

BEFORE THE MORROW COUNTY COURT  
OF MORROW COUNTY

AN ORDINANCE AMENDING THE MORROW COUNTY COMPREHENSIVE PLAN, THE COMPREHENSIVE PLAN MAP, THE ZONING ORDINANCE, AND THE ZONING ORDINANCE MAP TO PLAN AND ZONE THE MORROW COUNTY PORTION OF THE UMATILLA ARMY DEPOT.

COUNTY ORDINANCE

NO. ORD-2014-4

WHEREAS, ORS 203.035 authorizes Morrow County to exercise authority within the County over matters of County concern; and

WHEREAS, Morrow County adopted a Comprehensive Land Use Plan which was acknowledged by the Land Conservation and Development Commission on January 15, 1986; and

WHEREAS, the Umatilla Army Depot has been in operation since the 1940s with limited review under Oregon's statewide planning goals; and

WHEREAS, Morrow County is a partner in the Local Reuse Authority (LRA) which is working to receive property at the Umatilla Army Chemical Depot (UMCD) upon its closure under the Base Realignment and Closure process and planning and zoning those lands is a necessary task; and

WHEREAS, Morrow County did take limited action in 1994 to plan and zone a portion of the southwest corner of the Umatilla Army Depot; and

WHEREAS, based on work of the Local Reuse Authority Morrow County initiated work to plan and zone all of the Umatilla Army Depot lands within Morrow County; and

WHEREAS, the Morrow County Planning Commission held two public hearings to review the request on April 29, 2014, at the Heppner City Hall in Heppner, Oregon, and on May 27, 2014, at the Port of Morrow Riverfront Center in Boardman, Oregon; and

WHEREAS, the Morrow County Planning Commission heard testimony from Stan Hutchison, Oregon Military Department, initially in opposition at the April 29 public hearing and changing his testimony to support at the May 27 public hearing based on changes made to the Umatilla Army Depot Transition Zone changing it to the Umatilla Army Depot Military Zone; and

WHEREAS, the Morrow County Planning Commission unanimously recommended approval of the request and adopted Planning Commission Final Findings of Fact; and

WHEREAS, the Morrow County Court held a public hearing to consider the recommendation of the Morrow County Planning Commission on June 18, 2014; and

WHEREAS, the Morrow County Court accepted further testimony in support of the recommendation from Roy Swafford of the Oregon Military Department; and

WHEREAS, the Morrow County Court deemed the amendments appropriate to facilitate development of the Umatilla Army Depot lands.

NOW THEREFORE THE COUNTY COURT OF MORROW COUNTY ORDAINS AS FOLLOWS:

Section 1 Title of Ordinance:

This Ordinance shall be known, and may be cited, as the 2014 Planning and Zoning of the Umatilla Army Depot.

Section 2 Affected Documents:

Comprehensive Plan: Attachment A will be added to the Comprehensive Plan with the Chapter titled "Goal Exceptions Statement for Rural Residential, Rural Service Centers and Industrial Lands" and more specifically under the "Industrial Lands" section under a new heading of "Umatilla Army Depot District."

Comprehensive Plan Map: Attachment B is the Depot Plan District Comprehensive Plan Map identifying areas as Agricultural, Military, Industrial, and Wildlife Habitat.

Zoning Map: Attachment C is the Depot Plan District Zoning Map identifying areas as Exclusive Farm Use, Umatilla Army Depot Military Zone, Port Industrial, UMCD Port Industrial Limited Use Overlay Zone and Umatilla Army Depot Wildlife Habitat Zone.

Use Zones: Attachment D includes the five Use Zones to be applied as listed immediately above. Two are current Use Zones - Exclusive Farm Use and Port Industrial. Three are new and this action also adds them to our list of Use Zones. They are UMCD Port Industrial Limited Use Overlay Zone, Umatilla Army Depot Military Zone and Umatilla Army Depot Wildlife Habitat Zone. Additionally the Umatilla Army Depot Transition Zone is being replaced by the Umatilla Army Depot Military Zone and the new zone retains the Article 3 Section number of 3.074.

Ordinance MC-C-3-94 originally created the Umatilla Army Depot Transition Zone, applied it to certain lands at the Umatilla Army Depot, and adopted two Comprehensive Plan changes. This action Plans and Zones all of the Morrow County portion of the Umatilla Army Depot and the more recently created Reuse Plan adopted by the Local Reuse Authority more accurately addresses the items added to the Comprehensive Plan by Ordinance MC-C-3-94. This action repeals, or removes, those policy and findings statements from the Comprehensive Plan (shown at the bottom of page 3 and the top of page 4 of Ordinance MC-C-3-94).

Section 3 Effective Date

As the transfer of land from the Federal Government to the Local Reuse Authority is not scheduled to take place until at least 2015 and more likely 2016, the Morrow County Court would not declare an emergency. This Adopting Ordinance and changes to its affected documents would be effective on November 1, 2014.

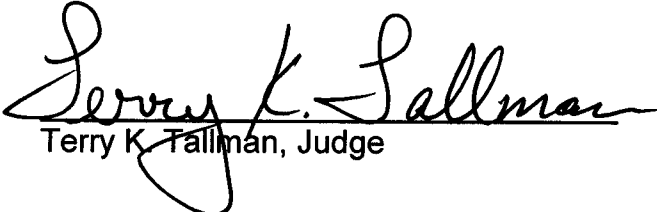
Date of First Reading: July 2, 2014

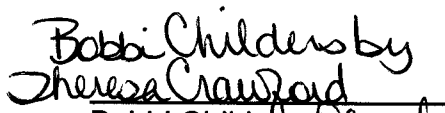
Date of Second Reading: July 9, 2014

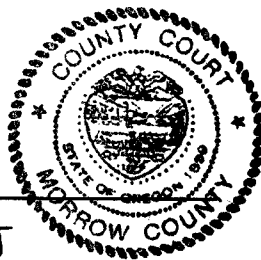
DONE AND ADOPTED BY THE MORROW COUNTY COURT THIS 9<sup>th</sup> DAY OF JULY, 2014

MORROW COUNTY COURT:

ATTEST:

  
Terry K. Tallman, Judge

  
Bobbi Childers Deputy  
County Clerk Clerk



  
Ken Grieb, Commissioner

  
Leann Rea, Commissioner

MORROW COUNTY, OREGON **CJ2014-0082**  
Commissioners' Journal 09/03/2014 9:24:37 AM



2014-0082

I, Bobbi Childers, County Clerk for Morrow  
County, Oregon, certify that the instrument  
identified herein was recorded in the Clerk  
records.

Bobbi Childers - County Clerk

**Morrow County Planning Commission  
Final Findings of Fact  
AC-066-14, AC(M)-066-14, AZ-067-14, AZ(M)-068-14  
Umatilla Army Depot District  
Comprehensive Plan and Zone Change  
Amended April 29, May 15 and June 4, 2014**

**REQUEST:** Comprehensive Plan and Map, and Zoning Ordinance and Map amendments to plan and zone the Morrow County portion of the Umatilla Army Depot. Specifically the action will apply Comprehensive Plan designations of agriculture, military, industrial and wildlife habitat and zoning designations of Exclusive Farm Use, Umatilla Army Depot Military, Port Industrial, UMCD PI LU Overlay Zone and Umatilla Depot Wildlife Habitat. The majority of the property is not currently zoned and this action will replace the previously adopted Umatilla Army Depot Transition Zone that was created and applied in 1994.

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**APPLICANT:** UMADRA  
Boardman, OR 97818

Morrow County  
P.O. Box 788  
Heppner, OR 97836

**OWNER:** US Army/Army Corps of Engineers

**PROPERTY DESCRIPTION:** Tax Lots 100 and 200 of Assessors Map 4N 26 and Tax Lot 100 of Assessor's Map 4N 27

**PROPERTY LOCATION:** Located to the north of Interstate 84 and the Union Pacific Rail Road and east of Patterson Ferry Road.

**FINDINGS OF FACT:**

**I BACKGROUND INFORMATION:**

Please review the attached document "Statewide Land Use Goal Exceptions for the Umatilla Army Depot - Morrow County" for a complete history of the redevelopment of the Umatilla Army Depot (UMCD).

**II SUMMARY OF APPLICABLE CRITERIA** To approve the request the Planning Commission will need to make findings to show that the request meets the necessary criteria. Those criteria are presented below in bold print with responses in regular print.

**Morrow County Zoning Ordinance Article 8 Amendments Section 8.040**

**Criteria:** 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).**

As outlined in the Land Use Report most of the Umatilla Army Depot has never been subject to planning or zoning, the small exception being an area in Morrow County that was addressed in the early 1990s. Planning staff would find that the Land Use Report and the exceptions statements within that document support the proposed changes to both the Comprehensive Plan, Plan Map, Zoning Ordinance and Zoning Map and that this criterion has been met.

**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.**

**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)**

Currently underway is a group of Interchange Area Management Plans for the three interchanges along Interstates 82 and 84 that either currently serve the Army Depot or could serve the Army Depot in the future. Within Morrow County the interchange that is being evaluated is the Patterson Ferry Interchange and adoption of the IAMP should take place later this summer (2014) shortly after these adoptions are completed. The IAMP will address all aspects of the Transportation Planning Rule and Goal 12. There is also a portion of the attached Land Use Report that also addresses the TPR and Goal 12. Planning staff would find that this criterion can and will be met.

**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.**

Please refer to the attached Land Use Report for this analysis. Planning staff would find that this criterion has been met.

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

Staff would find that any concerns are addressed in the attached Land Use Report. However during the current update of the Pre-Disaster Mitigation Plan it was identified that work does need to take place to assure that the area converted to industrial and agricultural lands (and others as warranted) need to be incorporated into necessary protective districts (fire, ambulance, etc.) when appropriate.

#### **Morrow County Comprehensive Plan Review and Revision**

**CRITERIA. The following criteria must be considered before approval of an amendment to the Comprehensive Plan is given:**

- 1. Address the Criteria found in the Morrow County Zoning Ordinance Article 8 Amendments; and**
  - 2. Show how the request complies with the relevant statewide land use planning Goals. Include evidence of coordination and compliance with State agencies regarding the statewide planning Goals. (MC OR-1-2013)**
- All of the relative Goals are addressed in the attached Land Use Report. Staff would find this criterion met.

- |            |                               |                       |
|------------|-------------------------------|-----------------------|
| <b>III</b> | <b>DLCD 45 DAY NOTICE:</b>    | <b>March 25, 2014</b> |
| <b>IV</b>  | <b>PROPERTY OWNER NOTICE:</b> | <b>April 9, 2014</b>  |

**V LEGAL NOTICE:** Heppner Gazette Times and East-Oregonian  
April 9 and May 7, 2014

**VI AGENCIES NOTIFIED:** Grant Young, Jon Jinnings and Angela Houck, Department of Land Conservation and Development; Marilyn Holt and Teresa Penninger, Oregon Department of Transportation; Linda Hayes-Gorman, Department of Environmental Quality; Mike Gorman, Morrow County Assessor; Burke O'Brien, Morrow County Public Works; Larry Burns, Irrigon Rural Fire Protection District; Rod Skeen and Carl Sheeler, CTUIR; Tamra Mabbott, Umatilla County Planning Director; Gary Neal and Lisa Mittelsdorf, Port of Morrow; Don Chance, UMADRA; Tony Justus, Watermaster; Stan Hutchison and Roy Swafford, Oregon Military Department; Michelle Martin, UMCD/BRAC; Rick Solander, Office of Economic Adjustment (DOD); Aaron Palmquist, City of Irrigon.

**VII HEARING DATES:**

Planning Commission

Heppner City Hall  
Heppner, Oregon  
April 29, 2014

Port of Morrow Riverfront Center  
Boardman, Oregon  
May 27, 2014

County Court (tentative)

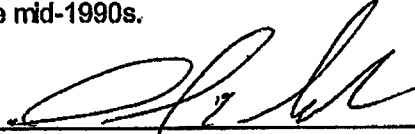
Port of Morrow Riverfront Center  
Boardman, Oregon  
June 18, 2014

**IX RECOMMENDATION OF THE MORROW COUNTY PLANNING COMMISSION:**

1. The Planning Commission recommends the Morrow County Court amend the Comprehensive Plan by incorporating portions of the attached Land Use Report, specifically Section VI Morrow County Exceptions, Section VII Statewide Planning Goal and Comprehensive Plan Findings, and Section VIII Transportation Strategy, into the Chapter titled "Goal Exceptions Statement for Rural Residential, Rural Service Centers and Industrial Lands" and more specifically under the Industrial Lands section under a new heading of Umatilla Army Depot District. The Findings and Policies attached should also be included;
2. Recommend the Morrow County Court amend the Comprehensive Plan map as shown on the Comprehensive Plan Map attached;
3. Recommend the Morrow County Court amend the Zoning Map as shown on the Zoning Map attached;



4. Recommend the Morrow County Court apply the attached use zones as shown on the attached Zoning Map; and
5. Repeal the actions as necessary that applied the UADTZ to the southwest corner of the UMCD in the mid-1990s.

  
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David Sykes, Chair

6/5/2014  
Date

**Attachments:**

- Vicinity Map
- Depot District Comprehensive and Zoning Maps
- Land Use Report with appendices
- Use Zones
  - Exclusive Farm Use
  - Umatilla Army Depot Military
  - Port Industrial
  - UMCD PI LU Overlay
  - Umatilla Depot Wildlife Habitat
- Oregon Military Department Comment - April 28, 2014 Letter
- Response letter to Oregon Military Department April 28, 2014, comment letter dated May 15, 2015
- Oregon Military Department Comment - May 27, 2014 Letter
- Oregon Military Department Site Development Plan (July 2012 Draft)
- Oregon Military Department Land Use Plan (July 2012 Draft)

Umatilla Army Depot  
Depot District Plan  
Attachment A  
Comprehensive Plan Amendments

# Goal Exceptions Statement for Rural Residential, Rural Service Centers and Industrial Lands

## Industrial Lands

### Umatilla Army Depot District

Under Oregon Administrative Rules (OAR) 660-004-0015(1), a local government approving an exception must adopt, as part of its comprehensive plan, findings of fact and a statement of reasons that demonstrate that the standards for an exception have been met. *This section of the report has been prepared to serve as findings of fact and a statement of reasons to support exceptions to Goals 11 and 14 for the area identified for Port Industrial zoning on Figure 8. Should Morrow County approve this application, the LRA asks that the County reference or incorporate this document into its comprehensive plan as its findings of fact and statement of reasons in support of the application.*

#### A. Prior Approved Exception to Goal 3 (Agricultural Land)

As a follow-up action to the preparation of the 1993 Comprehensive Development Plan for the Umatilla Army Depot (described in Section II.B of this report) – Morrow County took land use actions in May of 1994 to implement the plan and zoning designations for the Morrow County portion of the Depot.

Specifically, the Planning Commission and the Morrow County Court held public hearings and adopted an ordinance to amend the Morrow County Comprehensive Plan, Zoning Ordinance and Zoning Map to establish the “Umatilla Army Depot Transition Zone” (UADTZ) for “developed and committed” areas based on the 1993 Comprehensive Development Plan and supporting reports.<sup>1</sup> The exhibit attached to the adopting ordinance clearly included the developed warehouse areas in the southwest corner of the Depot. Additionally, the purpose statement for the UADTZ Zone stated:

“The UADTZ Zone is intended to recognize only those areas designated in the master plan for the Morrow County area of the Depot as Phase I and VI, which are those areas devoted to, or most suitable for, development of built and committed areas.”<sup>2</sup>

The UADTZ zone permitted a limited range of uses (warehousing, railroad related uses, container storage and trans-shipment facilities, etc.) using existing buildings and structures. Construction of new buildings or structures required Planning Commission review and approval of a conditional use permit.

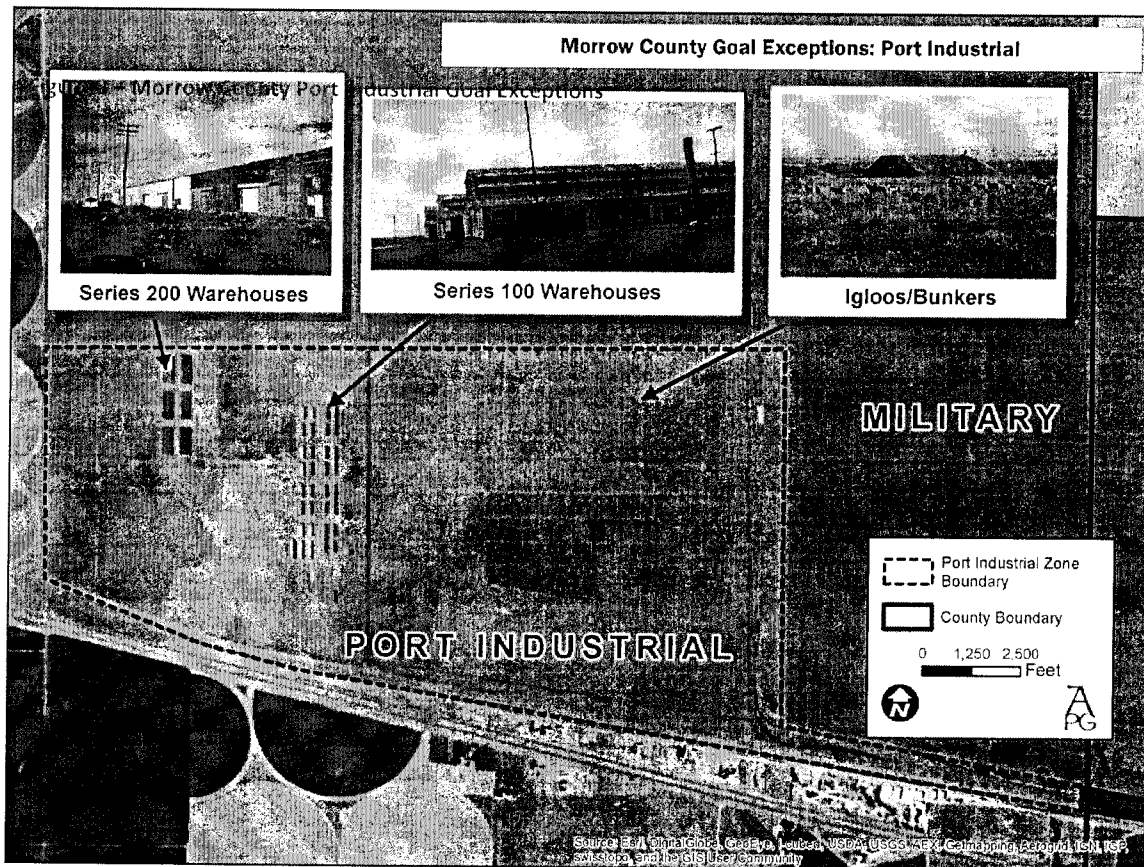
The Planning Commission held two public hearings on the proposed amendments, and there were no written or oral comments in opposition to the findings, recommendations or actions. Morrow County submitted a Notice of Adoption to DLCD on June 3, 1994 which included a reference that the amendments included a goal exception, presumably to Goal 3. The decision was not appealed and the plan and ordinance amendments are therefore acknowledged.

While Morrow County approved a plan and ordinance framework in 1994 to accommodate heavy and light industrial uses in the southwest portion of the Depot, the Umatilla Army Depot

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<sup>1</sup> See Ordinance No. MC-C-3-94 and supporting information.

<sup>2</sup> See Morrow County Zoning Ordinance, Section 3.074.



Transition Zone has never been applied because no areas have been released by the U.S. Army. However, the 1994 approvals document that the warehouse area in the southwest portion of the Depot site has been recognized and acknowledged as a “developed and committed” area.

Morrow County is supplementing the approved Goal 3 exception with exceptions to Goals 11 (Public Facilities and Services) and 14 (Urbanization) based on new administrative rule provisions and case law which have come into play since 1994. Additionally, Figure 8 depicts more defined boundaries for the developed and committed area and the Port Industrial Zone is recommended to be applied to the area instead of the Umatilla Army Depot Transition Zone. Finally, the subject property in Morrow County almost exclusively contains Class VII soils and does not have access to water for irrigation (see Appendix for Soils Map). Therefore, the exception area is not categorized as agricultural land under the Statewide Planning Goals and an exception to Goal 3 is not required.

Soil Name, Unit Number, Description	Land Capability Class Dry	Land Capability Class Irrigated
39 C: Quincy fine sand	7e	Not irrigated
40 C: Quincy loamy fine sand	7e	Not irrigated

*Soil Survey of Morrow County Area, Morrow County Planning Department, July 2013*

**B. Exception Requirements for Lands Irrevocably Committed to Urban Levels of Development (Goals 11 and 14)**

Where an urban use and urban scale public facilities and services are proposed to be located on rural lands, an applicant must demonstrate compliance with the applicable standards for goal exceptions in OAR 660, Division 14. *VinCEP v. Yamhill County*, 215 Or App 414 (2007).<sup>3</sup>

OAR 660-014-0030 outlines the standards for rural lands irrevocably committed to urban levels of development.

- (1) *A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard (e.g., that it is not appropriate to apply Goal 14's requirement prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.*
- (2) *A decision that land has been built upon at urban densities or irrevocably committed to an urban level of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.*
- (3) *A decision that land is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the following:*
  - (a) *Size and extent of commercial and industrial uses;*
  - (b) *Location, number and density of residential dwellings;*
  - (c) *Location of urban levels of facilities and services; including at least public water and sewer facilities; and*
  - (d) *Parcel sizes and ownership patterns.*
- (4) *A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.*
- (5) *More detailed findings and reasons must be provided that land is committed to urban development that would be required if the land is currently built upon at urban densities.*

**Findings:** As shown in Figure 8, a total of 1,872 acres in the southwest portion of the Depot site are identified for Port Industrial zoning and exceptions to Goals 11 and 14.

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<sup>3</sup> In *VinCEP*, the Oregon Court of Appeals overturned long-standing Land Use Board of Appeals (LUBA) precedent that for urban scale uses on rural *agricultural* land, OAR 660-014-0040 was the applicable exception standard and OAR 660, Division 4 did not apply. The court determined that an exception to Goal 3, which is governed under OAR 660, Division 4, is fundamentally different than a Goal 14 exception, stating that reasons that might justify an urban use on rural non-resource land do not necessarily justify an urban use on rural resource land. See also *VinCEP v. Yamhill County*, 55 Or LUBA 433 (2007) (LUBA's decision on remand from the Court of Appeals).

Existing development in this area includes the following Army structures and supporting infrastructure:<sup>4</sup>

- Series 100 Warehouses – there are thirty buildings located in this area, with an aggregate building area of 455,210 square feet. Overall average building size is approximately 15,000 square feet. There are four larger Series 100 warehouses of approximately 30,000 square feet each.
- Series 200 Warehouses – there are six buildings on the west side of the complex with an aggregate of 518,400 square feet. The area of each building is over 44,000 square feet.
- Igloos/Bunkers – there are ninety (90) concrete igloos/bunkers located in the easterly portion of this exception area. Each igloo is approximately 1,608 square feet in size. The structures are distributed evenly over a land area of approximately 430 acres.
- A spur line from the Union Pacific Railway parallels the entire south boundary of the Depot; a rail car classification and storage yard is also visible in the easterly portion of the Port Industrial exception area.
- Other miscellaneous facilities in this exception area include electricity, telephone, and gravel access roads. Historically, the Series 100 and 200 warehouses were served with on-site sewerage facilities. The larger depot site includes a system of on-site wells, water storage facilities and localized water distribution systems for developed portions of the site (excluding storage bunkers).

This portion of the Depot has been under Federal ownership for more than 70 years. There are no residential dwellings in the exception area and the property has not been divided into parcels.

As noted above, Morrow County took an exception to Goal 3 for this area in 1994 because the land was physically developed with warehouses and related facilities and committed to “industrial” use. The Goal 3 exception was not appealed and is acknowledged. Because this area encompasses predominantly Class VII soils and does not have access to water for irrigation, the site is not technically defined as “agricultural land” and an exception to Goal 3 isn’t required.

However, this application seeks to allow urban-scale port-related industrial uses and public facilities and services on rural lands and exceptions to Goals 11 and 14 are required. As used in this application, “urban-scale” uses are industrial uses in buildings of sizes that are greater than would otherwise be permitted on rural lands without goal exceptions under OAR 660-022-0030(11).<sup>5</sup> “Urban-scale” public facilities and services are public facilities and services sized to serve urban-scale uses on rural lands. As noted above, the existing Series 200 warehouses located in the westerly portion of the exception area exceed 44,000 square feet. Generally, industrial uses in buildings 35,000 square feet or smaller have been considered to be rural in scale.

Under ORS 197.713, counties outside the Willamette Valley may authorize industrial development in buildings of any size and type in exception areas that were planned and zoned for industrial use on January 1, 2004. Morrow County took an exception and adopted the

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<sup>4</sup> Information from Facility List Spreadsheet for UMCD (5/8/2013).

<sup>5</sup> OAR 660-022-0030(11) allows new or expanding industrial uses in unincorporated communities without goal exceptions if they are small scale, low impact uses, defined as uses in a building or buildings not exceeding 40,000 square feet of floor space in rural unincorporated communities. Outside of unincorporated communities, industrial uses in buildings 35,000 square feet or smaller have been considered to be rural in scale.

Umatilla Army Depot Transition Zone (UADTZ) that allowed industrial uses in May 1994, prior to the 2004 date, but never applied the zone to the subject property. For that reason, ORS 197.713 does not apply.

The Series 100 and 200 warehouses have sat largely unused for more than two decades. A majority of the buildings are dilapidated and are considered an environmental hazard and a threat to public safety.<sup>6</sup> The LRA intends to negotiate with the U.S. Army to either demolish the warehouses prior to a land transfer, or provide funding for the LRA to demolish the warehouses following a land transfer.

The Morrow County exception area provides excellent opportunities for industrial users of a variety of sizes and needs. The parcel can provide opportunities for rail car storage, shipping, multi-modal transportation hubs, and/or marshaling yard opportunities. Higher intensity rail users will require significant upgrades to ties, ballast, and the rails. Morrow County is taking exceptions to Goals 11 and 14 to assure that the industrial reuse potential of this area is not constrained by requirements to use the existing buildings, building size limitations or prohibitions on extension of urban water lines.

As shown in Figure 8, the LRA has recommended designating and zoning the Morrow County exception area for Port Industrial use. "Port-related industrial uses" are those uses permitted outright or conditionally under Section 3.073, Port Industrial (PI) Zone of the Morrow County Zoning Ordinance.<sup>7</sup> Uses authorized in the PI zone include, but are not limited to, port-related chemical and metal industrial uses; manufacturing, refining, processing or assembly of any agricultural, mining or industrial product; power generating and utility facilities; ship building and repair; rail loop and spur dependent uses; and effluent disposal of industrial wastes and agricultural activities in conjunction therewith. Authorized uses also include manufacturing, warehousing, packaging, processing, compounding, constructing, treatment, assembly, storage, testing, finishing, refinishing, repair, and wholesale sale and distribution of products, and any other industrial use authorized by ORS 777.250.<sup>8</sup>

The PI zone is an industrial sanctuary zone wherein commercial uses are limited to those appropriate and necessary to serve the needs of the workers employed in the zone. The zone provides appropriate limits as to the uses that can be located in the exception area. By taking Goal 11 and Goal 14 exceptions, the size of industrial buildings and the scale of industrial uses and public facilities and services will not be limited only to such sizes and scales that are appropriate for rural uses. Instead, urban-scale uses and public facilities and services would be allowed.<sup>9</sup>

In summary, the Morrow County exception area has been developed and committed to "industrial" types of uses (warehousing, storage, freight movement, etc.) since initial construction of the Umatilla Army Depot in the early 1940's. Because the area is not predominantly characterized by buildings exceeding 35,000 square feet, and because existing buildings are expected to be removed, the area is neither developed nor committed to an urban scale of industrial use. Consequently the County is proceeding with reasons exceptions to Goals 11 and 14 to provide the opportunity and flexibility for appropriate reuse of this area for urban level development that is consistent with the County's Port Industrial zone. Planning

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<sup>6</sup> Donohoe Report, May 7, 2013

<sup>7</sup> The PI zone reflects the port-related uses that were authorized in the acknowledged 1988 reasons exception for the Port of Morrow Industrial Park.

<sup>8</sup> ORS 777.250 defines the uses that ports may allow on port properties.

<sup>9</sup> In *Foland v. Jackson County*, 239 Or App 60 (2011), the Oregon Court of Appeals clarified that where a Goal 14 exception is taken to allow urban-scale non-residential uses on rural lands, a corresponding Goal 11 exception is required to allow the extension of public facilities to serve the use.

efforts reaching back more than twenty years have consistently targeted this area as the most suitable and appropriate location for industrial uses in the Morrow County portion of the Depot site.

### **C. Requirements for Reasons Exceptions (Goals 11 and 14)**

The Goal 14 administrative rule also provides for “reasons” exceptions for proposed urban uses on rural lands. The applicable standards are those in OAR 660-014-0040.

**660-014-0040(1):** *“As used in this rule, ‘undeveloped rural land’ includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban levels of development.”*

**Findings:** In 1994, Morrow County adopted an ordinance approving a “built and committed” exception for the southwest portion of the Depot site. The exception was largely based on the availability of the existing Series 100 and 200 warehouses that could be transitioned to non-military use with land transfers. The condition of the warehouses has deteriorated dramatically with general lack of use and maintenance over the past twenty years and the LRA is pursuing options to have the buildings demolished by the federal government or secure funding for demolition of the buildings following land transfer.

Even if the existing warehouse buildings are demolished, there are reasons to designate this area for urban-scale industrial uses.

**OAR 660-014-0040(2):** *“A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.”*

**Findings:** The reasons justifying future development of urban scale port-related industrial uses and public facilities sized to serve these uses are set out in numerous plans prepared for the Depot site, including the 2010 Redevelopment Plan and the more recent Development Feasibility Analysis and Land Use Analysis.<sup>10</sup> The Goal 14 exception is taken because the size of future industrial buildings could exceed the size authorized on rural lands without goal exceptions under established LCDC practice.

As stated in the prior plans and reports, the southwesterly portion of the Depot site in Morrow County offers significant comparative advantages for industrial development based on the following location and site characteristics:

1. Unique proximity to two interstate freeways (I-84 and I-82) with accessibility to two existing interchanges. There are only seven locations in Oregon where interstate freeways and/or connecting loop freeways intersect,<sup>11</sup> and six of the seven locations are in the Willamette Valley. The locational advantages of such access cannot be overstated. This very close proximity to two interstate freeways makes the Morrow County site, as well as the Umatilla County portions of the Depot site, a significant site for job creation.
2. The Union Pacific (UP) rail line parallels the southerly boundary of the Depot site and UP’s Hinkle Rail Classification Yard is located nearby in Hermiston. Therefore, in

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<sup>10</sup> See discussion in Sections II and III of this report.

<sup>11</sup> See Table 2 on page 14 of this report.



addition to interstate highway accessibility, the Depot site offers unique accessibility to UP's transcontinental railroad system and makes the site, particularly the southwestern portion in Morrow County, ideal for industrial users who desire rail facilities.

3. The depot site is also located within about 2-3 miles of the Columbia River and existing Port facilities for barge transportation on the Columbia River system.
4. The westerly area targeted for Port Industrial development is a very large (+900 acres), level area ideally suited to large-lot industrial users (including but not limited to warehousing and distribution facilities, inter-modal freight transfer facilities, etc.).

As noted above, the Morrow County site already is physically developed or committed to industrial uses and identified for such uses in the county's comprehensive plan. Because of the site's exceptional locational advantages and very large, flat developable area, it makes good common sense to allow industrial activities, including warehouse and distribution uses, to occur here at *any* scale, urban or rural. A parallel can be drawn with the Westland Road portion of Umatilla County, for which a Goal 14 exception was previously approved and acknowledged. Located very close to the I-84 and I-82 freeways, that area already has developed with a number of urban scale uses, including an approximately 100,000 square foot FedEx warehouse and distribution facility; 350,000 square foot Lamb Weston Food Processing plant; 160,000-square foot Americold building; and approximately 180,000 square foot Hermiston Generating Company Power Plant and Substation. With the potential for very large lot industrial development, the Morrow County site likewise is extremely well suited to accommodate this kind of development, and given its existing commitment to industrial uses, this level of development warrants encouragement.

Throughout its long history, many individuals who have worked on construction or other activities at the Depot have been dependent on nearby communities for access to housing, retail and other services. No housing is proposed for the Depot site. Consistent with the long history of military use of the site, it is anticipated that employees of the industrial areas will generally live and shop in nearby communities. By designating this area of the Depot for industrial uses, free of restrictions on whether the uses are "rural" or "urban" in character or size, Morrow County and the Port will have the flexibility needed to market and maximize the economic development and job development potential of this area (approximately 11% of the Depot site acreage). By taking exceptions to Goals 11 and 14, Morrow County will position the southwest portion of the site for large-scale industrial development, consistent with reuse objectives to create as much employment as possible to compensate for jobs that will be lost with closure of the Depot.

By transitioning the southwest portion of the Depot to industrial use, residents and businesses in nearby communities will be able to leverage nearby jobs & demand for services as military employment is replaced by private employment.

**OAR 660-014-0040(3)(a):** *"To approve an exception under section (2) of this rule, a county must also show:*

*(a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities.*

**Findings:** The Depot site is not contiguous with the UGB's of any nearby cities (Hermiston, Boardman, Irrigon or Umatilla). Additionally, there are no designated rural communities in the vicinity of the Depot site. Staff with DLCD submitted comments to the LRA on the 2010

Redevelopment Plan. Excerpts from the DLCD letter are provided below and address the issue of UGB expansion.

*"...The department believes the Depot presents opportunities to achieve multiple win-win outcomes that advance the economic, social and environmental well being of the region and its communities. The department supports dedicating a portion of the Depot property for use by the Oregon National Guard and other areas to be managed by the US Fish and Wildlife Services. The department also agrees that existing development at the Depot makes some areas strong candidates for an exception to natural resource land uses. The department is less certain that currently undeveloped areas of the Depot property could qualify for exceptions to allow urban or rural industrial or commercial uses. Exceptions to justify commercial activities, particularly those that provide urban levels of commercial activity outside an urban growth boundary, can be particularly difficult to justify. Further, it does not appear that any portion of the Depot property is eligible for inclusion in an urban growth boundary at this time."<sup>12</sup> (emphasis added).*

This exception recognizes that a significant amount of urban scale industrially zoned land is available in Morrow County, as shown in Figures 6 of this report and the Regional Economic Opportunities Analysis,<sup>13</sup> Morrow County has zoned approximately 7,500 acres for industrial development within 3 miles of interchanges to I-84. The majority of the designated industrial sites encompass parcels 50 acres and larger. Zoning designations include General Industrial (MG), Port Industrial (PI) and Airport Industrial (AI). In addition to this county inventory, there are about 110 acres of Port industrial park within the City of Boardman UGB. Notwithstanding this supply of available industrial land for urban scale uses, a Goal 14 exception to authorize urban scale industrial development on this property is appropriate because:

1. This property is committed to industrial development; and
2. This property is ideal for warehouse, distribution, rail-related and similar uses that may reasonably require more than 35,000 square foot buildings to serve their purposes.

In planning for future uses of the Depot site, local and regional leaders have attempted to be proactive and plan for and target specific uses that are most appropriate for the Depot site. The southwest portion of the Depot site has long been targeted as an appropriate area for warehousing, distribution and rail related uses. The Port Industrial zoning proposed for this site will not be targeted to airport related uses that are envisioned for the Airport Industrial zoned area near the Boardman Airport. Additionally, the Port Industrial zoning proposed for this site will not be targeted to agricultural processing or other industrial uses that require large volumes of water and are better accommodated at other Port industrial sites with access to municipal water supplies.

In summary, the land intensive Port Industrial uses proposed for the Morrow County portion of the Depot site cannot reasonably be accommodated in or through expansion of existing UGB's or by intensification of development in designated rural communities.

**OAR 660-014-0040(3)(b):** *"To approve an exception under section (2) of this rule, a county must also show: \* \* \*.*

*"(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social, and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly*

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<sup>12</sup> Letter from Jon Jinings and Grant Young (DLCD) to LRA regarding 2010 Redevelopment Plan (April 27, 2010).

<sup>13</sup> Regional Economic Opportunities Analysis, prepared by Johnson Reid, June 2013 – Appendix B.

*more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:*

*“(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate; and*

*“(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.*

**Findings:** Industrial development in the Port Industrial exception area would not be limited by or adversely affect air, water, land or energy resources at or near the site. The airshed at the Depot site is not identified as in violation of any air quality regulations. The various missions and activities at the Depot have resulted in releases of contaminants to the environment in portions of the installation. Environmental remediation and investigation have been taking place since the 1980's and the entire facility has been thoroughly examined and environmental issues have been largely resolved.<sup>14</sup> There is no surface water on the Depot due to the small amount of precipitation and the porous soils. As summarized in Section IV.E of this report, the Depot site is within two of the four critical groundwater areas in the Umatilla River Basin designated by the Oregon Water Resource Department in 1976. Morrow County is not targeting large water users (such as agricultural processing plants) for this exception area. Instead, this industrial area is likely to be attractive to low-water users such as warehouse, distribution and rail-related facilities because of the proximity to rail and the interstate system.

As shown on Figure 1, about 959 acres of the designated Port Industrial lands will be subject to an overlay zone and land disturbance activities will be limited or in some cases prohibited in the area shown. This agreement was negotiated during development of the 2010 Redevelopment Plan to provide additional protection of the shrub-steppe habitat. In essence, only the 913 acres in the southwesterly portion of the exception area will be available for development of new industrial buildings and uses. The 90 existing concrete igloos/bunkers located in the restricted area will be available for storage or other uses (including but not limited to solar panels, communications facilities, etc.).

Given the long history of military warehouse and storage uses and structures in the southwest portion of the Depot – this is a reasonable area to target similar types of industrial uses when the property is transitioned from military use. Industrial uses at this location would be compatible with anticipated uses at the Oregon National Guard training area to the north and east of the exception area. Additionally, existing agricultural uses to the south and west of the industrial exception area would not be adversely affected, largely because Port Industrial development would not encroach into or fragment existing designated EFU areas.

**OAR 660-014-0040(3)(c):** *“To approve an exception under section (2) of this rule, a county must also show: \* \* \*.*

*(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:*

*“(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and*

*“(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured;”*

**Findings:** The proposed urban uses in the southwesterly portion of the exception area will be industrial uses allowed in Morrow County's existing Port Industrial Zone, including but not

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<sup>14</sup> Umatilla Chemical Depot Site Assessment Report, May 2, 2006.

limited to warehouse, distribution and rail-related uses. Such uses have co-existed successfully for decades alongside agricultural uses in the area, thus demonstrating that the uses are compatible and that resource management of surrounding lands zoned EFU can continue. The proposed urban development will not detract from the ability of existing cities and service districts to provide services because it is expected that water and sewer services will generally be provided via on-site systems.

**OAR 660-014-0040(3)(d):** *"To approve an exception under section (2) of this rule, a county must also show: \* \* \*.*

*(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner;"*

**Findings:** Only the administrative area of the Depot is served with a piped sanitary sewer system leading to a treatment facility. The system was installed in the 1940's. Individual septic tanks and drain fields provide for treatment of domestic sewage at locations other than the administrative area. In the Series 100 and 200 warehouse areas, the majority of the buildings have been vacant for years and sewer systems receive no attention.

The water system at the Depot consists of wells, pipeline, and storage reservoirs. The system is divided into two subsystems. One part serves the northwest and north-central portions of the facility and the other system serves the warehouse and administrative areas. The northern system includes three wells providing 2,030 gallons per minute (gpm) and has 120,000 gallons of elevated storage. The southern system includes three wells providing 2,120 gpm and has 250,000 gallons of elevated storage.<sup>15</sup>

The LRA and Morrow County recognize that improvements to on-site infrastructure will be needed to accommodate large-scale new industrial development in the exception area. It is anticipated that the Port will target land extensive, relatively low density industrial uses such as warehousing and distribution that do not require sewer and water services that are provided to industrial sites inside the UGB's. However, the county is coordinating with the newly formed Umatilla Basin Water Commission to explore options to locate wells in the areas of the Depot site designated for industrial development as a component of implementation of the regional aquifer recharge project. Because the facilities provided to the property may serve urban scale uses an exception to Goal 11 is being taken. Goal 11 requires that public facilities and services be appropriate for the needs of rural and urban scale uses.

The existing internal roadway system on the Depot provides a roadway connection east along the southerly boundary of the exception area to the existing Army Depot Interchange to I-84. With improvements, this established right-of-way will accommodate near-term industrial uses in the Morrow County exception area. On a longer-term basis, Morrow County and the Port will coordinate on the potential extension of a roadway to connect the Depot exception area to the west to the Patterson Ferry Road interchange to I-84. Figure 4-9 of the Morrow County Transportation System Plan (2012) already shows this potential road connection.

**OAR 660-014-0040(3)(e):** *"To approve an exception under section (2) of this rule, a county must also show: \* \* \*.*

*"(e) That \* \* \* establishment of new urban development on undeveloped rural land is coordinated with the comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development."*

**Findings:** Because the Umatilla Army Depot has been under federal jurisdiction – the Morrow and Umatilla County Comprehensive Plans have never controlled development in the 17,000

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<sup>15</sup> Umatilla Chemical Depot Site Assessment Report (May 2, 2006), page 24.

acre area. Morrow County and the Morrow Port District have been actively involved in planning for reuse of the Umatilla Army Depot for decades. Designating the southwest portion of the Depot for Port Industrial use is consistent with the "developed and committed" exception that Morrow County took for this area in 1994. Additionally, the Port Industrial designation is consistent with the following objective in the Morrow County Comprehensive Plan:

*"The industrial land designated in the Plan and on the land map reflects the needs of industry for (a) access to highway, rail, and water transportation; (b) access to electric power and natural gas; (c) extensive, level building sites; and (d) room for expansion."<sup>16</sup>*

Angelo Planning Group met with the Morrow County Planning Director and Port District staff on May 14, 2013 to review both the Umatilla Army Depot Transition Zone (UADTZ)<sup>17</sup> and the Port Industrial Zone (PI)<sup>18</sup> for applicability to the industrial exception area. As described in Section VI.A – the UADTZ was added to the Morrow County Zoning Ordinance when the "developed and committed" exception for this area was approved in 1994. Uses permitted outright in the zone are limited to uses of existing buildings. Construction of new buildings requires Planning Commission conditional use permit approval.

Because of the dilapidated condition of the Series 100 and 200 warehouses, it is now expected that the buildings will need to be demolished. Morrow County recently updated the Port Industrial zone to function as an "industrial sanctuary" zone. The Port Industrial zone provides broader flexibility to accommodate a range of port-related uses outright, without the requirement for conditional use review for new buildings. The Planning Director and Port representative both recommended that the Port Industrial Zone be applied to this exception area. Therefore, as part of the public review and adoption process for the exception to Goals 11 and 14, the Port Industrial Zone will be implemented when this exception area is transferred out of federal jurisdiction. In a related action, the Umatilla Army Depot Transition Zone will be deleted from the Morrow County Zoning Ordinance.

In addition, planning for reuse of the Depot has consistently included notice and opportunities for participation by nearby cities (including Boardman, Irrigon, Hermiston and Umatilla) to assure coordination of plans.

### **Summary**

For all of these reasons, the Port Industrial exception area shown in Figure 8 complies with the relevant exception standards in OAR 660-014-0030 and -0040 and exceptions to Goals 11 and 14 are justified.

## **Statewide Planning Goal and Comprehensive Plan Findings**

A goal exception is a comprehensive plan amendment.<sup>19</sup> In addition to the relevant exception standards, the statewide planning goals apply to plan amendments. The goals identified below are the only goals applicable to the plan amendments requested in this application. Goals not identified do not apply.

### **A. Goal 1 (Citizen Involvement).**

Goal 1 requires that local governments provide citizens with opportunities to participate in several phases of land use planning, ranging from broad scale public involvement in the

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<sup>16</sup> Morrow County Comprehensive Plan, page 37.

<sup>17</sup> See Morrow County Zoning Ordinance, Section 3.074.

<sup>18</sup> See Morrow County Zoning Ordinance, Section 3.073.

<sup>19</sup> ORS 197.732(8).

development of comprehensive plans and implementing ordinances to more site-specific review of plan and development proposals. Generally, Goal 1 is satisfied when a local government follows the public involvement procedures for plan amendments set out in its acknowledged comprehensive plan and land use regulations.

Morrow County's regulations for comprehensive plan amendments include notice to the public and to the Department of Land Conservation and Development (DLCD)<sup>20</sup>; public hearings before the Morrow County Planning Commission (which makes a recommendation to the County Court); and public hearings before the Morrow County Court. Compliance with these regulations results in compliance with Goal 1.

The County has gone beyond the basic citizen involvement efforts required by Goal 1 before initiating the goal exceptions/plan amendments for the Umatilla Army Depot. Morrow County and Umatilla County coordinated to hold a joint public meeting of their respective Planning Commissions on August 12, 2013 to provide an overview of the goal exceptions and recommended land use actions for the Depot. Public notice of this meeting was provided to surrounding property owners, agencies and local jurisdictions in proximity to the Depot.

In addition, an Industrial Lands Forum held on June 22, 2013 and meetings with the Umatilla Army Depot Local Reuse Authority (LRA) on May 14, 2013 and July 11, 2013 provided other opportunities for public input to shape the land use strategies for the Depot. For all of these reasons, Goal 1 is met.

#### **B. Goal 2 (Land Use Planning), Part I.**

Goal 2, Part I requires coordination with affected governments and agencies, evaluation of alternatives, and an adequate factual base to support plan amendments. Morrow County representatives have been active participants in planning for redevelopment of the Depot for more than 20 years. Extensive and detailed technical studies and reports have been prepared to support the redevelopment plan for the Depot, including but not limited to market studies, environmental studies, land use studies and infrastructure studies. Numerous agencies have been actively involved in the planning process over a 10-20 year period, including but not limited to DLCD, the Governor's Office, DEQ, ODOT and Business Oregon. Copies of the draft goal exceptions included in this report were provided to DLCD staff and other state agencies for an early review in advance of the 35-day notice for a post-acknowledgement plan amendment.

A regional economic opportunities analysis was prepared to provide context for the unique economic opportunities and constraints available at the Depot. A variety of technical reports were also available from the Redevelopment Plan completed by the Dana Mission Support Team and provided additional information and evidence in support of the goal exceptions and proposed comprehensive plan and zoning recommendations.<sup>21</sup>

The goal exceptions, together with the supporting documents and evidence submitted in support of the exceptions, provide an adequate factual base to support the proposal to apply the Industrial comprehensive plan designation and Port Industrial zoning to the southwest portion of the Depot when lands are transferred out of federal jurisdiction. For these reasons, Goal 2, Part I is met.

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<sup>20</sup> ORS 197.610 requires local governments to provide DLCD with advance notice of proposed comprehensive plan or land use regulation amendments. ORS 197.732(5) requires that each notice of a public hearing on a proposed exception shall specifically note that goal exceptions are being proposed and summarize the issues in an understandable way.

<sup>21</sup> See Final Redevelopment Plan documents at [http://umadra.com/f\\_redevelopment1.html](http://umadra.com/f_redevelopment1.html)

**C. Goal 2 (Land Use Planning), Part II.**

Goal 2, Part II sets out the standards for goal exceptions. For urban uses and urban scale public facilities and services on rural lands, Goal 2 Part II is implemented through OAR 660, Division 4 and OAR 660-014-0040. Goal 2, Part II is satisfied for the reasons set out in the goal exceptions analysis included in Section VI of this application.

**D. Goal 3 (Agricultural Lands).**

Goal 3 requires counties to preserve and maintain agricultural lands for farm uses. Counties must inventory agricultural lands and protect them by adopting exclusive farm use zones consistent with ORS 215.203.

Existing development in the southwest portion of the Depot proposed for the Industrial comprehensive plan designation and Port Industrial zoning includes the following Army structures and supporting infrastructure:

- Series 100 Warehouses – there are thirty buildings located in this area, with an aggregate building area of 455,210 square feet.
- Series 200 Warehouses – there are six buildings on the west side of the complex with an aggregate building area of 518,440 square feet.
- Igloos/Bunkers – there are ninety concrete igloos/bunkers located in the easterly portion of the proposed Port Industrial Zone. The igloos are distributed evenly over a land area of approximately 430 acres.
- A spur line from the Union Pacific Railway parallels the entire south boundary of the Depot; a rail car classification and storage yard is located in the easterly portion of the proposed Port Industrial zone area.

In addition to the historical commitment to warehouse buildings and igloos/bunkers in the area proposed for Port Industrial zoning, underlying soils are almost exclusively Class VII Quincy soils and the area does not have access to water for irrigation.

Soil Name, Unit Number, Description	Land Capability Class	Land Capability Class
	Dry	Irrigated
39 C: Quincy fine sand	7e	Not irrigated
40 C: Quincy loamy fine sand	7e	Not irrigated
<i>Soil Survey of Morrow County Area, Morrow County Planning Department, July 2013</i>		

Therefore, the exception area is not categorized as agricultural land under the Statewide Planning Goals and an exception to Goal 3 is not required to apply the Industrial comprehensive plan designation and Port Industrial zoning. Army warehouse uses have operated compatibly with agricultural uses to the west and south of the proposed Port Industrial zoning for decades.

**E. Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources).**

Goal 5 requires that local governments adopt programs to protect significant natural resources and conserve significant scenic, historic, and open space resources for present and future generations. The procedures and requirements for complying with Goal 5 are outlined in OAR 660, Division 23.

The following resources are addressed under Goal 5:

• Riparian Corridors	• Wetlands
• Wildlife Habitat	• Federal Wild & Scenic Rivers
• Oregon Scenic Waterways	• Groundwater Resources
• Approved Oregon Recreation Trails	• Natural Areas
• Wilderness Areas	• Mineral & Aggregate Resources
• Energy Sources	• Historic Resources
• Open Space	• Scenic Views & Sites

Morrow County has an acknowledged comprehensive plan and land use regulations. The proposal to apply the Industrial plan designation and Port Industrial zoning is defined as a "post-acknowledgement plan amendment" (PAPA) under the Goal 5 rule. OAR 660-023-0250 outlines the applicability of Goal 5 to PAPAs as follows:

- (1) *The requirements of Goal 5 do not apply to land use decisions made pursuant to acknowledged comprehensive plans and land use regulations.*
- (2) *The requirements of this division are applicable to PAPAs initiated on or after September 1, 1996.*
- (3) *Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:*
  - (a) *The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource to address specific requirements of Goal 5;*
  - (b) *The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or*
  - (c) *The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.*
- (4) *Consideration of a PAPA regarding a specific resource site, or regarding a specific provision of a Goal 5 implementing measure, does not require a local government to revise acknowledged inventories or other implementing measures, for the resource site or for other Goal 5 sites, that are not affected by the PAPA, regardless of whether such inventories or provisions were acknowledged under this rule or under OAR 660, Division 16.*

The proposal to apply an Industrial plan designation and Port Industrial zoning to the southwesterly portion of the Depot shown in Figure 1 does not create or amend the County's Goal 5 resource list, create or amend a land use regulation adopted to protect a significant Goal 5 resource, or amend an acknowledged urban growth boundary. Therefore, the only portion of the Goal 5 rule potentially applicable to this PA/ZC application is OAR 660-023-0250(3)(b), which requires the County to determine whether the PAPA will allow a new use that could be a conflicting use with a particular significant Goal 5 resource on the County's acknowledged resource list. The uses that will be allowed under the Port Industrial zoning (warehouses, rail



related uses, distribution, etc.) are very similar to the historical types of uses that occurred in the Series 100 & 200 warehouses located in the southwesterly portion of the Depot.

As described in Section III of this goal exception report, portions of the Umatilla Army Depot and Boeing Lease Lands in Morrow County contain the largest remaining bitterbrush shrub-steppe habitats in the Columbia Basin. As such, the Depot provides valuable habitat for native plant and animal species.

Planning for the Depot has consistently emphasized three overarching goals for future use of the site:

- Military Reuse (accommodating the needs and plans of the Oregon National Guard)
- Environmental Preservation (with a special emphasis on the shrub-steppe habitat)
- Economic Development (job creation)

Figure 1 illustrates how these goals will be achieved with adoption of a Depot Plan District and zoning as part of the Morrow and Umatilla County Comprehensive Plans.

As shown in Figure 1, a total of 5,678 acres are set aside for wildlife habitat. While ownership and management of the Habitat area is not yet confirmed, zoning is being applied and a significant area of shrub-steppe habitat will be protected, consistent with the objectives of Goal 5.

Additionally, Morrow County will apply a "Limited Use Overlay" to the easterly 959 acres of the Port Industrial Area shown with cross-hatch in Figure 1. Land disturbance activities will be limited to provide additional protection of shrub-steppe habitat. Use and maintenance of the existing bunkers and roadways in this area will be allowed for uses permitted in the Port Industrial Zone under the Limited Use Overlay, but ground disturbance activities will be limited or in some cases not permitted.

The Depot site is within two critical groundwater areas (Ordinance Basalt and Gravel) designated by the Oregon Water Resource Department (OWRD) in 1976. The critical groundwater areas have been closed to further groundwater appropriation and, in some subareas, existing water uses have been curtailed. However, the critical groundwater areas are regulated by OWRD and are not regulated under Goal 5. None of the other resources addressed under Goal 5 have been identified in the area proposed for Port Industrial zoning.

Therefore, applying the Industrial plan designation and Port Industrial zoning to the area shown in Figure 1 is consistent with Goal 5.

#### **F. Goal 6 (Air, Water and Land Resources Quality).**

Goal 6 addresses the quality of air, water and land resources. In the context of comprehensive plan amendments, a local government complies with Goal 6 by explaining why it is reasonable to expect that the proposed uses authorized by the plan amendment will be able to satisfy applicable federal and state environmental standards, including air and water quality standards.

The proposed plan amendments do not seek approval of a specific development. Rather, applying Morrow County's existing Port Industrial zone to the southwest portion of the Depot will accommodate a broad range of industrial uses, including but not limited to manufacturing, warehousing, processing, packaging, compounding, assembly, storage and distribution of products.

New development will require a Zoning Permit, and conditions on development would include requirements to obtain permits to assure compliance with relevant air and water quality standards. This could include air quality or water discharge permits from DEQ for certain industrial processes. Where new areas are paved, water cannot penetrate the soils. This can

increase erosion, increase the movement of fine sediments, and increase pollutant loads in watercourses. The use of construction techniques that include temporary and permanent Best Management Practices for erosion and sediment control and spill control and prevention also can achieve compliance with clean water standards.

The uses authorized by the requested plan amendments should not create noise that differs from the types of industrially-related noise associated with the long history of Army activity in the area. The location of these uses in close proximity to the rail corridor and I-84 will reduce overall noise impacts because highway and railroad generated noise muffles and obscures other noises located nearby. The EFU zoning to the west and south of the proposed Port Industrial zoning and very low density of dwellings in the vicinity means any new noise impacts associated with new Port Industrial development would be negligible.

Therefore, it is reasonable to expect that future Port Industrial development at this location could satisfy state and federal environmental standards for maintaining and improving the quality of air, water and land resources as required by Goal 6.

#### **G. Goal 9 (Economic Development).**

Goal 9 requires local governments to adopt comprehensive plans and policies that "contribute to a stable and healthy economy in all regions of the state." Morrow County's comprehensive plan has been acknowledged to comply with Goal 9.

A key objective of the Morrow County Comprehensive Plan is to accommodate industry without encroaching on residential or agricultural development. Additionally, industry is to be protected from encroachment by incompatible uses.

Morrow County has designated land for industrial uses based on the needs of industry for (a) access to highway, rail, and water transportation; (b) access to electric power and natural gas; (c) extensive, level building sites; and (d) room for expansion.<sup>22</sup>

Technically, the administrative rule that implements Goal 9 applies only to lands inside UGBs.<sup>23</sup> Planning for industrial and commercial uses outside of UGBs is not required or restricted by LCDC's rule implementing Goal 9. However, Morrow and Umatilla Counties went beyond the requirements of the Goal 9 administrative rule and cooperated to prepare a Regional Economic Opportunities Analysis (Regional EOA) to support the land use planning strategy for the Depot.<sup>24</sup>

Key economic development assets of the region are highlighted in the Regional EOA and include:

- Transportation linkages
- Substantial inventory of industrial sites to accommodate a range and intensity of uses
- Abundant energy supplies
- Well-organized and supportive economic development climate

This application will supplement the County's inventory of industrial lands in a location that has a long history of "industrial scale" uses. This is consistent with the objective of Goal 9 to "contribute to a stable and healthy economy in all regions of the state."

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<sup>22</sup> Morrow County Comprehensive Plan, Page 37.

<sup>23</sup> See OAR 660-009-0010(1).

<sup>24</sup> Johnson Reid LLC, Regional Economic Opportunities Analysis for Morrow and Umatilla Counties (July 2013)

**H. Goal 11 (Public Facilities and Services).**

Goal 11 requires local governments to plan and develop a timely, orderly and efficient arrangement of public facilities and services. The goal provides that urban and rural development "be guided and supported by types and levels of services appropriate for, but limited to, the needs and requirements of the urban, urbanizable and rural areas to be served."

Counties are not required to prepare Public Facilities Plans under Goal 11. Outside of the UGB's, the level of service provided to the proposed Port Industrial area may exceed the level considered to be appropriate for and needed to serve the rural area. Accordingly, the plan amendments to allow industrial development on rural lands included in this application require and have taken Goal 11 exceptions.

**I. Goal 12 (Transportation).**

Goal 12 requires local governments to "provide and encourage a safe, convenient and economic transportation system." Goal 12 is implemented through the Transportation Planning Rule, OAR 660, Division 12. That rule encourages a multi-modal transportation system. The proposed amendments support such a system by permitting and facilitating rail related uses on the spur lines that extend into the Port Industrial area.

OAR 660-012-0060 provides that where a plan amendment would significantly affect an existing or planned transportation facility, measures must be taken to assure that the allowed land uses are consistent with the identified function, capacity and performance standards of the facility. Because the historical levels of activity at the 17,000-acre Umatilla Army Depot have ceased and because the existing I-84 / Army Depot Interchange currently experiences very light traffic, operates well below its capacity and performance standards, no significant effect is anticipated.

Additionally, the Umatilla Army Depot Reuse Authority is currently developing coordinated interchange area management plans (IAMPs) for the three existing interchanges that will influence future development on the Depot site (Patterson Ferry / I-84, Army Depot / I-84 and Westland / I-82). This transportation planning work is being done within the context of a broader Subarea Transportation Plan. The Subarea Transportation Plan will identify connections between the interchanges, lay out the local circulation system that will support future activity on the Depot site, and identify phased implementation steps to achieve the overall transportation system and mitigate any potential transportation impacts from future development.

Developing the three IAMPs in a comprehensive manner will give Morrow and Umatilla counties the ability to coordinate the adoption of the IAMPs into their respective Transportation System Plans (TSPs). The IAMP process is expected to be completed in 2014 and applying the Industrial plan designation and Port Industrial zoning is consistent with Goal 12 and the TPR.

**J. Goal 13 (Energy Conservation).**

Goal 13 directs cities and counties to manage and control land uses to maximize the conservation of all forms of energy, based on sound economic principles. The proposed amendments will help conserve energy by consolidating industrial lands in proximity to existing railroad and interstate highway facilities and providing opportunities for jobs in proximity to housing located in nearby UGBs.

**K. Goal 14 (Urbanization).**

As relevant to this application, Goal 14 prohibits urban uses on rural lands. To locate urban uses on rural lands, local governments either must expand their UGBs to include the subject property or take a Goal 14 exception setting forth reasons why urban development should be allowed on rural land and explaining why the urban use cannot reasonably be located inside the UGB. This

application includes an exception to Goal 14 to allow urban scale industrial development on rural lands. The justification for that exception is set out in Section VI of this application.

## Transportation Strategy

To accommodate the requirements of Goal 12, the Transportation Planning Rule (TPR) and to address the unique circumstances associated with future use of the Umatilla Army Depot, a specialized joint transportation planning effort between UMADRA, Morrow County, Umatilla County, and ODOT is now underway for the site. The Umatilla Transportation System Subarea Plan / Combined Interchange Area Management Plan will focus on the following key elements:

- Quantifying the transportation impacts associated with potential future reuse and redevelopment activities. This planning effort will acknowledge that there has historically been an employment presence on the site – whether related to military operations or to the more than 1,000 employees who worked at the Umatilla Chemical Disposal Facility (UMCDF) as the stockpiled chemical weapons were incinerated. This level of employment at a single industrial site is of a scale that would be considered “urban” in terms of employment densities and existing traffic generation (primarily accessing via the 1-82 / Westland interchange).
- Creating a local circulation plan - Currently lacking a transportation infrastructure capable of supporting future reuse and redevelopment activities, the planning effort would identify the outline of a local circulation network within both Morrow and Umatilla Counties.
- Identifying regional access impacts at existing freeway interchanges - The Oregon Highway Plan (OHP) policies direct the Oregon Department of Transportation (ODOT) to actively plan for and manage freeway interchange areas to ensure they function safely and efficiently. The Umatilla Army Depot site is situated near the confluence of I-84 and I-82 and has varying degrees of access to both freeways. As such, the transportation planning effort will need to address the special interchange area planning requirements (typically referred to as Interchange Area Management Plan or IAMPs) in accordance with the provisions of OAR 734-051-7010. Based on initial discussions with ODOT, the following three interchanges would be influenced by future development of the Umatilla Army Depot site and would need to be included in the planning process:
  1. I-82/Westland Road Interchange
  2. I-84/Army Depot Interchange
  3. I-84/Patterson Ferry Road Interchange

The Umatilla Army Depot Transportation Subarea Plan will address safety, existing and planned land use, local circulation, and operations/access management elements associated with the three interchanges. The plan will identify any needed transportation improvements and access management needs at the study interchanges and identify phasing, if appropriate, for identified improvements, and state and local policy changes that will be needed to implement the plan. Policies to guide subsequent decision-making by local government agencies to take actions that are consistent with and implement the overall transportation plan will be developed.

The overall transportation plan will include the following outcomes:

- **Identify and prioritize a local circulation network to accommodate potential land use modifications and subsequent future development;**

- Identify and prioritize interchange improvements to the three study area interchanges. This would include access management techniques along the crossroads such as driveway consolidation, parallel road improvements, median control, and acquisition of access to properties;
- Identify land use strategies and ordinances that may be used to preserve highway capacity, safety, and performance standards of the three interchanges;
- Identify improvements for all transportation modes, including multi-modal facilities and pedestrian and bicycle needs;
- Include street cross-section standards and streetscape designs;
- Include likely funding sources and clear requirements for the construction of the infrastructure and facility improvements as new development is approved. The plan must identify partnerships where cooperative management responsibility for projects will be necessary in the future. The plan will include language requiring coordinated review of land use decisions affecting transportation facilities.

Preparation of the Umatilla Transportation System Subarea Plan is expected to be complete by September 2014. Following completion, the transportation planning recommendations will be used to:

- Address the requirements of Statewide Planning Goal 12 – Transportation and the Transportation Planning Rule (TPR);
- Coordinate with the Oregon Department of Transportation on management plans for the three interstate interchanges that could potentially be affected by the land use recommendations; and
- Identify implementation actions and amendments to the Morrow and Umatilla Counties Transportation System Plans.

## **Comprehensive Plan Findings and Policies**

### **Findings**

1. The Umatilla Army Depot (Depot) is a unique facility and land use in the State of Oregon. Established more than seventy years ago by the U.S. Army, the Depot site encompasses approximately 17,000 acres spanning Morrow and Umatilla Counties. Due to its federal ownership, the Depot in its entirety has never been zoned by Morrow and Umatilla Counties. Early in the Reuse process in the early 1990s Morrow County did identify a portion of the southwest corner for potential development and took a Goal 3 exception, and created and applied the Umatilla Army Depot Transition Zone.
2. Morrow County has been an active partner in the years of planning to transition the Depot away from military operations toward a more comprehensive use of the property. Planning for the Depot has consistently emphasized three overarching goals for future use of the site:

- Military Reuse (accommodating the needs and plans of the Oregon National Guard)
  - Environmental Preservation (with a special emphasis on the shrub-steppe habitat)
  - Economic Development (job creation)
3. In 2013, the Umatilla Army Depot Local Reuse Authority (LRA) endorsed an economic development and land use strategy for the Depot.
  4. To implement the economic development goals for the Depot, Morrow County is proceeding with Statewide Planning Goal Exceptions to Goals 11 (Public Facilities & Services) and 14 (Urbanization) to apply Port Industrial zoning to approximately 1,872 acres within Morrow County in the southwest corner of the Depot as land is transferred out of federal jurisdiction.
  5. About 959 acres of the designated Port Industrial lands will be subject to a Limited Use Overlay Zone and land disturbance activities will be limited or in some cases prohibited. The existing concrete igloos/bunkers located in the Limited Use Overlay Zone will be available for storage or other uses (including but not limited to solar panels, communications facilities, etc.).

#### **Policies**

1. As land within the Depot is transferred out of federal ownership, Morrow County will apply an Industrial comprehensive plan designation and Port Industrial zoning to the southwestern corner of the Army Depot.
2. By taking Goal 11 and 14 exceptions, urban-scale industrial uses and public facilities and services will be allowed in the area zoned Port Industrial and building size will not be restricted.
3. Morrow County will apply EFU zoning to the approximately 634 acres north of the military area when that area is transferred out of federal ownership.
4. Morrow County is applying the Umatilla Army Depot Transition Zone to the area designated for Military use to be available when that property would become available for reuse. The County expects the Oregon National Guard and the Oregon Military Department to coordinate with the County as they develop a facility plan for the site, consistent with state agency coordination requirements in ORS 197.180.
5. Morrow County is applying the Umatilla Depot Wildlife Habitat Zone to the area designated for Wildlife Habitat if and when that land is transferred out of federal ownership.
6. Morrow County is participating in the Transportation System Subarea Plan/Combined Interchange Area Management Plan (IAMP) for the three existing interchanges that have the potential to be influenced by the redevelopment plan and land use changes proposed. This will assure a coordinated and comprehensive approach to identifying the

timing/phasing of land development and associated transportation improvements (including local circulation and interchange improvements). Transportation system recommendations from this planning effort will be incorporated into Morrow County's Transportation System Plan.

Umatilla Army Depot  
Depot District Plan  
Attachment B  
Comprehensive Plan Map



**Depot Plan District - Comprehensive Plan**

**AG**

(634 Ac)

**MILITARY**

(7,500 Ac)

**IND.**

(265 Ac)

**WILDLIFE HABITAT**

(5,678 Ac)

**INDUSTRIAL**

(1,672 Ac)

**IND.**

(129 Ac)

**INDUSTRIAL**

(884 Ac)

Morrow County  
Umatilla County

**Depot Plan District  
Comprehensive Plan  
Designations**

- |                        |                              |
|------------------------|------------------------------|
| Plan District Boundary | Roadway Network Phasing Plan |
| Agriculture            | Phase 1                      |
| Military               | Phase 2                      |
| Industrial             | Phase 3                      |
| Wildlife Habitat       |                              |
| County Boundary        |                              |

0 2,500 5,000 Feet



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aergrid, CNR, IGN, JP2, swisstopo, and the GIS User Community

Umatilla Army Depot  
Depot District Plan  
Attachment C  
Zoning Map

# Depot Plan District - Zoning

**EFU**

(634 Ac)

**UMATILLA ARMY DEPOT  
MILITARY ZONE**

(7,500 Ac)

**DEPOT  
INDUSTRIAL**

(184 Ac)

(81 Ac)

**UMATILLA DEPOT  
WILDLIFE HABITAT  
ZONE**

(5,708 Ac)

**DEPOT  
INDUSTRIAL**

(129 Ac)

**DEPOT INDUSTRIAL**

(884 Ac)

**UMCD PI LU  
OVERLAY**









(913 Ac)

(959 Ac)




**PORT INDUSTRIAL**

Morrow County  
Umatilla County

## Depot Plan District Zoning Districts

-  Port Industrial
-  Exclusive Farm Use
-  Umatilla Army Depot Military Zone
-  Depot Industrial
-  Umatilla Depot Wildlife Habitat Zone
-  Deed-Restricted
-  County Boundary
-  Depot Industrial Subarea (See Zoning Code)

**Roadway  
Network  
Phasing Plan**

-  Phase 1
-  Phase 2
-  Phase 3

0 2,500 5,000  
Feet



Source: Esri, DigitalGlobe, GeoEye, Earthstar, USGS, AEX, Getmapping, Aergrid, IGN, IGP, Swisstopo, and the GIS User Community

Umatilla Army Depot  
Depot District Plan  
Attachment D  
Use Zones

**SECTION 3.010. EXCLUSIVE FARM USE, EFU ZONE.** In an EFU Zone, the following regulations shall apply:

A. **PURPOSE:** The purpose of the Exclusive Farm Use Zone is to preserve and maintain agricultural lands for farm use consistent with historical, existing, and future needs, including economic needs that pertain to the production of agricultural products, and to permit the establishment of only those uses that are compatible with agricultural activities.

Uses, buildings, or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the Exclusive Farm Use Zone shall comply with the following regulations.

**B. DEFINITIONS**

1. **Agricultural Land:** as defined in OAR 660-33-020 and Article 1 of this Ordinance.

2. **Farm Use:** as defined in ORS 215.203 and in Article 1 of this Ordinance.

3. **High Value Farmland:** as defined in ORS 215.710. (For information about soil classification, refer also to the "Soil Survey of Morrow County, Oregon.")

4. **Date of Creation and Existence:** When a lot, parcel, or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel, or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.

5. **Tract:** One or more contiguous lots or parcels under the same ownership, including lots or parcels divided by a County or Public Road, or contiguous at a common point. Lots divided by a State Highway are not considered contiguous.

6. **Golf Course:** An area of land with highly maintained natural turf laid out for the game of golf with a series of 9 or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(3) is more clearly defined in OAR 660-033-130(20).

7. **Irrigated:** Land watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, or receives water for irrigation from a water or irrigation district or other provider.

8. **Farm Stand:** A use or structure designed and used for sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and the farm stand does not include structures designed for occupancy as a residence or for activities other than the

sale of farm crops and livestock and does not include structures for banquets, public gatherings, or public entertainment.

9. Owner: For purposes of a Lot of Record Dwelling, "Owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, niece, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.

C. USES PERMITTED OUTRIGHT. In an EFU Zone the following uses and accessory uses thereof are permitted outright:

1. Farm use as defined by ORS 215.203 and Article 1 of this ordinance, except a use specified in subsection (2) of this section.
2. Propagation or harvesting of a forest product.
3. Buildings other than dwellings customarily provided in conjunction with farm use.
4. One single family dwelling subject to Section (E) below and Section 4.110, customarily provided in conjunction with farm use.
5. A single family dwelling for an agricultural operator's help (accessory farm dwelling) subject to Section (E) below.
6. A replacement dwelling may be sited on any part of the same lot or parcel, subject to siting standards in this ordinance. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, the applicant, as a condition of approval, shall execute and record a deed with the County Clerk, a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the Planning Director and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling. The Planning Director shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this section, including a copy of the deed restrictions and release statements filed under this section.
7. Creation, restoration and enhancement of wetlands.
8. Creation, restoration and enhancement of wildlife habitat.
9. Climbing and passing lanes within a highway right-of-way existing as of July 1, 1987.

10. Reconstruction or modification of public roads and highways not including additional travel lanes, where no removal or displacement of structures would occur and not resulting in any new land parcels. (MC-C-8-98)

11. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed. (MC-C-8-98)

12. Minor betterment of existing public roads and highway facilities, such as maintenance yards, weight stations and rest areas, within right-of-ways existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways. (MC-C-8-98)

13. Alteration, restoration or replacement of a lawfully established dwelling that meets all the following criteria:

- a. Has intact interior walls and roof structure;
- b. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
- c. Has interior wiring or interior lights;
- d. Has a heating system; and
- e. In the case of replacement, is removed, demolished or converted to a permitted non-residential use within 90 days of completion of the replacement dwelling.

14. Restoration or replacement of the lawful use of any building, structure or land may be permitted when the restoration is made necessary by fire, other casualty or natural disaster, and shall meet the following:

- a. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster.
- b. Any use interrupted or abandoned by casualty or natural disaster for more than (12) months may not be resumed unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

15. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in an inventory of historic property and is listed on the National Register of Historic Places.

16. Utility and transmission towers not exceeding 200 feet in height.

17. Public or private schools, including all buildings essential to the operation of a school, except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and

OAR 660, Division 4, and further that no such use may be authorized on high value farmland.

18. Churches and cemeteries in conjunction with churches except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4, and further that no such use may be authorized on high value farmland.

19. A site for the disposal of solid waste approved by a city or county governing body and for which a permit has been granted by the Department of Environmental Quality under ORS 459.245, including the equipment, facilities, and building necessary for its operation, except that such uses are prohibited on high value farmland.

20. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).

21. Operations for the exploration of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005 including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. (Processing of said resources is a conditional use.)

22. Seasonal farm worker housing provided for seasonal farm workers as defined in ORS 197.675 and to be occupied for no more than nine months not to exceed 273 days within any calendar year. The housing shall also meet the requirements of ORS 197.685.

23. A winery as described in ORS 215.452.

24. Subdivisions and Series Partitions for the purpose of establishing "non-farm dwellings" pursuant to ORS 92.010 - 92.190, and 92.305-92.495 are prohibited in the Exclusive Farm Use Zone.

25. Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.

26. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary, subject to restrictions of OAR 660-033-130(26).

27. Mining less than 1,000 cubic yards of aggregate material or excavation of less than one acre of land annually. (MC OR-1-2013)

28. Excavations conducted by the landowner or tenant on the landowner or tenant's property for the purpose of operations reasonably necessary for construction, reconstruction or maintenance of access roads on the same parcel or on an adjacent parcel that is under the same ownership as the parcel being excavated reasonably necessary for farming. (MC OR-1-2013)



D. **CONDITIONAL USES PERMITTED.** In an EFU Zone, the following uses and their accessory uses are permitted subject to demonstration of compliance with the requirements of Article 6 of this ordinance and Section (G) below:

1. Single-family residential dwellings including mobile homes subject to Section 4.110 of this ordinance not provided in conjunction with farm use, subject to approval pursuant to the limitations set forth by section (F) below.
2. One single family dwelling on a tract of record, meeting the following qualifications:
  - a. The lot or parcel on which the dwelling will be sited was lawfully created and owned continuously by the present owner as defined in the definitions section:
    - (1) Since prior to January 1, 1985; or
    - (2) By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
  - b. The tract upon which the dwelling is to be sited does not include another dwelling.
  - c. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;
  - d. The lot or parcel upon which the dwelling is to be sited is not on high value farmland as defined in the definitions section.
  - e. If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.
  - f. The director or the director's designee shall notify the county assessor of any decision to permit a dwelling under this section.
  - g. Land use approval for a single family dwelling meeting requirements of this section may be transferred one time to any other person, prior to issuance of a building permit.
  - h. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.
  - i. Notwithstanding the requirements of paragraph d, a single-family dwelling may be sited on high-value farmland if:

(1) It meets the other requirements of this section.

(2) The lot or parcel is protected as high-value farmland as defined in OAR 660-33-020(8)(a); and

(3) The Planning Commission determines that:

(a) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, the criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use.

3. Accessory (secondary) farm dwellings, including mobile homes subject to Section 4.110, customarily provided in conjunction with farm use and meeting the following minimum requirements:

a. It meets all the following requirements:

(1) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and

(2) The accessory dwelling will be located:

(a) On the same lot or parcel as the dwelling of the principal farm dwelling; or

(b) On the same tract as the principal farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

(c) On a lot or parcel on which the principal farm dwelling is located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reappraised under these rules.

(3) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

b. In addition to the requirements in subsection a, above, the principal farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(1) On land not identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:

(a) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

(b) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(2) On land identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

c. The county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of Section (E), a parcel may be created consistent with the minimum parcel size requirements in Section (H).

d. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Section (F).

e. As a condition of approval, the landowner for the dwelling shall sign and record in the Morrow County deed records a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or

forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

4. One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A medical hardship dwelling may be permitted subject to conformance with the following:

a. A manufactured dwelling allowed under this provision is a temporary use for the term of hardship suffered by the existing resident or relative.

b. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.

c. When the hardship ends, the manufactured home shall be removed and may not be used to justify a dwelling under any other provision of this ordinance.

d. Hardship means a medical hardship or hardship for the care of an aged or infirm person or persons.

e. The Planning Commission or Planning Director shall review the permit authorizing such manufactured home every two years.

f. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed non-residential use. A temporary residence approved under this section is not eligible for replacement under ORS 215.213(l)(u) or 215.283(l)(t).

5. Residential home as defined in ORS 197.675 in an existing dwelling.

6. Room and board (bed and breakfast) arrangements for a maximum of five unrelated persons in an existing residence.

7. Livestock sales yard, hog or mink farm within one mile of a lot in a residential zone.

8. Commercial activities that are in conjunction with farm uses but not including the processing of farm crops pursuant to ORS 215.213(l)(x) and 215.283(l)(u).

9. Propagation, cultivation, maintenance, and harvesting of aquatic or insect species. An application for insect species shall also be subject to OAR 660-033-0130(27).

10. Operations conducted for the exploration, mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.

11. Operations conducted for the mining, stockpiling, or processing of mineral, aggregate and other mineral resources or other subsurface resources not to exceed 500,000 tons subject to Article 6 of this Ordinance and provisions within the Morrow County Comprehensive Plan which requires a significance determination. (MC OR-1-2013)

12. Private parks, playgrounds, hunting and fishing preserves and campgrounds except that such uses as are prohibited on high value farmland. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660 Division 4. A campground shall meet the definition and criteria established in OAR 660-033-130(19).

13. Parks, playgrounds or community centers owned by a governmental agency or non-profit community organization.

14. Golf Courses except that such uses are prohibited on high value farmland.

15. Commercial utility facilities for the purposes of generating power for public use by sale. A power generation facility shall not preclude more than 12 acres of high value farmland or 20 acres of other land from commercial farm use unless an exception is approved pursuant to OAR 660 Division 4.

16. Utility facilities "necessary" for public service, excluding commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height. A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the factors listed in OAR 660-033-0130(16).

17. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by his invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1976 shall continue to be permitted subject to any application regulations of the Aeronautics Division.

18. Home occupation. Home occupations may be permitted in accordance with the following:

On High Value lands:

- a. Homes occupations may only be authorized in an existing dwelling and structures accessory to an existing dwelling.
- b. Home occupations may not be authorized in structures accessory to resource use.
- c. A home occupation located on high-value farmland may employ only residents of the home.

On all other EFU lands:

- a. A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located.
- b. A home occupation shall employ on the site no more than five full time or part time persons.
- c. The home occupation shall be operated substantially in the dwelling; or other buildings normally associated with uses permitted in the zone in which the property is located.
- d. The home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
- e. Construction of a structure that would not otherwise be allowed in the zone is not permitted.

19. A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in subsection (2) of ORS 215.203.

20. Dog kennels, except that such uses are prohibited on high value farmland.

21. A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

22. Construction of additional passing and travel lanes requiring the acquisition of right-of-way, but not resulting in the creation of new land parcels.

23. Reconstruction or modification of public roads and highways involving the removal or displacement of structures but not resulting in the creation of new land parcels.

24. Improvement of public roads and highway related facilities such as maintenance yards, weigh stations, and rest areas, where additional property or right of way is required, but not resulting in the creation of new land parcels.
25. Farm ranch recreation, pursuant to Oregon Law Chapter 728 (1997), in conjunction with a commercial farming or ranching operation subject to Article 6.
26. Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.
27. Expansion or relocation of existing county fair and rodeo grounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210. (MC-03-05)
28. Operations for the extraction and bottling of water.
29. Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-96-020.
30. A wildlife habitat conservation and management plan pursuant to ORS 215.804.
31. A facility for the processing of farm crops, subject to OAR 660-033-0130(28).
32. A living history museum as defined in and in accordance with the criteria established in OAR 660-033-0130(21).
33. Utility facility service lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
  - a. A public right of way;
  - b. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
  - c. The property to be served by the utility.
34. An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under this Section.
35. Any gathering subject to review by the Planning Commission under the provisions of ORS 433.763. These gatherings and any part of which is held in open spaces are those of more than 3,000 persons which continue or can reasonably be expected to continue for more than 120 hours within any three-month period.

**E. REQUIREMENTS FOR DWELLINGS CUSTOMARILY PROVIDED IN CONJUNCTION WITH FARM USE**

1. High Value Land. On land identified as high value farm land, a dwelling may be considered customarily provided in conjunction with farm use if:

a. The subject tract is currently employed for the farm use that produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years.

b. Except as permitted in ORS 215.283(1)(q), there is no other dwelling on the subject tract.

c. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income.

d. In determining the gross income requirement, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

2. 160-acre test. On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

a. The parcel on which the dwelling will be located is at least 160 acres.

b. The subject tract is currently employed for farm use, as defined in ORS 215.203.

c. The dwelling will be occupied by an owner or a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale. If the owner is not principally engaged in the day to day farm operation, no accessory dwelling for farm help may be authorized.

d. There is no other dwelling on the subject tract.

3. Income Test. On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

a. The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years gross annual income of at least \$40,000; and

b. There is no other dwelling on the subject tract; and

c. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in (a) above.

d. In determining the gross income required by the subsection the cost of purchased livestock shall be deducted from the total gross income attributed



to the tract. Only gross income from land owned, not leased or rented, shall be counted.

4. Capability Test. If the county prepares the potential gross sales figures pursuant to OAR 660-33-0135(4), the county may determine that, on land not identified as high value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

- a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract.
- b. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection a above.
- c. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in subsection b above.
- d. The subject lot or parcel on which the dwelling is proposed is not less than 10 acres in size.
- e. Except as permitted in ORS 215.283(l)(p), there is no other dwelling on the subject tract.
- f. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection c above.
- g. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.

F. REQUIREMENTS FOR DWELLING NOT PROVIDED IN CONJUNCTION WITH FARM USE. Dwelling not provided in conjunction with farm use may be authorized upon findings that:

1. There is no other dwelling on the parcel.
2. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.
3. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern of the area, the county shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated. To address this standard, the county shall:

a. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban residential or other urban nonresource uses shall not be included in the study area.

b. Identify within the study area the broad types of farm use (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwelling (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under this section, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph.

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

4. The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land.

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

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

6. Shall not be located within one mile of a livestock commercial feedlot, livestock sales yard, slaughter house, hog or mink farm, or within one-quarter (1/4) mile of agricultural lands capable of being intensively farmed, unless adequate provisions are provided and approved by the Commission for a buffer between such uses. The establishment of a buffer shall consider such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factor that may affect the livability of such proposed use or the agriculture of the area.

G. Dimensional Standards. In an EFU Zone, the following dimensional standards shall apply:

1. A lot or parcel of 160 acres or more shall be considered a farm unit.
2. A lot or parcel of less than 160 acres may be approved as a farm unit pursuant to the Conditional Use Permit process and when found to comply with the Agricultural Lands policies of the Comprehensive Plan and the provisions of Section 5.120 of the Morrow County Subdivision Ordinance.
3. The minimum average lot width shall be 150 feet with a minimum street frontage of 150 feet, excepting lots within an approved subdivision.
4. The minimum average lot depth shall be 150 feet.
5. Big Game Range Restrictions: In the case of Farm Use areas identified as Big Game Habitat no dwelling will be authorized where the overall density within a square mile exceeds one dwelling per 160 acres. Section 3.200 also applies to the siting of a dwelling on Big Game Habitat.
6. New parcels for nonfarm uses only as authorized by ORS 215.263 may be created. Such new parcels shall be the minimum size needed to accommodate the use in a manner consistent with other provisions of law except as required for the nonfarm dwellings authorized by Section F. The creation of new lots or parcels for dwellings not in conjunction with farm use may be created pursuant to Section F and ORS 215.263(4). The county shall not approve a subdivision or

series partition for a dwelling not provided in conjunction with farm use. The provisions of this subsection regarding a series partition apply only to applications for a land division submitted after July 1, 1997. For purposes of this subsection, "series partition" shall have the meaning given that term in ORS 92.305.

H. Yards. In an EFU Zone, the minimum yard setback requirements shall be as follows:

1. The front yard setback from the property line shall be a minimum of 100 feet if the property line is adjacent to an intensive agricultural use except as approved by the Commission; otherwise, front yards shall be 20 feet for property 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 for combining accesses are provided and approved by the County.

2. Each side yard shall be a minimum of 20 feet except that on corner lots or parcels the side yard on the street side shall be a minimum of 30 feet, and for parcels or lots with side yards adjacent to an intensive agricultural use the adjacent side yard shall be a minimum of 100 feet, except as approved by the Commission.

3. Rear yards shall be a minimum of 25 feet, except for parcels or lots with rear yards adjacent to an intensive agricultural use rear yards shall be a minimum of 100 feet, except as approved by the Commission.

4. Stream Setback. All sewage disposal installations such as outhouses, septic tank and drainfield systems shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.

I. 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 projects 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)

### **SECTION 3.073. PORT INDUSTRIAL ZONE, PI**

Purpose. The PI zone is intended to regulate development at portions of the Port of Morrow Industrial Park and other appropriate locations. The zone is intended to provide for port-related industrial uses and be an industrial sanctuary, limiting commercial uses to those appropriate and necessary to serve the needs of the workers employed within the zone. (MC OR-2014-1)

In the PI zone the following regulations shall apply:

A. Uses Permitted with a Zoning Permit and subject to the provisions of this Section. Outside activities are permitted within the scope of allowed uses outlined below. Port Industrial projects utilizing more than 100 acres are subject to Site Development Review (Article 4 Supplementary Provisions Section 4.170 Site Development Review). (MC OR-2014-1)

1. Water-dependent and related industrial uses.
2. Aerospace-related industrial uses.
3. Chemical and primary metal industrial uses which are port-related.
4. Port-related industrial uses which are land intensive.
5. Lumber and wood-products manufacturing and other related industrial uses which are port-related.
6. Effluent disposal of industrial wastes and agricultural activities in conjunction therewith.
7. Manufacturing, refining, processing or assembling of any agricultural, mining or industrial product.
8. Manufacturing, repair, servicing and storage of machinery, implements, equipment, trailers, recreational vehicles or manufactured homes with retail sales and rentals only associated with the primary use.
9. Power generating and utility facilities.
10. Oil module production and shipping and related industrial uses which are port-related.
11. Ship building and repair.
12. Any other industrial use authorized by ORS 777.250(1) through (3) unless Site Development Review is triggered.
13. Buildings, structures, offices and other uses customarily accessory to and in conjunction with permitted uses in the PI zone.
14. Rail facilities, including but not limited to rail lines, spurs, turnouts, switches, signals, rail car storage and related facilities. (MC OR-2014-1)
15. Rail loop and spur dependent uses.

16. Concrete or ready-mix manufacturing plant.
17. Data Center.
18. Uses allowed outright in the General Industrial Zone, not including residential caretaker use.
19. Facility for security personnel and activities involved in the policing, control, regulation and management of property which may include sleeping facilities, but which is not a dwelling.
20. Intermodal transportation facilities not requiring an Oregon Department of Environmental Quality Solid Waste Disposal Site Permit, such as a truck intermodal facility or rail to truck.
21. Outdoor Advertising Sign or Billboard.

**B. Conditional Uses.**

1. Commercial uses appropriate and necessary to serve the needs of workers employed within the zone. Total cumulative square footage of retail floor space shall not exceed 10,000 square feet within areas zoned PI or 10% of the area of any building or complex of buildings, unless the applicant provides information justifying a larger area.
2. Other buildings and uses similar to the list above which shall not have any different or more detrimental effect upon the adjoining areas or districts than the buildings and uses specifically listed, shall only be incidental and directly related to the operation of permitted Port Industrial uses.
3. Quarry, gravel pit, subsurface or surface mining, including crushing, screening or washing of extracted materials.
4. Asphalt plant.
5. Intermodal transportation facilities that have been designated a transfer station by the Department of Environmental Quality and must acquire a Solid Waste Disposal Site Permit. These facilities must meet the requirements of the Morrow County Solid Waste Ordinance.

**C. Limitations on Uses.**

1. Material shall be stored and grounds shall be maintained in a manner which will not create a health hazard.
2. All related provisions of the Oregon Revised Statutes shall be complied with, particularly those dealing with hazardous substances and radioactive materials.

**D. Dimension Requirements.** The following dimensional requirements apply to all buildings and structures constructed, placed or otherwise established in the PI zone. (MC OR-2014-1)

1. Minimum front yard setback: Thirty (30) feet. No structure shall be erected closer than ninety (90) feet from the center line of any public, county or state road. Structures on corner or through lots shall observe the minimum front yard setback on both streets.
2. Minimum side and rear yard setback: ten (10) feet.
3. Minimum lot coverage: No limitation.
4. Maximum building height: No limitation.
5. Exceptions to the setback regulations are as follows:
  - a. There shall be no setback requirement where a property abuts a railroad spur if the spur will be utilized by the permitted use.
  - b. Side and rear lot requirements may be waived on common lot lines when adjoining lot owners enter into a joint development agreement for coordinating vehicular access and parking development. Party wall or adjoining building walls must meet fire separation requirements of the State of Oregon Structural Specialty Code and Fire and Life Safety Code. The joint development agreement must be approved by the Port of Morrow as to form and content, recorded in the Morrow County Clerk's office and a copy must be provided to the Planning Department.

E. Interpretation.

1. In the event that it is unclear that a proposed use is a permitted use within the PI zone, the Planning Director shall initially make such a determination. Notice of the Planning Director's decision shall be mailed to all owners of real property located within 250 feet of the subject property. Any person entitled to such notice or who is adversely affected or aggrieved by the decision may request a public hearing pursuant to Section 9.030 of this Ordinance within 15 days following the mailing of the Planning Director's decision.
2. When an intermodal transportation facility handles solid waste in a situation that is considered temporary and when solid waste is transferred in a non-containerized or non-typical manner the Planning Director shall make a notice of decision concerning this action. This notice shall be mailed to all owners of real property located within 250 feet of the subject property Based on the temporary nature of these activities this decision is final and is not subject to appeal or hearing. (MC OR-2014-1)

F. Transportation Impacts. Transportation Impacts will be evaluated using provisions within Article 4 Supplementary Provisions Section 4.010(F) Access within the Influence Area of an Interchange. If that provision is not applicable a Traffic Impact Analysis as outlined in the Morrow County Transportation System Plan will be required if the necessary thresholds are triggered. (MC OR-2014-1)

## **SECTION 3.120 UMCD PI LIMITED USE OVERLAY ZONE**

**Purpose:** The purpose of the UMCD PI Limited Use Overlay Zone is to provide guidance concerning the development of approximately 959 acres of designated Port Industrial zoned lands. These lands are identified on the UMCD PI Limited Use Overlay Zone Map and include roads and bunkers used as part of the Army Depot.

Land disturbance activities will be limited and may be prohibited in this area. The existing concrete igloos/bunkers located in the Limited Use Overlay Zone will be available for permitted and conditional uses as outlined below.

- A. Uses permitted with a Zoning Permit and subject to the provisions of this Section and the provisions of Article 4 Section 4.165.
  - 1. Ecotype Preserve/ Wildlife Refuge/Open Space Preserve and associated accessory uses including but not limited to wildlife observation facilities, plant propagation facilities for on-site restoration, natural heritage interpretive displays, and public restrooms.
  - 2. Low impact recreation facilities including but not limited to non-motorized uses such as hiking trails, bicycling paths, equestrian trails, and picnic facilities.
  - 3. Observatory.
  - 4. Utility facilities and roads including the construction and maintenance of electric and telephone transmission lines, gas and water distribution lines, sewage collection lines, road development and maintenance, construction and maintenance of railroad lines, and related facilities, but excluding commercial facilities for the purpose of generating power for public use.
  - 5. Commercial storage in existing structures with existing access. Use shall be limited to igloos that have direct access to a roadway.
  
- B. Uses permitted with a Conditional Use Permit are subject to applicable provisions within this Section and Article 6. A zoning permit will be issued following final approval of a conditional use
  - 1. Commercial operations conducted for the mining and processing of geothermal resources, aggregate and other mineral resources or other subsurface resources.
  - 2. Farm use that provides a net benefit to the wildlife habitat, excluding livestock feedlots and sale yards and hog and poultry farms,.
  - 3. The propagation or harvesting of a forest product.



4. Commercial solar power generation for sale for public use.
  5. Private cemetery or burial site.
- C. Dimensional Standards. In this Zone, the following dimensional standards shall apply.
1. Minimum Parcel. The minimum lot size shall be one acre unless written proof, from the Department of Environmental Quality, is provided which shows that an approvable subsurface disposal system can be permitted, or the minimum lot size shall be the minimum necessary to carry out the intent and purpose of the proposed use and is also consistent with the purpose and intent of this Zone and the PI Zone.

## **SECTION 3.074 UMATILLA ARMY DEPOT MILITARY (UADM) ZONE**

- A. Purpose: The purpose of the Umatilla Depot Military Zone is to recognize the area in the Morrow County portion of the Army Depot that will be utilized by the National Guard Bureau (NGB), Oregon National Guard (ONG) and the Oregon Military Department (OMD). Morrow County has adopted this zone for two reasons: to recognize land uses by the military that will be allowed outright, without local land use permits, and as a zone that will apply to state or private landowners at the point in time that the land is no longer in federal ownership. It is recognized that development with a primary purpose of carrying out the ONG military mission is allowed outright and development with a commercial or industrial purpose that is not directly related to military mission will be subject to local land use regulations. The purpose of this zone is to ensure the OMD location has the appropriate Comprehensive Plan and Zoning designation to provide for ONG facilities and functions.
- B. Military Uses allowed Outright. Such uses will be carried out in a safe manner, consistent with Oregon National Guard protocol. Neighboring property owners should be aware that noise and vibration are common elements of such ONG training activities and are allowed without local restriction. The following uses are allowed without local permits:
1. Military use and related military support uses including operation of live fire weapons, laser, and demolition ranges;
  2. Conduct of vehicular, aerial, and dismounted maneuver training;
  3. Field bivouac operations;
  4. Operations, maintenance, and construction of structures for the warehouse, operation, repair, and construction of equipment, administration, simulations, classroom and instructional facilities, billeting and dining facilities, morale, welfare, recreation, and fitness facilities and structures; and
  5. Utility and infrastructure support facilities such as energy generators or energy generation facilities, water distribution systems, and wastewater treatment facilities with the purpose of providing services to the activities on the subject parcel and not for commercial or industrial purposes.
- C. Uses Permitted with a Zoning Permit. The following uses and their accessory uses are permitted upon the issuance of a zoning permit. The ONG is exempt from this permit requirement for development that is intended for military purposes and not for commercial or industrial purposes.
1. Buildings and structures that are existing and used for warehousing and related uses.
  2. Rail oriented warehousing and railroad related industries.
  3. Support facilities, but not new residential units, for on-site staff.
  4. Offices for administrative and transportation activities.
  5. Vehicle and railroad repair facilities.
  6. Refueling and transportation service centers.
  7. Container storage and trans-shipment facilities.
  8. Farming (EFU).
  9. Wildlife Reserve/Agriculture Wildlife.
  10. Police/Fire training.

D. **Conditional Uses Permitted.** Uses allowed in the adjacent Port Industrial Use Zone may be permitted conditionally subject to the requirements of this Section and Article 6 to include findings that the proposed use: complies with the Comprehensive Plan, Zoning Ordinance, and other relevant County policies; will serve a useful purpose to the area and to the purpose of the UADM Zone as stated herein; and will be designed and built so as to reduce potential negative impacts to neighboring parcels and the primary purpose of the UADM Zone. All conditional use applications associated with the established UADM Zone shall submit as part of the application a general land use plan schematic for the Zone, and a more detailed site plan for the specific conditional use request sufficient to evaluate design and land use considerations associated with the permit request. A zoning permit will be issued following final approval of a conditional use.

E. **Dimensional Standards.** The following dimensional standards shall apply:

1. **Parcel Size.** The minimum lot size shall be one acre unless written proof, from the Department of Environmental Quality is provided which shows that an approvable subsurface disposal system can be permitted or the development is served by an existing sanitary system. The minimum lot size shall be the minimum necessary to carry out the intent and purpose of the proposed use and is also consistent with the purpose and intent of the UADM Zone.
2. **Setback.** No building shall be located closer than 20 ft. from a property line, street or road.

### **SECTION 3.035 UMATILLA DEPOT WILDLIFE HABITAT, UDWH ZONE**

Purpose: The purpose of the (UDWH) Umatilla Depot Wildlife Habitat Zone is to provide a dedicated zoning classification to preserve the natural shrub-steppe desert landscape and contribute to the preservation of wildlife and wildlife habitat. It is also designed to retain a natural landscape and open space resource of regional significance, and to provide for low impact recreation, natural and historic heritage interpretation, and environmental education opportunities. Uses are limited to those that will provide for the protection, restoration and management of wildlife and wildlife habitat resources within the zone.

- A. Uses permitted with a Zoning Permit and subject to the provisions of this Section and the provisions of Article 4 Section 4.165.
  - 1. Ecotype Preserve/ Wildlife Refuge/Open Space Preserve and associated accessory uses including but not limited to wildlife observation facilities, plant propagation facilities for on-site restoration, natural heritage interpretive displays, and public restrooms.
  - 2. Interpretive/visitor center not to exceed 15,000 square feet (larger facilities require conditional use approval). Said uses can include facilities such as natural and historic heritage displays, exhibit areas, gallery, small theater, administrative offices, classrooms, dining areas/café, planetarium, subsidiary gift/book shop, public conveniences, and associated parking.
  - 3. Low impact recreation facilities including but not limited to non-motorized uses such as hiking trails, bicycling paths, equestrian trails, and picnic facilities.
  - 4. Observatory.
  - 5. Utility facilities and roads including the construction and maintenance of electric and telephone transmission lines, gas and water distribution lines, sewage collection lines, road development and maintenance, construction and maintenance of railroad lines, and related facilities, but excluding commercial facilities for the purpose of generating power for public use.
  - 6. Commercial storage in existing structures with existing access. Use shall be limited to igloos that have direct access to a roadway.
- B. Uses permitted with a Conditional Use Permit are subject to applicable provisions within this Section and Article 6. Also required will be findings that the proposed use: complies with the Comprehensive Plan, Zoning Ordinance, and other relevant County policies; will serve a useful purpose to the area and to the purpose of the UDWH Zone as stated herein; and will be designed and built so as to reduce potential negative impacts to both neighboring parcels and the primary purpose of the UDWH Zone. All conditional use applications associated with an established UDWH Zone shall submit as part of the application a general land-use plan

schematic for the Refuge/Preserve indicating the longer range management and facilities vision for the Zone, and a more detailed site plan for the specific conditional use request sufficient to evaluate design and land-use considerations associated with the permit request. A zoning permit will be issued following final approval of a conditional use

1. Interpretive/visitor center with accessory uses, not including parking, in excess of 15,000 square feet.
  2. Commercial operations conducted for the mining and processing of geothermal resources, aggregate and other mineral resources or other subsurface resources.
  3. Short term stay (14 days or less) commercial campground with associated support facilities.
  4. Farm use that provides a net benefit to the wildlife habitat, excluding livestock feedlots and sale yards, and hog and poultry farms.
  5. The propagation or harvesting of a forest product.
  6. Commercial solar power generation for sale for public use.
  7. Private cemetery or burial site.
- C. Dimensional Standards. In the UDWH Zone, the following dimensional standards shall apply.
1. Minimum Parcel. The minimum lot size shall be one acre unless written proof, from the Department of Environmental Quality, is provided which shows that an approvable subsurface disposal system can be permitted, or the minimum lot size shall be the minimum necessary to carry out the intent and purpose of the proposed use and is also consistent with the purpose and intent of the UDWH Zone.
  2. Setback. No building shall be located closer than 20 ft. from a property line, street or road.