M-46128, Morrow County Deed Record.

SUBJECT TO: Easement Deed and Agreement, including the terms and provisions thereof, by and between, Union Pacific Railroad Company, and the Morrow County Grain Elevator Company, as Grantee, recorded November 08, 1925 as Microfilm No. M-46403, Morrow County Deed Record.

SUBJECT TO: Dedication of Easement, including the terms and provisions thereof, by and between, Morrow County, A Municipal Corporation, and the City of Heppner, A Municipal Corporation, recorded November 10th, 2016 as Instrument No. 2016-07374, Morrow County Deed Record.

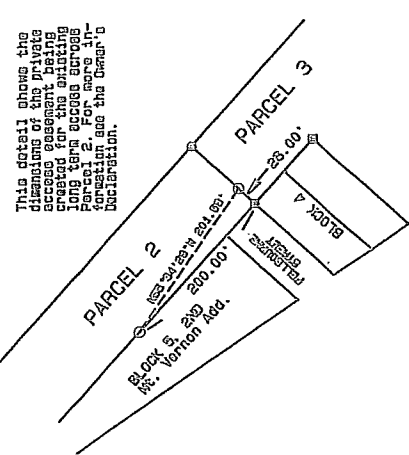
UTILITY EASEMENT NOTE

The exact location of the easement established in Morrow County Documents M-46193 and M-46403 and as modified by Instrument No. 2016-07374 is to be determined by future construction of the proposed utilities and by construction of the proposed fire station to be built on parcel 2 of this plat. The location of the easement as shown herein is only to provide notice of the existence of the easement.

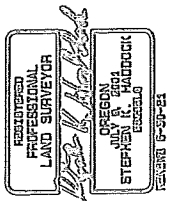
RECORD SURVEYS CONSULTED

- R1 BLD CONTRACT NO. 149 DATED FEBRUARY 11 1957 AS ORDERED BY DEPUTY SURVEYOR B. J. PERERA
- R2 PRESTON LOWEY'S ADDITION PLAT BOOK 6, PAGE 675
- R3 AT VERNON 1920 ADDITION PLAT BOOK 1, PAGE 177
- R4 AT VERNON 1920 ADDITION PLAT BOOK 1, PAGE 50
- R5 SHIPLEY'S ADDITION DEED BOOK E, PAGE 622
- R6 AT VERNON SECOND ADDITION DEED PLATED 5-10-1880
- R7 EVEREST'S ADDITION PLAT BOOK 2, PAGE 6
- R8 COUNTY SURVEY B-28-K-25
- R9 COUNTY SURVEY B-28-K-25
- R10 COUNTY SURVEY C-148-K-547
- R11 COUNTY SURVEY C-147-K-393
- R12 COUNTY SURVEY C-175-K-363
- R13 COUNTY SURVEY C-705-K-212
- R14 COUNTY SURVEY C-564-K-035
- R15 COUNTY SURVEY D-188-K-080
- R16 COUNTY SURVEY D-164-K-094
- R17 COUNTY SURVEY D-711-K-543
- R18 COUNTY SURVEY D-400S-E-776
- R19 COUNTY SURVEY B1, P18-1416
- R20 COUNTY SURVEY D-1205-E-679
- R21 COUNTY SURVEY C-1563-K-1093
- R22 USPTO MAPPING SURVEY DATED 3-8-2008, FULLER CANYON RD.
- R23 COUNTY SURVEY 2016-17293
- R24 COUNTY SURVEY B-28-K-25
- R25 COUNTY SURVEY B-28-K-25

PRIVATE ACCESS EASEMENT DETAIL



This detail shows the dimensions of the private access easement, showing long term access between Parcel 2, Parcel 3, Parcel 4, Parcel 5 and the General Declaration.



This is a True and Exact Copy

PARTITION PLAT FOR MORROW COUNTY P.O. Box 788 Heppner, OR 97836 LOCATION: SW1/4 NE1/4, SE7, T2S, R28E, W1M.; MORROW COUNTY, OREGON

Project Date: OCTOBER 22, 2020 Project No. 20-15 SCALE: 1" = 100' WITNESS TREE SURVEYING Stephen K. Haddock, PLS, OFOS Pilot Rock, Oregon 97865 (541) 443-2922

OFFICE OF COUNTY RECORDS





## PLANNING DEPARTMENT

PO Box 40 • 205 Third Street NE  
Irrigon, Oregon 97844  
(541) 922-4624

November 27, 2020

MEMO

TO: Planning Commission

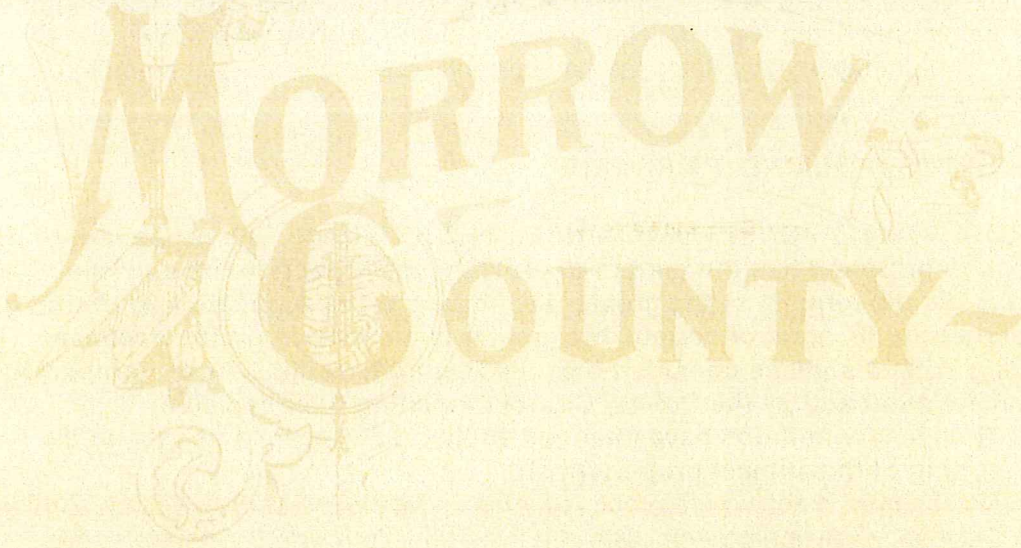
FROM: Stephanie Case, Planner II

RE: Article 9 Legislative Hearing

*Stephanie*

Please find attached a revised draft Article 9 for the County Zoning Ordinance. Edits may be suggested to this draft.

Planning Commission action is to make a recommendation to the Board of Commissioners.



Draft  
Morrow County  
Findings of Fact  
Zoning Ordinance Update  
AZ-133-20

**REQUEST:** To amend Article 9 Administrative Provisions in the Morrow County Zoning Ordinance

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**APPLICANT:** Morrow County Planning Department  
P.O. Box 40  
Irrigon, OR 97844

**LOCATION:** Morrow County

**I SUMMARY OF APPLICATION AND PROCESS:**

Over the past few years there have been several changes within the Morrow County Zoning Ordinance. This change in Article 9 will add Section 9.046 to reflect the process of Administrative Review which was referenced in previous recent Ordinance updates but not incorporated into Article 9. This proposed change will also include a central location for permit expiration dates that are currently outlined in various areas throughout the Ordinances.

**II SUMMARY OF APPLICABLE CRITERIA**

**MORROW COUNTY ZONING ORDINANCE: SECTION 8.040.** The proponent of the application or permit has the burden of proving justification for its approval. The more drastic the request or the greater the impact of the application or permit on the neighborhood, area, or county, the greater is the burden on the applicant. The following criteria shall be considered by the Planning Commission in preparing a recommendation and by the County Court in reaching their decision.

- A. **The local conditions have changed and would warrant a change in the zoning of the subject property(ies).**  
No changes in zoning are proposed. This update to the Morrow County Zoning Ordinance will update Administrative Provisions in Article 9. Therefore, this standard does not apply.
  
- B. **The public services and facilities are sufficient to support a change in designation including, but not limited to, water availability relevant to both quantity and quality, waste and storm water management, other public services, and streets and roads.**
  - 1. **Amendments to the zoning ordinance or zone changes which significantly affect a transportation facility shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:**
    - a. **Limiting allowed land uses to be consistent with the planned function of the transportation facility or roadway;**

- b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
- c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel to meet needs through other modes.

No lands will be rezoned as a result of this legislative amendment. The application therefore complies with this standard.

- 2. A plan or land use regulation amendment significantly affects a transportation facility if it:
  - a. Changes the functional classification of an existing or planned transportation facility;
  - b. Changes standards implementing a functional classification;
  - c. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
  - d. Would reduce the level of service of the facility below the minimal acceptable level identified in the Transportation System Plan. (MC-C-8-98)

See Findings above.

- C. That the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports goals and policies of the Comprehensive Plan, that there is a public need for the proposal, and that the need will be best served by allowing the request. If other areas in the county are designated for a use as requested in the application, then a showing of the necessity for introducing that use into an area not now so zoned and why the owners there should bear the burden, if any, of introducing that zone into their area.

The proposed amendments in Article 9 of the Zoning Ordinance comply with the intent of the Comprehensive Plan as the changes detail administrative provisions for processing applications to conform with the Zoning Ordinance. This criterion is met.

- D. The request addresses issues concerned with public health and welfare, if any.

See Findings above.

III	<b>DLCD 35 DAY NOTICE:</b>	November 2, 2020
IV	<b>PROPERTY OWNER NOTICE:</b>	Not applicable.
V	<b>LEGAL NOTICE PUBLISHED:</b>	Heppner Gazette Times November 18, 2020.  East Oregonian November 17, 2020.

VI **AGENCIES NOTIFIED:** Anne Debbaut, Department of Land Conservation and Development; Mike Gorman, Morrow County Assessor's Office; Justin Nelson, Morrow County Counsel.

VII **HEARING DATES:**

Planning Commission  
December 8, 2020  
Bartholomew Building  
Heppner, Oregon

Board of Commissioners  
January 6, 2021 (tentative)  
Bartholomew Building  
Heppner, Oregon

IX **RECOMMENDATION:** Approve Findings and Amend Article 9 in the Morrow County Zoning Ordinance.

MORROW COUNTY BOARD OF COMMISSIONERS

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Melissa Lindsay, Chair

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Don Russell, Commissioner

---

Jim Doherty, Commissioner

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Date

Attachments: Draft Article 9

## ARTICLE 9. ADMINISTRATIVE PROVISIONS

**SECTION 9.010. ADMINISTRATION.** The Secretary of the Planning Commission and the County Planning Director have the power and the duty to enforce the provisions of this Ordinance. The ~~County Court~~Board of Commissioners may appoint agents to issue zoning permits and to otherwise assist the Secretary or Planning Director in the processing of applications.

**SECTION 9.020.** Approval or denial of an application for a use permitted by this Ordinance shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

**SECTION 9.030. APPEALS.** A person may appeal to the ~~County Court~~Board of Commissioners from a decision or requirement made by the Planning Commission. A person may appeal to the Planning Commission from a decision or requirement made pursuant to this Ordinance by the Commission Secretary, Planning Director or other county official. Written notice of the appeal must be filed with the county within 15 days after the decision or requirement is made. The notice of appeal shall state the nature of the decision or requirement and the grounds for appeal.

~~A. The County Court or Planning Commission shall hold a hearing on the appeal within 30 days from the time the appeal is filed. The County Court or Commission may continue the hearing for good cause.~~

~~B. The County Court or Planning Commission may review a lower decision upon its own motion after giving twenty (20) days notice to the parties involved in the decision, and if such review is within 15 days of receipt of notices of said initiated lower decision.~~

~~CA.~~ An appeal or review proceeding shall be based upon, but not limited to, the record of the decision being appealed or reviewed.

~~DB.~~ Following the hearing, the ~~County Court~~Board of Commissioners or Planning Commission may overrule or modify any decision or requirement and shall set forth findings for such decision.

~~EC.~~ The procedure, public notice and type of hearing for an appeal or review shall be in the same manner as for any application under this Ordinance.

**SECTION 9.040. FORM OF PETITIONS, APPLICATIONS AND APPEALS.** Petitions, application, and appeals provided for in this Ordinance shall be made on forms prescribed by the county. Applications shall be accompanied by plans and specifications, drawn to scale, showing the information listed in this Section



and such other information as is needed to determine conformance with this Ordinance.

A. One copy of a completed application form that includes the following information:

1. An accurate legal description, tax account number(s), map and location of all properties that are the subject of the application.

2. Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s).

B. A complete list of the permit approvals sought by the applicant.

C. A current preliminary title report for the subject property(ies).

D. A complete and detailed narrative description of the proposed development that describes existing site conditions, existing buildings, public facilities and services, presence of wetlands, steep slopes and other natural features, a discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met, and any other information indicated by the City as being required.

E. Up to 20 copies of all reports, plans, site plans and other documents required by the section of the code corresponding to the specific approval(s) sought. At least one copy of the site plan and all related drawings shall be in a readable/legible 8-1/2 by 11 inch format for inclusion into the city's bound record of the application.

F. A site plan shall include the following information. All site plans shall have dimensions clearly indicated. An applicant may provide the information on separate sheets, if necessary or desirable for clarity.

1. North arrow and scale

2. Location of property boundaries, including adjacent public or private streets and rights of way

3. Location of existing structures and natural features

4. Topography, with contours at no greater than 10 foot intervals, preferably less

5. Location of utilities and facilities, or proposed locations (sewer, water, fire hydrants, septic system, storm water facilities, etc.)

6. Proposed landscaping
7. Exterior lighting.
8. Circulation plan for vehicles, pedestrians, and bicyclists, including existing and proposed points of access and sidewalks.
9. Parking lot layout, with circulation plan and striping details.
10. Sign location and details

G. All required application fees, including a deposit for costs of consultant review when required.

**SECTION 9.045. COMPLETENESS REVIEW.**

A. Upon submission, the County Planning Department shall date stamp the application form and verify that the appropriate application fee has been submitted. The Planning Director shall review the application and all information submitted with it and evaluate whether the application is complete enough to process. Within 30 days of receipt of the application, the Planning Director shall complete this initial review and issue to the applicant a written statement indicating whether the application is complete enough to process, and, if not, what information must be submitted to make the application complete.

B. Upon receipt of a letter indicating the application is incomplete, the applicant has 180 days from the date the application was filed within which to submit the missing information or the application shall be rejected and all materials and the unused portion of the application fee returned to the applicant. If the applicant submits the requested information within the 180-day period, the County shall again verify whether the application, as augmented, is complete. An application shall be rejected if it has not been made complete within the ~~180-day~~180-day time period, unless the applicant refuses in writing to submit additional information.

C. Once the County determines the application is complete enough to process, or the applicant ~~refuses-fails~~ to submit ~~any more~~additional information, the County shall declare the application complete and take final action on the application within ~~120~~150 days of that date unless the applicant waives or extends the ~~120~~150-day period. The ~~120~~150-day period, however, does not apply in the following situations:

1. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the 420150-day period.

2. The 420150-day period does not apply to any application for a permit that is not wholly within the County's authority and control.

3. The 420150-day period does not apply to any application for an amendment to the County's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment

D. The approval standards which control the County's review and decision on a complete application are those which were in effect on the date the application was first submitted.

#### **SECTION 9.046. ADMINISTRATIVE REVIEW.**

- A. Uses allowed with standards that are authorized by this Ordinance are identified as administrative land use decisions and shall be processed in the manner described in ORS 215.416.
- B. The Planning Director may approve or deny an application for a permit without a hearing if the Planning Director or designee gives notice of the decision and provides an opportunity for any person who is adversely affected or aggrieved, or who is entitled to notice under paragraph (i) of this subsection, to request a hearing before the Planning Commission.
- C. A tentative decision by the Planning Director to approve, modify, or deny a land use request shall include written modifications and conditions, if any, and findings and conclusions which shall specifically address the relationship between the proposal and the applicable criteria for approval listed elsewhere in this chapter.
1. In addition:
- a. Written notice of the tentative decision by the Planning Director shall be mailed to those persons described in paragraph (i) of this subsection. The notice shall inform the applicant and the surrounding property owners that the Planning Director will issue a final decision, with or without modifications and/or conditions, or denial of the land use request 21 calendar days from the date of the notice; unless a public hearing is requested.
- (i) Notice of a decision of this subsection shall be provided to the applicant and to the owners of record of property on the most

recent property tax assessment roll where such property is located:

- (a) Within 100 feet of the property that is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;
  - (b) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a farm or forest use zone; or
  - (c) Within 750 feet of the property that is the subject of the notice when the subject property is within a farm or forest zone.
- b. Notice shall also be provided to any identified affected agencies of the proposal, per ORS 197.180.
  - c. When a proposal includes a parcel or parcels in an Interchange Area Management Plan (IAMP) Management Area, the County shall provide written notification to ODOT prior to the decision.
  - d. Notice shall also be provided to any neighborhood or community organization and whose boundaries include the site.
  - e. Notice shall be provided to the Department of Land Conservation and Development for lands within the farm or forest use zone.
- D. The purpose of the notice is to provide affected property owners and agencies the opportunity to review the request and the tentative findings and conclusions of the Planning Department, and to either offer comments or requested conditions, or request a public hearing be held to deliberate on issues they deem are significant.
- E. The notice shall include the following information:
- 1. The nature of the application and the proposed use or uses which could be authorized;
  - 2. Street address or other easily understood location of the subject property and County-assigned planning file number;
  - 3. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost, at the Planning Department during normal business hours; and

4. The name and telephone number of the planning staff person responsible for the application or is otherwise available to answer questions about the application.
- F. If no request for a public hearing is received within 21 days, then the Planning Director's tentative decision shall become the final decision, although conditions of approval may be added, modified, or deleted based on information received subsequent to notification.
- G. Failure of a property owner to receive notice as provided in this section shall not invalidate such proceedings if the mailing affidavit demonstrates that the notice was mailed to the address listed on the County Assessor's tax records.
- H. Notice of the final decision shall be sent to the applicant and any property owner, person, or agency which commented on the request, and to any other persons who requested such notice.
- I. If the proposed final decision is significantly different from that which was proposed in the tentative findings and conclusions that were sent out per this Section, then the process outlined in Paragraph C of this Section will be repeated.
- J. The final decision of the Planning Department on a land use request may be appealed within 15 days to the Planning Commission.
- K. The Planning Director is authorized to refer any application to the Planning Commission for consideration at a public hearing consistent with Section 9.050 of this Ordinance.

#### SECTION 9.050. PUBLIC HEARINGS.

A. Each notice of hearing authorized by this Ordinance shall be published in a newspaper of general circulation in the County at least 20 days prior to the date of hearing, except that a notice for a hearing before the Planning Commission on an amendment that requires two public hearings as specified in Article 8, may be given no less than 10 days in advance of the first public hearing.

B. In addition:

1. A notice of hearing ~~on a conditional use, appeal to a variance, or an amendment to the zoning map~~ shall be mailed to all owners of property within 250 feet of the property for which ~~the appeal, variance, conditional use, or zoning map amendment~~ has been requested in the application.

The notice of hearing shall be mailed at least twenty (20) days prior to the date of hearing.

2. When a proposal includes a parcel or parcels in an Interchange Area Management Plan (IAMP) Management Area, the County shall provide written notification to ODOT at least twenty (20) days prior to the date of hearing.

a. 3. Notice shall also be provided to any identified affected agencies of the proposal, per ORS 197.180.

C. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.

D. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, the posting of property, or the use of radio and television.

E. The notice shall include the following information:

1. The time, date and location of the public hearing;
2. Street address or other easily understood location of the subject property and County-assigned planning file number;
3. A description of the applicant's proposal, along with a list of citations of the approval criteria that the County will use to evaluate the proposal;
4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing, and that a staff report will be prepared and made available to the public at least 7 days prior to the hearing;
5. A statement that any issue which is intended to provide a basis for an appeal to the Land Use Board of Appeals must be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties to respond to the issue;
6. A statement that the application and all supporting materials and evidence submitted in support of the application may be inspected at no charge, and that copies may be obtained at cost, at the Planning Department during normal business hours; and

7. The name and telephone number of the planning staff person responsible for the application or is otherwise available to answer questions about the application.

F. The Planning Commission and the ~~County Court~~Board of Commissioners may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

G. General rules for hearing.

1. The Hearing Body conducts the hearing in a quasi-judicial capacity; there shall be no audience demonstration or other conduct which would disrupt the hearing.
2. Persons may speak only after being recognized by the Chair and must state their full name and address for the record.
3. The Hearing Body considers only testimony and information that is relevant to the issue of the requested change, and will not allow immaterial or repetitious testimony.

H. Order of Procedure.

1. Call for abstentions.
2. Staff report and summary.
3. Proponent's case. The proponent and those favoring the proposal will be heard first.
4. Cross-examination of each proponent by the Hearing Body.
5. Opponent's case. Those opposed shall be heard next. Groups who are represented by a spokesman or who were entitled to receive notice of the hearing are requested to proceed first. Opponents may submit questions of the proponent to the Chair.
6. Cross-examination of each opponent by the Hearing Body.
7. Rebuttal. Both the proponents and opponents may submit rebuttal testimony; the proponent shall have final opportunity.
8. Close the hearing.

I. Decision of the Hearing Body. Upon closing the hearing, the Hearing body will deliberate the question and reach a decision or continue the matter for further study or decision, to a time and place then announced.

J. Recess of Hearing. The Hearing Body may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

K. Notice of Decision. The County shall send, by first class mail, a notice of all decisions rendered under this Ordinance to all persons with standing, i.e., the applicant, all others who participated either orally or in writing before the close of the public record and those who specifically requested notice of the decision. The notice of decision shall include the following information:

1. The file number and date of decision;
2. The name of the applicant, owner and appellant (if different);
3. The street address or other easily understood location of the subject property;
4. A brief summary of the decision, and if an approval, a description of the permit authorized or approval granted;
5. A statement that the decision is final unless appealed, and description of the requirements for perfecting an appeal;
6. The contact person, address and a telephone number whereby a copy of the final decision may be inspected or copies obtained.

**SECTION 9.060. SEWAGE DISPOSAL APPROVAL.** No zoning permit shall be issued for any use or structure which will have an individual sanitary subsurface disposal system until written approval is obtained by the applicant for said system.

**SECTION 9.070. FILING FEES.** An application required by this Ordinance shall be accompanied by a filing fee in the amount as set forth by the ~~County Court~~ Board of Commissioners in a County Fee ordinance. Said permit fees may be amended by ~~County Court~~ the Board of Commissioners order after conducting a hearing thereon.

A. Payment. All fees shall be due and payable at the time the application or appeal is submitted. No application or appeal shall be accepted without the proper fee being paid.



B. At its sole discretion, the County may contract for review of an application by appropriate professionals, including but not limited to a civil engineer, planner, traffic engineer, wildlife biologist, or other specialist, and may require an applicant to reimburse the County for costs of such services. The County may require a deposit from the applicant, to cover estimated costs of consulting services.

### SECTION 9.075. PERMIT EXPIRATION AND EXTENSIONS.

A. In accordance with OAR 660-033-0140, the following permit expiration dates shall apply in the Exclusive Farm Use and Forest Use zones:

1. A discretionary decision, except land divisions and those residential developments listed below in 9.075(A)(4) approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS 215.210 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.
2. An extension of up to one year may be granted if:
  - a. The applicant makes a written request for an extension of the development approval period;
  - b. The request is submitted to the county prior to the expiration of the approval period;
  - c. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
  - d. The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
3. Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.
4. Permits approved for a proposed residential development on resource land outside of an urban growth boundary shall be valid for four years. An extension of two years may be granted subject to the provisions of 9.075 (2) (a – d).

- a. No more than five additional one-year extensions may be authorized under this subsection.
- B. For all permits not in the Farm or Forest zones, the following permit expirations shall apply:
  - 1. A zoning permit shall become void after 1 year unless the development action has commenced.
    - a. A 12-month extension may be granted when submitted to the Planning Department prior to the expiration of the approval period.
  - 2. A conditional use is valid for two years. Additional one-year extensions may be authorized by county staff without providing notice and opportunity for a hearing under the following conditions:
    - a. An applicant makes a written request for an extension of the development approval period;
    - b. The request is submitted to the county prior to the expiration of the approval period, excepting any request under consideration on the date of adoption of this amendment;
    - c. The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
    - d. The county finds that any of the following conditions occurred within the approval period:
      - (i) State or Federal permits were applied for, but not issued within the approval period.
      - (ii) At least 10 percent of the cost of development, based on estimated or actual expenditures, has been expended to develop plans, file for permits, and complete other preliminary designs such as sewage disposal, provision of potable water, storm water management and other engineering designs necessary for the development.
      - (iii) Provisions of the County Code applicable to the original approval have not changed.
  - 3. Final Plats for partitioning will be completed within two years from the date of the Commission action or the approval of the partitioning will expire and said approval will be declared null and void. A one-year

extension may be granted when a written request is made prior to the expiration of the permit with stated reasons for the request for which the applicant was not responsible.

C. Approval of an extension granted under this Section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

D. The time periods described above do not take effect until all appeals are complete. (MC OR-1-2013)

**SECTION 9.080. REVOCATION.** The Planning Commission may revoke or modify any permit granted under the provisions of this Ordinance on any one or more of the following grounds:

A. A permit may be revoked on the basis of fraud, concealment, or misrepresentation or on the basis of wrong information supplied on the application, or wrong information given to the Commission at a public hearing.

B. A permit may be revoked on the basis that the use for which such permit was granted is not being exercised within the time limit set forth by the Commission or this Ordinance.

C. A permit may be revoked on the basis that the use for which such permit was granted has ceased to exist or has been suspended for one year or more.

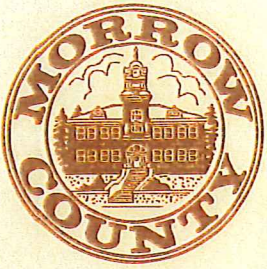
D. A permit may be revoked or modified on the basis that the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, code, resolution, law or regulation.

E. A permit may be revoked or modified on the basis that the use for which the permit was granted was so exercised as to be detrimental to the public health, safety or welfare, or in such a manner to constitute a nuisance.

F. Any permit granted pursuant to this Ordinance shall become null and void if not exercised within the time period specified in such permit, or if no time period is specified in the permit, within one year from the date of approval of said permit.

G. The Commission shall hold a public hearing on any proposed revocation after giving written notice to the permittee and other affected persons as set forth in this Ordinance. The Commission shall render its decision within 45 days after the conclusion of the hearing. In the case where the permittee is not satisfied with the action of the Commission, he/she may appeal the

Commission's decision to the ~~County Court~~Board of Commissioners in the manner provided in section 9.030 of this Ordinance.



## PLANNING DEPARTMENT

PO Box 40 • 205 Third Street NE  
Irrigon, Oregon 97844  
(541) 922-4624

November 24, 2020

MEMO

TO: Planning Commission

FROM: Tamra Mabbott, Planning Director *TJM*

RE: Rural Residential 10-acre Zone Legislative Hearing

Please find attached a revised draft RR-10 Zone for the County Zoning Ordinance. This draft incorporates comments shared during your October meeting.

Edits may be suggested to this draft.

Planning Commission action is to make a recommendation to the Board of Commissioners.

[./planning/amendments/RR-10 Zone/Nov memo to PC](#)

DRAFT  
Morrow County  
Findings of Fact  
Zoning Ordinance Update  
AZ-134-20

**REQUEST:** To amend Article 3 Establishment of Zones, creating a Rural Residential 10-acre Zone in the Morrow County Zoning Ordinance.

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**APPLICANT:** Morrow County Planning Department  
P.O. Box 40  
Irrigon, OR 97844

**LOCATION:** Morrow County

**I SUMMARY OF APPLICATION AND PROCESS:**

Landowners and residents have expressed an interest in increasing opportunities for rural residential development. Both current residents and future residents have an interest in living within the county but on a rural setting with small acreage. The Planning Commission held four work sessions to discuss a draft zone that would be suitable for the county and also permitted under the Oregon Statewide Planning Program. The proposed draft meets local and statewide goals and objectives.

**II SUMMARY OF APPLICABLE CRITERIA**

**MORROW COUNTY ZONING ORDINANCE: SECTION 8.040.** The proponent of the application or permit has the burden of proving justification for its approval. The more drastic the request or the greater the impact of the application or permit on the neighborhood, area, or county, the greater is the burden on the applicant. The following criteria shall be considered by the Planning Commission in preparing a recommendation and by the County Court in reaching their decision.

- A. The local conditions have changed and would warrant a change in the zoning of the subject property(ies).  
No parcels will be rezoned as part of this legislative amendment. Rather, the new zone would allow lands to be rezoned in the future. Therefore, this standard does not apply.
- B. The public services and facilities are sufficient to support a change in designation including, but not limited to, water availability relevant to both quantity and quality, waste and storm water management, other public services, and streets and roads.
1. Amendments to the zoning ordinance or zone changes which significantly affect a transportation facility shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
    - a. Limiting allowed land uses to be consistent with the planned function of the transportation facility or roadway;

- b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
- c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel to meet needs through other modes.

No lands will be rezoned as a result of this legislative amendment. Rather, this standard will apply in the future at the time a landowner files an application to rezone land and apply the RR-10 Zone. The application therefore complies with this standard.

- 2. A plan or land use regulation amendment significantly affects a transportation facility if it:
  - a. Changes the functional classification of an existing or planned transportation facility;
  - b. Changes standards implementing a functional classification;
  - c. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
  - d. Would reduce the level of service of the facility below the minimal acceptable level identified in the Transportation System Plan. (M/C-C-8-98)

See Findings above.

- C. That the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports goals and policies of the Comprehensive Plan, that there is a public need for the proposal, and that the need will be best served by allowing the request. If other areas in the county are designated for a use as requested in the application, then a showing of the necessity for introducing that use into an area not now so zoned and why the owners there should bear the burden, if any, of introducing that zone into their area.

The proposed RR-10 Zone complies with the Housing Element of the Comprehensive Plan. Specifically, the RR-10 Zone supports the following Policies found on page 173:

Policy 1. To increase the supply of housing to allow for expected population growth and to provide for the housing needs of the citizens of Morrow County.

Policy 4. To encourage residential development which provides prospective buyers with a variety of residential lot sizes, diversity of housing types, and a range in prices.

Additionally, the proposed RR-10 Zone would not be contrary to other policies in the Housing Element where rezoning individual parcels would require that findings to show how each individual application would comply with Oregon Administrative Rules Chapter 660 and an Exception to Statewide Planning Goal 3. Together, the OAR 660 and Goal 3 Exception require the lands be compatible with adjacent resource ground such as farm or forest uses. Additionally, due to the large lot size, RR-10 development would

not compete with urban development allowed inside city limits and urban growth boundaries.

**D. The request addresses issues concerned with public health and welfare, if any.**

See Findings above.

- III **DLCD 35 DAY NOTICE:** November 2, 2020
- IV **PROPERTY OWNER NOTICE:** Not applicable.
- V **LEGAL NOTICE PUBLISHED:** November 17, 2020, East Oregonian  
November 18, 2020, Heppner Gazette-Times
- VI **AGENCIES NOTIFIED:** Anne Debbaut, Department of Land Conservation and Development; Mike Gorman, Morrow County Assessor's Office; Justin Nelson, Morrow County Counsel; City of Heppner; City of Lexington; City of Lone; City of Boardman; City of Irrigon.
- VII **HEARING DATES:**  
Planning Commission  
December 8, 2020  
Bartholomew Building, Heppner, Oregon  
  
Board of Commissioners,  
January 6,, 2021 (tentative) Heppner, Oregon
- IX **RECOMMENDATION:** Approve Findings, Amend Article 3 and Adopt a new Rural Residential 10 acre Zone in the Morrow County Zoning Ordinance.

**MORROW COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Melissa Lindsay, Chair

\_\_\_\_\_  
Don Russell, Commissioner

\_\_\_\_\_  
Jim Doherty, Commissioner

\_\_\_\_\_  
Date

Attachments: Draft RR-10 Zone



Section 3.042 RR-10 RURAL RESIDENTIAL TEN (RR-10) ZONE

§ 3.042 PURPOSE.

The RR-10 Rural Residential Zone is designed to provide lands for rural living in a rural residential atmosphere. The 10-acre minimum lot size complies with Statewide Planning Goal 14 where parcels are rural in size and are sufficiently large enough to accommodate private wells and sewage disposal systems. Standards for development are consistent with desired rural character and are compatible with adjacent farming and natural resource land management. Gardens and limited livestock are allowed outright in the zone. The RR 10 Zone may be approved when an application for rezoning lands also includes an application for exception to Statewide Planning Goal 3 and Oregon Administrative Rule Chapter 660-004-0000 and Amendment Standards found in Article 8 of the Morrow County Zoning Ordinance. A rezone application must also comply with Statewide Planning Goal 12 Transportation and the County Transportation System Plan (TSP).

§ 3.042 USES PERMITTED.

- A. Uses permitted outright. In a RR-10 Zone, the following uses and their accessory uses are permitted with a zoning permit, pursuant to §1.050:
1. Single-family dwelling on an individual lot, including a mobile home subject to requirements set forth in Section 4.110 of this ordinance.
  2. Other public or private uses or buildings necessary to serve the rural residential use of the land.
- B. Conditional Uses Permitted. In a RR-10 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements set forth by this section and Article 6 of this ordinance.
1. Home occupations subject to the limitations set forth in Article 6 of this ordinance.
  2. Public park, trails, recreation area, community or neighborhood center.
  3. Agri-tourism events as defined in § 1.030. Definitions.
  4. Utility facility necessary to serve the area or County.
- C. LIMITATIONS ON USE. In Rural Residential ten-acre (RR-10) zone, the number of livestock and/or animals including cattle, horses, goats, sheep, swine, poultry, or fur bearing animals is subject to the density limitations listed in this section.
1. The primary intended use for properties zoned RR-10 is residential. The raising

of livestock and/or animals in these zones shall be incidental to the primary use.

2. Livestock and/or Animal densities are calculated based on open space of each parcel as follows :

a. Cattle – two per acre, (10 cattle maximum) or

b. Horses, mules, donkeys, llamas – two animals per acre (10 maximum), or

c. Sheep or goats – six animals per acre (30 animals maximum), or

d. Emu – eight ratite per acre (40 animals maximum), or

e. Ostrich – four ratite per acre (20 animals maximum), or

f. Miniature cows, horses, mules and donkeys – four per acre (20 animals maximum), or

g. Swine – four pigs per acre with maximum of four per parcel).

3. Cattle, horses, mules, donkeys, llamas, sheep, goats, emu and ostriches can not be kept on a site having an area of less than one-half acre.

4. All swine shall be confined to an area not less than 500 feet from any adjacent residential dwelling (not the property of the owner of the swine). Swine are only allowed seasonally as part of 4-H or FFA projects.

5. Animal density listed above for livestock, including cattle, horses, mules, donkeys, llamas, sheep, goats, emu and ostrich, also allows two offspring up to six months of age, per animal.

6. The number of colonies of bees allowed on a property shall be limited to one (1) colony for each 1,000 square feet of lot area.

9. Density for Poultry – twenty fowl per acre, and for fur-bearing animals (rabbits, mink, chinchillas, etc.) – twenty animals per acre. (MC-C-5-98)

Standards below are the same as other residential zones but may be further refined..

D. YARD AND SETBACK REQUIREMENTS. In an RR-10 Zone, the following yards and setbacks shall be maintained:

1. The front setback shall be a minimum of 20 feet from a property line fronting on a local minor collector or marginal access street ROW, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial

ROW unless other provisions from combining accesses are provided and approved by the County.

2. There shall be a minimum side yard of 10 feet for all uses, except in the case of a non-residential use adjacent to a residential use the minimum side yard shall be 20 feet.

3. The minimum rear yard shall be 20 feet.

E. DIMENSIONAL STANDARDS. In a RR-10 Zone, the following dimensional standards shall apply:

1. Percent of Lot Coverage. The main building and accessory buildings located on any building site or lot shall not cover in excess of thirty (30) percent of the total lot area.

2. Building Height. No building or structure, nor the enlargement of any building or structure, shall be hereafter erected to exceed two stories or more than thirty (30) feet in height (remove?)

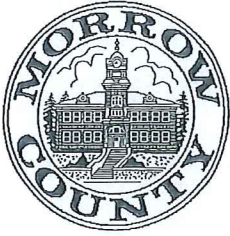
3. The minimum lot frontage on a public street or private roadway shall be 50 feet, except that a flag lot frontage may be reduced to the width of a required driveway but no less than 20 feet and except for a cul de sac, where the frontage may be reduced to 30 feet.

F. LOT SIZE. The minimum average width of lots shall be 150 feet and have an area not less than ten (10) acres.

G. TRANSPORTATION IMPACTS

1. Traffic Impact Analysis (TIA). In addition to the other standards and conditions set forth in this section, a TIA will be required for all land use generating more than 400 passenger car equivalent trips per day. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and, mitigation of the impacts. If the corridor is a State Highway, use ODOT standards. (MC-C-8-98)

END



## PLANNING DEPARTMENT

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P.O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

October 16, 2020

MEMO

TO: Planning Commission

FROM: Tamra Mabbott, Planning Director

RE: Rural Residential 10-acre Zone

Based on meetings and materials of previous meetings, Planning Commission and staff engaged in robust discussions about issues and opportunities for a RR-10 zone in Morrow County. In an effort to help answer some unresolved questions about how and where the RR 10 Zone would be applied, staff is sharing a number of documents for your consideration. I would like to speak briefly about items I - IV at the October 27<sup>th</sup> meeting and then answer questions and have a discussion with commission members before the commission talks further about revised code language (Item V) and next steps (Item VI).

- I. Statewide Planning Goal 10 – Housing. The focus of Goal 10 is creating opportunities for housing in urban areas. See attached or here:  
<https://www.oregon.gov/lcd/OP/Pages/Goal-10.aspx>
- II. Oregon Administrative Rules (OAR 660-004-0000) Interpretation of Goal 2 Exception Process apply to an application to rezone resource lands for any other use. The standards are rigorous. See attached or here:  
<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3054>
- III. Local (Morrow County Zoning Ordinance) Section 8.040 Article 8 Amendments. These county standards apply to any zone change and require an evaluation of how the zone change will affect “public services and facilities ...including but not limited to, water availability relevant to both quantity and quality, waste and storm water management, other public services and streets and roads.” MCZO 8.040B attached and here:  
[https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/8931/zoning\\_art\\_8\\_10-01-13.pdf](https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/8931/zoning_art_8_10-01-13.pdf)
- IV. 2019 Morrow County Housing Strategies Report and role of cities to provide housing. See attached memo for Morrow County.
- V. Discussion about draft Zone – word changes. See attached drafts.
- VI. Next Steps – Legislative process overview.

# Correspondence



## Board of Commissioners

P.O. Box 788 • Heppner, OR 97836  
541-676-5613  
www.co.morrow.or.us

Commissioner Melissa Lindsay, Chair  
Commissioner Don Russell  
Commissioner Jim Doherty

October 28, 2020

Sara Esterson, Senior Siting Analyst  
Oregon Department of Energy  
550 Capitol Street NE, 1<sup>st</sup> Floor  
Salem, OR 97301

RE: Wheatridge Renewable Energy Facility II Request for Amendment 2

Dear Mrs. Esterson,

Morrow County appreciates the opportunity to comment on the Wheatridge Renewable Energy Facility II (WREF II) Request for Amendment 2 (RFA2). It is our understanding that RFA2 seeks Energy Facility Siting Council (EFSC) approval to split the approved Wheatridge II facility components and site boundary into three facilities, each with its own site certificate. The facilities would include WREF II, Wheatridge Renewable Energy Facility III (WREF III), and Wheatridge Renewable Energy Facility East (WREF E). WREF II would include 200 megawatts (MW) of wind generating components within Morrow County; WREF III would include 150 MW of solar facility components in Morrow County; and, WREF E would include 200 MW of wind generating components in Umatilla County. The certificate holder for WREF II would remain as Wheatridge Wind II, LLC; the certificate holders for WREF III and WREF E would be wholly owned subsidiaries of NextEra Energy Resources, the current parent company of WREF II. The amendment request seeks Council approval of Wheatridge Solar Energy Center, LLC as the WREF III certificate holder and Wheatridge East, LLC as the WREF E certificate holder.

The amended Site Certificate will likewise require an amended Conditional Use Permit for each facility being created under RFA2, in order that the local land use permits match the projects and project boundaries. A Zoning Permit will also be required for each individual tax lot within the project boundary.


Additionally, we request that each facility secure a Road Use Agreement from Matt Scrivner, Morrow County Public Works Director.


As always, Morrow County appreciates the opportunity to coordinate with you and other Department staff. Should you have any questions about this comment letter, or need

additional information, please do not hesitate to contact Tamra Mabbott, Planning Director, (541) 922-4624 X5505.

Sincerely,

  
Melissa Lindsay

  
Don Russell

  
Jim Doherty

Cc: Tamra Mabbott, Morrow County Planning Director  
Matt Scrivner and Sandra Pointer, Morrow County Public Works  
Kate Knop, Morrow County Finance Director

MORROW COUNTY



## Board of Commissioners

P.O. Box 788 • Heppner, OR 97836  
541-676-5613  
www.co.morrow.or.us

Commissioner Melissa Lindsay, Chair  
Commissioner Don Russell  
Commissioner Jim Doherty

October 28, 2020

Chase McVeigh-Walker, Senior Siting Analyst  
Oregon Department of Energy  
550 Capitol Street NE, 1<sup>st</sup> Floor  
Salem, OR 97301

RE: Carty Generating Facility Request for Amendment 2 and Draft Proposed Order

Dear Mr. McVeigh-Walker,

Morrow County appreciates the opportunity to comment on the Carty Generating Station's Request for Amendment 2 (RFA2) and the Draft Proposed Order. It is our understanding that Amendment 2 would incorporate existing common infrastructure shared by the facility and Boardman Coal Plant (BCP) including, but not limited, to a 500 kilovolt (kV) transmission line, the Carty Reservoir, water discharge channel, and sanitary sewer lagoons. RFA2 would also modify the site boundary, extending west into Gilliam County, and incorporate existing BCP facility components. The BCP components include: a 230 kV transmission line, a 34.5 kV transmission line, a 12 kV underground distribution line, 480-volt underground distribution line, two evaporation ponds, irrigation pump station, and a 34.5 kV underground transmission line. The Amendment request also includes the construction and operation of the following components: septic system, water pipeline, wastewater pipeline, security guard station, office and warehouse space, and a 230 kV substation (Carty substation).

This Amendment request (RFA2) would result in a project that is different than uses permitted in existing Conditional Use Permits which were issued in 1975 and 2013. Therefore, the applicant would be required to obtain new or revised Conditional Use Permits. Additionally, prior to the construction of any structure, the applicant would need to obtain a Zoning permit for each parcel upon which the construction will take place. Please include these local permit requirements in the amended Site Certificate.

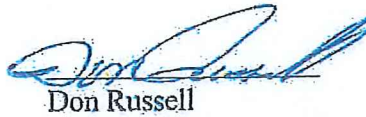
As always, Morrow County appreciates the opportunity to coordinate with you and other Department staff. Should you have any questions about this comment letter, or need additional

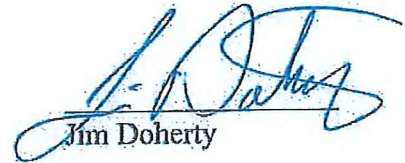


information, please do not hesitate to contact Tamra Mabbott, Planning Director, (541) 922-4624 X5505.

Sincerely,

  
Melissa Lindsay

  
Don Russell

  
Jim Doherty

Cc: Tamra Mabbott, Morrow County Planning Director  
Matt Scrivner, Morrow County Public Works Director  
Kate Knop, Morrow County Finance Director

MORROW COUNTY



November 6, 2020

## MEMORANDUM

To: Morrow County Board of Commissioners  
From: Tamra Mabbott, Planning Director  
BOC Date: November 12, 2020 (Thursday)  
RE: Monthly Planning Update

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### **Planning Commission Update**

Planning Commission held their regularly monthly meeting on October 27<sup>th</sup> via zoom. A hearing was continued for Conditional Use Permit CUP-N-343-20, Energy of Utah, applicant. The application was withdrawn prior to the hearing.

Planning Commission continued their work session on the topic of a proposed, new Rural Residential 10-acre zone. Planning Director provided training on the land use program in Oregon and how it will be part of the R-10 zone implementation. For more information please see the October 27, 2020 Commission Agenda and Packet located on the Planning Department Website:

[https://www.co.morrow.or.us/sites/default/files/fileattachments/planning\\_commission/meeting/14031/10272020\\_agenda.pdf](https://www.co.morrow.or.us/sites/default/files/fileattachments/planning_commission/meeting/14031/10272020_agenda.pdf)

[https://www.co.morrow.or.us/sites/default/files/fileattachments/planning\\_commission/meeting/packets/14031/10272020\\_pc\\_packet\\_without\\_minutes.pdf](https://www.co.morrow.or.us/sites/default/files/fileattachments/planning_commission/meeting/packets/14031/10272020_pc_packet_without_minutes.pdf)

The next Planning Commission meeting will be December 8<sup>th</sup> and will include the first formal hearing for adoption of the RR-10 zone, along with other action items. Planning Commission will not meet in November due to the Thanksgiving holiday.

### **Other Current Planning Updates**

#### Union Pacific Railroad Expansion

Planning Director and County Counsel participated in a meeting with representatives of the Union Pacific Railroad (UPRR) to learn about an expansion of Castle Siding rail line located north of Interstate 84, west of Tower Road, 5 miles west of Boardman. This rail line project is part of the UPRR modernization of the Portland to Hermiston mainline and will include expansion of a new line approximately one mile (5,300 feet) in length and will run immediately south of and parallel to the existing mainline. The rail extension will be between 1,500 feet to 3,000 feet upland from the Columbia River. Construction (and staging) will be entirely on Union Pacific right of way. Construction timeline is late 2020 through Spring 2021.

The permitting process will be unique given special exemption provided UPRR under the Interstate Commerce Commission Termination Act (ICCTA). In a nutshell, although Castle Siding extension is not subject to permits otherwise required to implement the County's Comprehensive Plan and comply with the Zoning Ordinance, staff will be processing an application for a Land Use Compatibility Statement (LUCS) for a 1200 C stormwater permit UPRR must obtain from Oregon Department of Environmental Quality (DEQ). Planning Staff and County Counsel are currently working with UPRR and their attorney to determine next steps.

### **Permit Activity Summary**

A total of 8 Zoning Permits were approved in October. One land partition application was filed and is scheduled for the December 8<sup>th</sup> Planning Commission meeting.

Staff processed 6 applications for Land Use Compatibility Statements (LUCS) which range in complexity from simple (for on-site septic approval) to complex (for 1200C stormwater permit with Department of Environmental Quality).

### **Code Updates**

In addition to the new RR-10 Zone, staff is drafting updates to Article 9 Administrative Provisions. This update will bring the county Zoning Ordinance up to date with Oregon law. Planning Commission and staff, Assessor's Office and Surveyors Office have identified other updates that will happen soon.

### **Energy Projects**

Planners participated in two pre-application meetings for two large solar projects. Applications are forthcoming, expected in early 2021.

Activity continues on a number of energy facilities in Morrow County. Staff assisted the Board of Commissioner in preparing letters for two energy projects under review by the Oregon Energy Facility Siting Council (EFSC), including the Carty Generating Station Request for Amendment 2 & Draft Proposed Order, and Wheatridge II Request to Amend Site Certificate.

### **Code Enforcement**

On October 23<sup>rd</sup> Planning Staff met with Sergeant Broun and Deputy Madrigal of the Morrow County Sheriff's Office to discuss Code Enforcement. The purpose of the meeting was to understand the process, roles and expectations of staff and departments. The meeting was very positive. One outcome was a consensus to use the google docs platform to track current cases. While the field work is carried out by the Sheriff's Office, Planning staff will be scheduling time to drive around areas with high volumes of code enforcement cases with the goal of understanding trends and then developing options to encourage compliance. Over time, staff will review the Code Enforcement Ordinance to evaluate possible updates.

**Port of Morrow Interchange Area Management Plan (IAMP)**

The interchange at Interstate 84 Exit 165 is undergoing a review of the Interchange Area Management Plan (IAMP). Planning and Public Works staff have attended meetings hosted by the Port of Morrow and are currently reviewing the latest engineering report for the update.

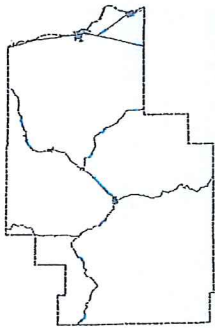
**Boardman Main Street Interchange Area Management Plan (IAMP)**

Boardman has two pending zone change applications that may impact the Boardman Main Street IAMP. Any time property develops within an IAMP study area, cities and counties are required to address how the change in zoning and associated access and traffic volume complies with the IAMP.

An IAMP is designed to protect the public as well as private investments of road and street infrastructure and assure long term functionality of the intersection. The Boardman Main Street IAMP includes Interstate 84 and local city streets and county roads. Planning and Public Works staff worked together to understand the two projects and provided information for the Board of Commissioners formal comment letter submitted to City of Boardman Planning Commission on October 21<sup>st</sup>.

**Long Range Planning Projects:** A work in progress. Update coming soon.

**Website and GIS Mapping**



Staff continue to make updates and improvements to the website, making more services more accessible via internet. Stephen Wrecsics is continuing to adapt his interactive zoning map to be available on the

Planning Trivia Questions of the Month:

In what year did Statewide Planning in Oregon begin? Who was Governor at that time?

What year did the Land Conservation and Development Commission acknowledge the Morrow County Comprehensive Plan?

Answers to be shared in the December 2020 Update. For persons eager for the answer, or to inquire about Morrow County's Land Use Planning Program, please contact Planning Director Tamra Mabbott: [tmabbott@co.morrow.or.us](mailto:tmabbott@co.morrow.or.us) or (541) 922-4625 X 5505

## Energy Projects in Morrow County

EFSC Permitted		Facility Status	Notes	Local Permits	Local Permit Status
Wind	Capacity	Operating	PGE Ownership		
Wheatridge I	100 MW	Operating			
Wheatridge II	550 MW	Operating	Under Review to split as: WREF II (200 MW Wind); WREF III (150 MW solar); WREFE (200 MW wind)	CUP-N-328 (2018)	RFACOMment Letter submitted to EFSC 28OCT2020
Shepherds Flat Central	290 MW	Operating	2 Turbine Repower 2020	CUP-N-279 (2010)	Comment Letters Submitted to EFSC
Shepherds Flat South	290 MW	Operating	Repower Pending (January 2023)	CUP-N-278 (2010)	Comment Letters Submitted to EFSC
<del>Hepper-Wind</del>	<del>500-MW</del>	<del>Terminated</del>	N/A	N/A	No Action Needed
<del>Saddle-Butte-Wind</del>	<del>399-MW</del>	<del>Terminated</del>	N/A	N/A	No Action Needed
Solar	Capacity	Status	Notes	Local Permits	
Boardman Solar	75 MW	EFSC Approved	Construction Pending, T Line is in Gilliam Co.	CUP-N-333 (2018)	CUP Expires 17NOV2020
Wagon Trail Solar	500 MW	Proposed/Pending	NextEra	Pending (Not Submitted)	Waiting for Pre-App request
Transmission	Capacity	Status	Notes	Local Permits	
Boardman to Hemingway	300-mile, 500 kV	Proposed	In Contested Case (64 Petitioners)	Pending	Waiting on Contested Case Outcome
<del>Cascade-Crossing</del>	<del>424-mile-500kV</del>	<del>Terminated</del>	N/A	N/A	No Action Needed
Generating Facility	Capacity	Status	Notes	Local Permits	
Cary Generating Facility	50 MW Solar-400 MW Natural Gas	Under EFSC Review/Operating	RFA2 incorporates existing BCP facility components.	CUP-N-307 (2013)	Notice of Proposed Order of RFA2 Issued 12NOV20
Boardman Coal Plant	550 MW	Decommissioning	T Line in Gilliam Co.	Pre-dates Planning?	No Action Needed
Columbia Ethanol Project	44 MGPY	Temporarily Shut Down	N/A		No Action Needed

Locally Permitted		Status	Notes	Local Permits	Local Permit Status
Wind	Capacity	Construction	Construction delays due to COVID-19	CUP-N-324 (2016)	Extension granted 2019
Orchard Wind	40 MW	Construction		CUP-N-251 (2008)	No Action Needed
Echo Wind South	60 MW	Operating		CUP-N-234 (2006)	No Action Needed
Threemile Turbines	15 MW	Operating	First operational turbines in Morrow County	CUP-N-291 (2011)	No Action Needed
Elle Butte	104 MW	Permitted, Never Built		CUP-N-285 (2010)	No Action Needed
Butter Creek	40 MW	Permitted, Never Built		CUP-N-290 (2011)	No Action Needed
Mariah Wind	20 MW	Permitted, Never Built		CUP-N-213 (2005)	No Action Needed
Willow Creek Wind	50 MW	Permitted, LUBA Remand			No Action Needed
Solar	Capacity	Status	Notes	Local Permits	
Harp Solar	10 MW	Permitted	Project sold to Avangrid Renewables	CUP-N-331 (2018)	Extension Request Granted
<del>Stack-Solar</del>	<del>40-MW</del>	<del>Withdrewn</del>		<del>CUP-N-332-48</del>	<del>No Action Needed</del>
<del>Columbia-Solar</del>	<del>20-MW</del>	<del>Withdrewn</del>		<del>CUP-N-343-20</del>	<del>No Action Needed</del>
Trail Solar	160 MW	Proposed	OneEnergy, Proposed, pending application.		



## Board of Commissioners

P.O. Box 788 • Heppner, OR 97836  
541-676-5613  
www.co.morrow.or.us

Commissioner Melissa Lindsay, Chair  
Commissioner Don Russell  
Commissioner Jim Doherty

November 12, 2020

Oregon Water Resources Commission  
Attn: Meg Reeves  
725 Summer Street N.E., Suite A  
Salem, OR 97301-1271

RE: Petition before the Oregon Water Resources Commission Regarding Regulation  
of Ordinance Alluvial and Ordinance Basalt Administrative Rules

Dear Chair Reeves and Members of the Commission,

Morrow County is opposed to the petition to restrict certain natural resource industries. The petition filed by Stand Up to Factory Farms singles out the dairy industry and confined animal feeding operations (CAFOs) located in the Ordinance Alluvial and Ordinance Basalt Critical Groundwater Areas. Morrow County joins the regional effort in opposition to the proposed rulemaking for reasons explained in that regional letter.

### Contrary to Local Land Use Plan

Additionally, Morrow County submits this letter to show our opposition to Administrative Rules that would be contrary to our County Comprehensive Plan and in violation of our Exclusive Farm Use (EFU) Zone. Specifically, the petition seeks to preempt local land use planning jurisdiction by limiting certain “land uses” (e.g. stock watering and CAFOs, uses which are allowed outright in the Exclusive Farm Use EFU Zone).

The two Critical Groundwater Area designations are subject to Statewide Planning Goal 5 which is also incorporated into the Comprehensive Plan. Where a Goal 5 “program” is changed, it must be adopted locally as part of the Goal 5 program in the local plan. Any amendment to the Basin Rules must also follow commensurate amendment to the local comprehensive plan.

### Conflicting with Statewide Planning Program

Under Oregon’s Comprehensive Statewide Planning Program (SWPP), only a locally adopted and acknowledged plan and zoning code has authority to regulate land uses. Attempting to regulate the use of land indirectly by construing water law and regulation is contrary to Oregon’s SWPP, Oregon Revised Statue Chapter 215, Oregon Administrative Rules Chapter 660 Division 33 – Agricultural land.

Farming is Subject to Protection of Right to Farm laws

The effect of the proposed rule change and exclusion of select farm uses would be in direct conflict with ORS Chapter 30.930, Oregon's Right to Farm law.

New regulation is subject to Ballot Measure 49 and Ballot Measure 56

Where the new regulation would have the effect of limiting land use, such rule would afford the landowners just compensation under Measure 49. Measure 56 requires that any amendment of a land use regulation, albeit indirectly, would also require direct notice to all landowners with lands zoned EFU.

State Agency Coordination Program

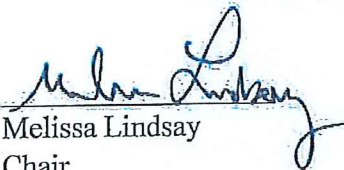
Prior to promulgation of Administrative Rules, Morrow County requests formal consultation as provided for in the Water Resources State Agency Coordination (SAC) Program. Under ORS 197.180, each state agency is required to prepare a SAC Program to assure that its "rules and programs affecting land use" comply with the statewide planning goals, and are compatible with acknowledged city and county comprehensive plans and land use regulation. The OWRD State Agency Coordination Program was approved by the Land Conservation and Development Commission (LCDC) in August 1990. The OWRD SAC requires, in part, that OWRD provide notice to local planning agencies and insure that polices, programs (including Administrative Rules) comply with the local land use programs.

We believe the proposed water rules would undermine state and county protection of farm use. We therefore request formal consultation prior to advancing the request to a formal rulemaking process. We also believe the Oregon Department of Land Conservation and Development should be included in the consultation.

Morrow County Supports Local Planning

In the past decade, Oregon Water Resources Department and Commission have pivoted away from centralized planning and shifted to local watershed and basin planning. Examples include the 100-Year Water Vision, the Integrated Water Resources Strategy (IWRS) and the Place-Based Planning Project. We support local planning and oppose new top-down regulations that limit land use and have negative impacts on our natural resource economy.

Sincerely,

  
Melissa Lindsay  
Chair

  
Don Russell  
Commissioner

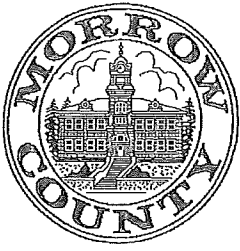
  
Jim Doherty  
Commissioner

Cc: Umatilla County Board of Commissioners  
Senator Bill Hansell  
Representatives Greg Smith and Mark Owens

Representative-Elect Bobby Levy  
Port of Morrow, Ryan Neal, Executive Director  
Northeast Oregon Water Association, JR Cook, Executive Director  
Oregon Department of Land Conservation and Development, Jim Rue, Director, and  
Kristin Greene, Deputy Director  
Oregon Cattlemen's Association, Tammy Dennee, Executive Director  
Oregon Dairy Farmers Association, Tami Kerr, Executive Director  
Association of Oregon Counties, Rob Bovett and Lauren Smith  
Lost Valley Farms, Jeff Bosnia  
Meenderinck Dairy, Pete Meenderinck  
Easterday Farms, Cody Easterday and Bill Easterday  
Threemile Canyon Farms, Marty Myers







## PLANNING DEPARTMENT

P.O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

SENT ELECTRONICALLY

November 16, 2020

Martin Pitney  
PO Box 188  
Umatilla, OR 97882

Lee Docken  
PO Box 50  
Boardman, OR 97818

RE: Gala Springs Subdivision Request for Extension

Dear Mr. Pitney and Mr. Docken:

It was good to meet with you and hear about your project. Sewer and water service to the lots is indeed very challenging. We discussed two options related to drinking water and sewer for the subdivision, including on-site well and on-site septic for each parcel as well as the option of securing city water and sewer. The city option rests with the city as we discussed.

In response to your November 3, 2020 requesting an extension to your 2018 Subdivision approval, file # SD-N-224-18, I reviewed the Morrow County Subdivision Ordinance and consulted with Justin Nelson, County Counsel. Unfortunately, your extension request cannot be approved. We reached this conclusion based on the following:

1. Although the County's August 1, 2018 approval letter for your Subdivision did not indicate a date of expiration, the Findings of Fact adopted by Planning Commission did reference the Subdivision Ordinance in its entirety. See attached Findings and letter.
2. The COVID-19 pandemic has created hardships to business and individuals and, as you say in your email, has disrupted the normal course of business. However, Subdivision Ordinance Article 4 has very clear and rigid standards for timeline. See attached Article 4.
3. Minutes from the Planning Commission hearing are also attached.

If you would like to resubmit your subdivision application, I recommend that you resolve the septic and water services in advance of submitting a new application. If city service is not feasible in the near future you may want to consider creating fewer, albeit larger, parcels.

I look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Tamra Mabbott". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Tamra Mabbott  
Planning Director

cc without attachments:

Justin Nelson and Rich Tovey, County Counsel  
Darrell Green, County Administrator  
Gregg Zody, Community Development Director  
Planning Commission  
Karen Pettigrew, City Manager, City of Boardman  
Barry Beyler, Community Development Director, City of Boardman  
File



## PLANNING DEPARTMENT

PO Box 40 • 205 Third Street NE  
Irrigon, Oregon 97844  
(541) 922-4624

### PUBLIC NOTICE

November 23, 2020

Dear Adjoining Landowner, Public Agencies, Entities and Interested Parties:

Under provisions of the Morrow County Zoning Ordinance you are an "adjoining landowner" or an interested party who may have interest in a development proposed by the Union Pacific Railroad. The construction includes an additional 5,300 feet of new rail line adjacent to the existing Castle Siding.

Morrow County has approved a Land Use Compatibility Statement (LUCS) based on a site design review and application from the Union Pacific Railroad. Please see attached Findings of Fact.

If you have any questions or comments please contact Tamra Mabbott at (541) 922-4624 X5505.

Cordially,

A handwritten signature in blue ink that reads "Tamra Mabbott".

Tamra J. Mabbott  
Planning Director

Enclosures: Findings of Fact  
Map

**FINDINGS OF FACT**  
**SITE DESIGN REVIEW AND LAND USE COMPATIBILITY**  
**Application**

**REQUEST:** Approval of Land Use Compatibility Statement (LUCS) based on Design Review for railroad improvements on land zoned Exclusive Farm Use (EFU).

---

**APPLICANT/OWNER:** Ty Wyman for Union Pacific Railroad  
Dunn Carney Allen Higgins & Tongue LLP  
Suite 1500  
851 SW Sixth Avenue  
Portland, OR 97204

**PROPERTY DESCRIPTION:** Right of Way located on lands within Assessor's Map 4N Range 24, including tax lots 125, 126, 127, 128, 125 and 130.

**PROPERTY LOCATION:** Rail line and proposed improvements are located north of Interstate 84 and south of the Columbia River, west of Tower Road.

**FINDINGS OF FACT:**

- I. **BACKGROUND INFORMATION:** Union Pacific Railroad plans to extend Castle Siding as part of its larger effort to increase efficiency in their rail operations, including the addition of 5,300 feet of rail line adjacent to the existing mainline. The construction will take place on Union Pacific right of way. Construction will take place Fall 2020 through Spring 2021. The project in Morrow County is located on lands zoned Exclusive Farm use.
  
- II. **APPROVAL CRITERIA and FINDINGS OF FACT:** Morrow County Zoning Ordinance, ARTICLE 3, USE ZONES, Section 3.010(C)(19) Exclusive Farm Use Zone requires a Conditional Use Permit for transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065. However, railroads have special legal exemption and are not required to demonstrate compliance with local land use standards. Rather, railroads are subject to the Interstate Commerce Transportation Termination Act (ICCTA) which vests exclusive jurisdiction in the federal Surface Transportation Board (STB) over "transportation by rail carriers" and the "construction, acquisition, operation, abandonment or discontinuance of spur, industrial, team, switching, or side tracks, or facilities." 49 U.S.C. ss10501(b). The ICCTA Board has applied this federal code by ruling that "state and local permitting " is not required.

The ICCTA does not bar all local review of this project. Permits required by federal law are required. In this case, the Oregon Department of Environmental Quality (ODEQ) who implements federal water quality rules under the Clean Water Act, requires the UPRR obtain a 1200-C permit for stormwater disposal. Morrow County in turn requires UPRR to submit an application for a Land Use Compatibility State (LUCS) approval and a Site Plan for review prior to signing the LUCS.

The applicant submitted an application for Site Plan Review and for approval of the Land Use Compatibility Statement on November 16, 2020. Based on the above, county may approve the LUCS.

No Goal 5 Resources are known to exist on the subject parcels. The UPRR has contacted Columbia River Treaty Tribes and the Confederated Tribes of the Umatilla Indian Reservation, to ensure the presence of an on-site cultural resources monitor when ground disturbance activities are occurring.


### III. WATER QUALITY PERMIT, OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

The proposed railroad construction will require a 1200C water quality permit for the Oregon Department of Environmental Quality (ODEQ). Questions about the 1200C permit may be directed to Patty Isaak, Water Quality Permit Coordinator, Eastern Region (541)278-4600, [Patty.Isaak@state.or.us](mailto:Patty.Isaak@state.or.us)

### IV. DECISION OF THE PLANNING DIRECTOR:

The Planning Director has approved the Land Use Compatibility Statement (LUCS) for the Department of Environmental Quality 1200C water quality permit. Applicant will comply with the following conditions of approval:

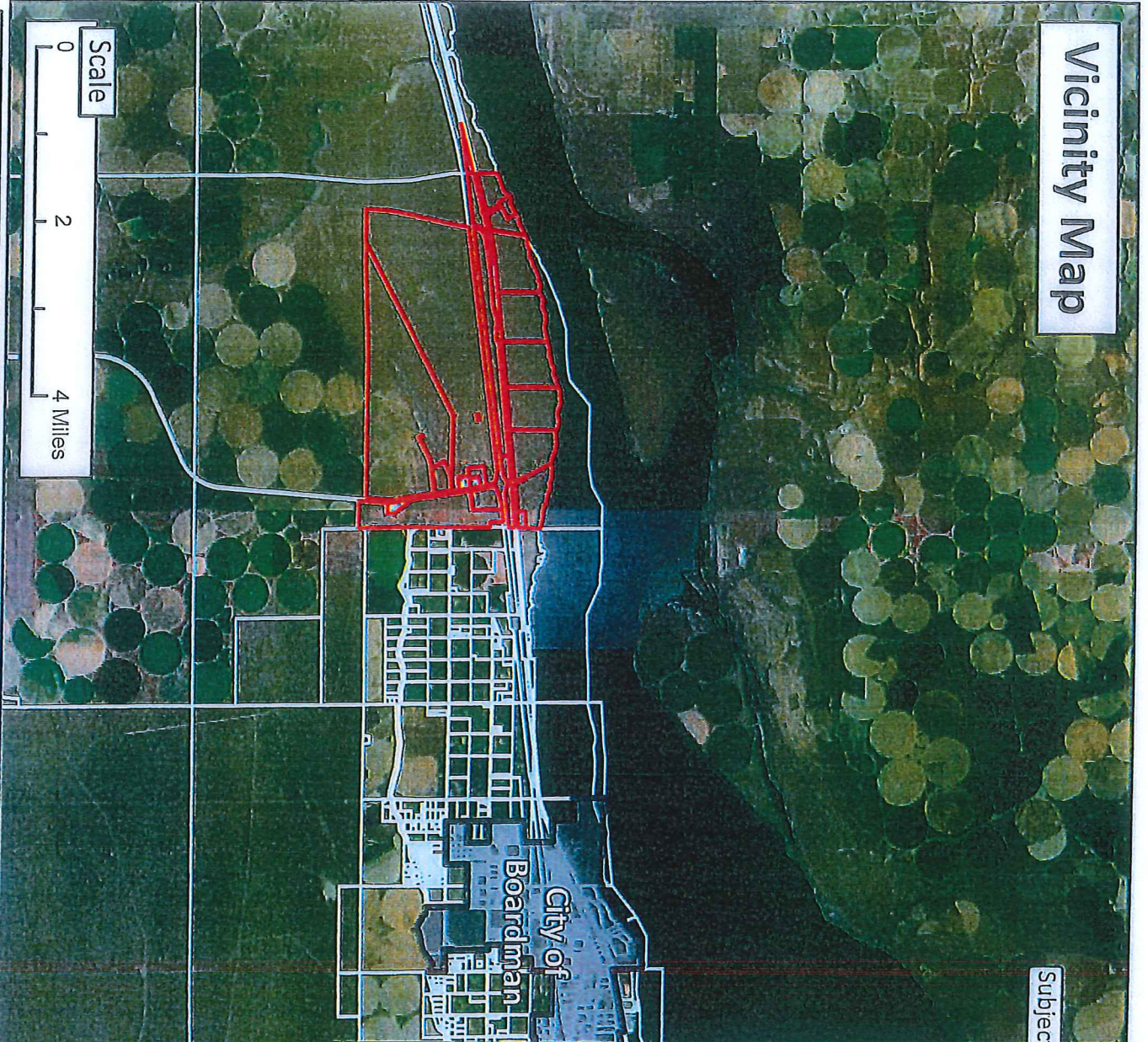
1. Comply with requirements of the Oregon Department of Environmental Quality.
2. If any cultural or historical artifacts are discovered during excavation and construction, cease activity and coordinate with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) and other appropriate native American tribes and comply with their recommendations about protection and preservation of the artifacts.

  
\_\_\_\_\_  
Tamra J. Mabbott  
Planning Director

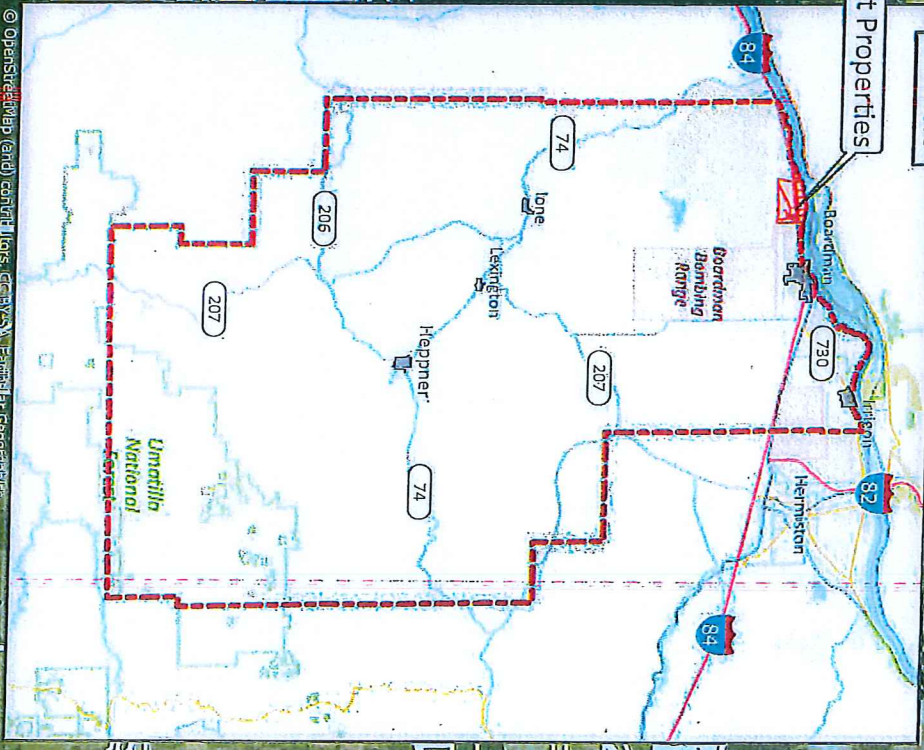
11-20-20  
\_\_\_\_\_  
Date

Attachment:  
Vicinity Map

# Vicinity Map



## Extent



## Legend

- Tax Lots
- Adjoining Properties



**Land Use Compatibility  
Statement**  
Union Pacific Rail Road  
4N24E Multiple Tax Lots



Date Saved: 11/19/2020 4:56 PM

Cartography By: Stephen Wreescis  
Morrow County Planning Department  
Coordinate System: NAD83 Oregon GIC Lambert  
Datum: North American 1983  
Projection: Lambert Conformal Conic

