

BEFORE THE MORROW COUNTY COURT
OF MORROW COUNTY

AN ORDINANCE AMENDING THE MORROW
COUNTY COMPREHENSIVE PLAN AND
COMPREHENSIVE PLAN MAP TO APPLY AN
INDUSTRIAL DESIGNATION AND ZONING
MAP TO APPLY THE RURAL LIGHT
INDUSTRIAL USE ZONE TO THE SUBJECT
PROPERTY TOTALING APPROXIMATELY 18
ACRES

COUNTY ORDINANCE
NO. 4MC-01-2007

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, a request was filed by Jedidiah and Cindy Aylett to change the zoning of the subject property which totals approximately 18 acres from Exclusive Farm Use to Rural Light Industrial; and

WHEREAS, the Morrow County Planning Commission held a hearing to review the request on July 31, 2007, at the Morrow County School District Building in Lexington, Oregon, and on August 28, 2007, at the North Morrow County Annex Building in Irrigon, Oregon; and

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

WHEREAS, the Morrow County Court held a hearing to consider the recommendation of the Morrow County Planning Commission on September 19, 2007, at the Port of Morrow Riverfront Center in Boardman, Oregon; and

WHEREAS, the Morrow County Court did consider the testimony and evidence presented to them;

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 "Aylett 2007 Zone Change." In support of this adopting ordinance the Final Planning Commission Findings of Fact with attachments is included as Exhibit 1.

Section 2 Zone Change

1. The Comprehensive Plan and Comprehensive Plan Map of Morrow County shall be amended to designate the property as Industrial. The Zoning Map of Morrow County shall be amended to designate the subject property as Rural Light Industrial.

2. The affected property, approximately 18 acres, is a portion of tax lot 1100 of Assessor's Map 4N 27 28. The final configuration and exact acreage will be determined by a land partition required as part of this action.

Section 3 Effective Date

Given that it is the policy of the State of Oregon that time is of the essence in deciding Land Use matters and based upon the request of Mr. Aylett for quick action, an emergency is declared to exist, and this ordinance shall be effective immediately upon execution.

DONE AND ADOPTED BY THE MORROW COUNTY COURT THIS 26th DAY OF SEPTEMBER, 2007.

ATTEST:

Bobbi Childers

Bobbi Childers
County Clerk



MORROW COUNTY COURT:

Terry K. Tallman

Terry K. Tallman, Judge

Absent

John E. Wenzholz, Commissioner

APPROVED AS TO FORM:

Ryan Swinburnson by Karen Wolff

Ryan Swinburnson
County Counsel

Ken A. Grieb

Ken Grieb, Commissioner

EXHIBIT 1

**Final Planning Commission Findings of Fact
Comprehensive Plan, Comprehensive Plan Map and Zoning Map Amendment
Comprehensive Plan Map Amendment AC(M)-004-07
Zoning Map Amendment AZ(M)-002-07
Amended August 17, 2007
Further amended August 29, 2007**

REQUEST: To change the Comprehensive Plan Designation to Rural Industrial and apply the Rural Light Industrial Zone to the subject property.

APPLICANT: Jedidiah and Cindy Aylett
75816 Frontage Road
Hermiston OR 97838

OWNER: Same

PROPERTY DESCRIPTION: A portion of Tax Lot 1100 of Assessor's Map 4N 27 28

PROPERTY LOCATION: South of Interstate 84 along Frontage Lane west of County Line Road

I SUMMARY OF APPLICATION AND PROCESS:

In November 2006 Mr. Aylett submitted to Morrow County a Measure 37 Claim on the subject property requesting to use the property for commercial and/or industrial purposes. The Morrow County Court denied that claim for a number of reasons, but most importantly because Mr. Aylett has the ability under current land use law to apply for the changes he would like to make on the subject property.

There is significant history with this property including past code enforcement actions, an approved Conditional Use Request, and the Measure 37 Claim. There are a number of improvements on the property including manufactured homes, shops, a cellular tower and irrigation improvements. Approximately 18 acres of the subject property (286 acres) is part of this application for a Zone Change.

To assist Mr. Aylett in preparing his application a land use consultant was retained and the resulting application is attached. Attached to the application is a vicinity map and a map that attempts to locate the general vicinity of the 18 acre zone change. *Also attached is an aerial map as requested.*

- 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 in the Morrow County Comprehensive Plan. The necessary steps are outlined in the chapter Review and Revision Processes. There are no specific criteria identified, but there is a statement that "the public need and justification for the particular change should be established." Also to be considered are changes in Oregon Revised Statutes, Oregon Case Law, Oregon Statewide Planning Goals, Requirements of the County and its Cities, Needs of Residents or Landowners, and Concerns of the County and other Affected Governmental Units. The Morrow County Zoning Ordinance Article 8 Amendments will also apply, specifically Section 8.050 Burden and Criteria. Staff evaluate this request below with criteria in **bold type** and responses in regular type.

The Morrow County Comprehensive Plan states that “**the public need and justification for the particular change should be established**”: Planning staff would state the public need for this change is the continuing growth and development of Morrow County. The application submitted does identify this criteria on page 6 with continuing analysis under other Statutory and Rule requirements.

Morrow County Zoning Ordinance Article 8 Amendments Section 8.050. Burden and 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 neighbourhood, 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. That conditions have changed since the adoption of the Comprehensive Plan and zoning map that warrant an amendment, or that there was a mistake in the original designation.

Planning staff would state the conditions have changed since adoption of the Comprehensive Plan in 1980 and its acknowledgment in 1986. The County has grown significantly over these past 20 to 25 years with an increase in jobs and a shifting of populations centers. There is a need in the County for land appropriately zoned to allow commercial and light industrial uses. While the County has a large supply of Port Industrial, General Industrial and Air Industrial zoned land, because of ownership and the mission of the Port of Morrow there is a lack of rural commercial and industrial zoned land.

B. That public services and facilities are sufficient to support a change in designation, including, but not limited to, streets and roads (refer to the Transportation System Plan and Transportation Planning Rule).

Public Services (telephone and electricity) are available at the site and along Frontage Lane. Water and septic would need to be provided on site with appropriate approvals from Oregon Water Resources Department and the Oregon Department of Environmental Quality. The subject property is in the Boardman Rural Fire Protection District. The road network serving the property consist of County roads (Frontage Lane, County Line Road and Patterson Ferry Road) and the State highway system (Interstate 84). Frontage Lane is identified as a Major Collector as is Patterson Ferry Road. There is sufficient capacity on both of these roads as well as Interstate 84 to adequately serve any additional traffic generated by this zone change.

Frontage Lane is identified within the current Morrow County Transportation System Plan as a Major Collector. A traffic count done over eight days on Frontage Lane identified an average count of 280 trips. This number is below the Roadway Standards identified in the Transportation System Plan for a Rural Collector 1 of between 300 - 500 Average Daily Traffic or ADT.

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.**

The applicant has addressed these criteria in their application on pages 8 and 9. Planning staff would not place any immediate requirements on the applicant for this request. However the County does have in its Transportation System Plan the ability to require a Traffic Impact Analysis if a certain level of average daily trips is anticipated for a proposed use. Additionally other provisions of the Zoning Ordinance would apply, particularly Article 4 Supplementary Provisions, at the time of development.

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)**

Planning staff concur with the applicant that the proposed zone change would not significantly impact the level of service of Frontage Lane. But future considerations may need to be addressed. To protect the County's future interests in Frontage Lane and potential improvements that may be needed Planning staff do recommend and list as a Condition of Approval that the *subsequent land partition contain a requirement that the applicant sign and record with the required Partition Plat a Consent to Participate Agreement for future improvements to Frontage Lane.*

A letter was received prior to the last hearing from Umatilla County's Department of Resource Services and Development (see attached). Planning staff have not at the time of this mailing (August 17, 2007) discussed with Umatilla County staff what their request fully entails. While a request for a development agreement appears to be easy to accomplish there are procedural issues that are problematic. Planning staff intend to bring to the Planning Commission Public Hearing some thoughts and possible agreements that could be accomplished between the owner and the two Counties.

Some limited discussion has taken place between the applicant and Umatilla County, but no agreement has been presented. If an agreement is entered into it would need to be recorded in the Morrow County Deed Records against the subject property. At the August 28, 2007 Planning Commission Public Hearing the need and scope of an agreement was discussed. Members of staff and the Planning Commission agreed that any agreement should be based on impact, not just use. Current traffic counts on Frontage Lane are less than the minimum for its designation as a major collector. A use

that triggered a Traffic Impact Analysis with 400 ADT would still have Frontage Lane within the ADT for a major collector based on the Morrow County TSP. The Planning Commissions recommendation was to forward the request to the County Court for approval without specific language related to Umatilla County's request.

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

The applicant has addressed this criteria beginning on page 9 of their application. Planning staff would generally concur with their statements of fact and analysis.

There was additional testimony at the first Public Hearing by Tom Creasing, representing the Hermiston Gun Club. Their request was to be on the record the nature of their facility and its existence at the time this zone change request is being considered. Planning Commission identified that possibly the Recreation Element of the Comprehensive Plan should, at a minimum, address the Hermiston Gun Club as a recreational opportunity in Morrow County. As the Recreation Element is currently undergoing a review along with an update to the Morrow County Master Park Plan Planning staff agreed to incorporate appropriate language into the Recreation Element of the Comprehensive Plan. Planning staff will also add to our work program a review of statute and rule for language that would support the Hermiston Gun Club's existence from a land use perspective.

D. The factors listed in ORS 215.055 or others which relate to the public need for healthful, safe and aesthetic surroundings and conditions.

ORS 215.055 has been repealed. Other factors concerning the health, safety and welfare of the Morrow County public should be considered. The application submitted regularly incorporates comments and evidence that support this criteria. Planning staff would consider it met *with one exception. Planning staff do recommend and list as a Condition of Approval that the applicant submit an application for a Land Partition not to exceed 20 acres identifying the portion of the subject property affected by this zone change.*

- III **DLCD 45 DAY NOTICE:** June 15 2007
- IV **PROPERTY OWNER NOTICE:** July 11, 2007
- V **LEGAL NOTICE:** Heppner Gazette Times and East-Oregonian
July 18, August 15, and September 5, 2007
- VI **AGENCIES NOTIFIED:** Joni Hammond, Oregon Department of Environmental Quality; Jon Jinnings, Ron Eber and Mara Ulloa, Department of Land Conservation and Development; George Ruby and Teresa Peninger, Oregon Department of Transportation; Tamra Mabbott and Hal Phillips, Umatilla County; Marc Rogelstad, Boardman Rural Fire Protection District; Gary Neal, Port of Morrow; Greg Sweek, Morrow County Assessor; Burke O'Brien, Morrow County Public Works; Judson Coppock, Morrow County Surveyor; County Court.

VII HEARING DATES:

Planning Commission
July 31, 2007
Morrow County School District Building
Lexington, Oregon

August 28, 2007
North Morrow County Annex Building
Irrigon, Oregon

County Court
September 19, 2007
Port of Morrow Riverfront Center
Boardman, Oregon

IX RECOMMENDATION OF THE MORROW COUNTY PLANNING DEPARTMENT:

Recommend to the Morrow County Court approval of the change to the Comprehensive Plan, Comprehensive Plan Map and Zoning Map with the following Conditions of Approval:

1. Submit an application for a Land Partition *to adequately identify the specific property of not more than 20 acres that is subject to this zone change.*
2. *The subsequent land partition contain a requirement that the owner sign and record with the required Partition Plat a Consent to Participate Agreement relative to future improvements to Frontage Lane.*


Leann Rea, Chair

8-30-2007
Date

Attachments:

Application as prepared by Leslie Ann Hauer
July 30 letter form Umatilla County Department of Resource Services and Development
Vicinity Map, Subject Property Map, Aerial Photo
Rural Light Industrial Use Zone language

**Application for Comprehensive Plan Map and
Zoning Map Amendment**

Applicant/Owner	Jedediah & Cindy Aylett 75816 Frontage Road Hermiston, OR 97838 Contact: Jedediah Aylett Home: (541) 567-5938
Representative	Leslie Ann Hauer 6100 Collins Road West Richland, WA 99353 (509) 967-2074
Location	South of U.S. Interstate 84, west of County Line Road
Legal Description	Portion of Tax Lot 1100, Section 28 T4N R27E
Site Size	18 Acres
Comprehensive Plan	Exclusive Farm Use
Zone	Exclusive Farm Use (EFU)
Proposal	Change the Comprehensive Plan Designation to “Rural Industrial” and apply the “RLI” (Rural Light Industrial) Zone

Proposal

This application proposes an amendment to the Morrow County Comprehensive Plan to change the map designation of an 18 acre portion of Tax Lot 1100, Section 28, T4N R27E, W.M. from “Agriculture” to “Industrial”, and an amendment to the Zoning Map to apply the “Rural Light Industrial” (“RLI”) Zone.

The purpose of this narrative is to identify the applicable criteria and standards in the Morrow County Zoning Code, and to demonstrate that this proposal complies with all requirements. The application includes a discussion of the “reasons” and “developed” exceptions standards from the Oregon Revised Statutes (“ORS”) and Oregon Administrative Rules (“OAR”).

Applicable Criteria and Standards

An amendment to the Comprehensive Plan Map and Zoning Map must demonstrate that the following criteria for review are satisfied:

Zoning Ordinance

Article 3: Use Zones

Section 3.075 Rural Light Industrial Zone, RLI

Article 8: Amendments

Oregon Revised Statutes (“ORS”) and Oregon Administrative Rules (“OAR”)

ORS 197.732 Goal exceptions

OAR 660-004-0020 Goal 2, Part II(c), Exception Requirements

OAR 660-004-0022 Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

OAR 660-004-0025 Exception Requirements for Land Physically Developed to Other Uses

These criteria and standards will be discussed in the following narrative, along with relevant factual information to demonstrate conformance with all requirements.

Site Description

The site is located south of US Interstate 84, west of County Line Road. The “site” for purposes of the application is approximately 18 acres in a triangular shape across the north portion of Tax Lot 1100 south of Frontage Road, excluding the residence at 76625 Frontage Road. The site has a single driveway to the Frontage Road. Access to I-84 is available at the Ordnance Depot exit, approximately one mile to the east.

Various buildings occupy the site, along with a large graveled area for the parking and storage of vehicle and equipment and an undeveloped area used for longer term storage of equipment. Existing structures on the site include the following:

Existing Buildings & Structures

Existing Buildings & Structures	Comment
Manufactured home	Established on the site in or prior to 1985
Frame residence	Established on the site ca. 1940; now partially demolished
Shop/storage building	Constructed in 1983
Cell Tower	Permit issued in 2000
Old shop	Replaced by “new shop”; now partially destroyed by fire
Old dairy barn	Small block building

Water rights are available for the irrigated circle that covers most of the south part of Tax Lot 1100, but not for the remaining portion of the tax lot considered the “site” for purposes of this application.

The site has previously been the subject of the following land use and related actions:

Site & Permit History from County Records

Date	Action
Ca. 1940	Frame residence (now abandoned)
1983	Permit issued for shop and storage building
1985	Permit issued for manufactured home
2000	Permit issued for cell tower
2000	Enforcement action evicted a non-farm related business
2004	CUP for commercial use in conjunction with a farm use approved

Since the site has no water rights, this portion of Tax Lot 1100 has not been farmed although various uses, some farm-related, have occurred on the site and in the buildings. The vehicle and equipment storage use approved in 2004 as a “commercial use in conjunction with a farm use” replaced a similar truck and equipment storage use, though

not “in conjunction with a farm use.” In short, the site has not been farmed for many years, though land that is not used for farming can be considered a “farm use” in some circumstances and some of the uses on the site could have been considered “farm uses” under ORS 215.203.¹

¹ For convenience, the relevant portion of ORS 215.203 is quoted here. Note that “wasteland” is considered a “farm use” at ORS 215.203.(2)(a)(E).

215.203 Zoning ordinances establishing exclusive farm use zones; definitions. (1) Zoning ordinances may be adopted to zone designated areas of land within the county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established only when such zoning is consistent with the comprehensive plan.

(2)(a) As used in this section, “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. “Farm use” also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. “Farm use” also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. “Farm use” includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. “Farm use” does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).

(b) “Current employment” of land for farm use includes:

(A) Farmland, the operation or use of which is subject to any farm-related government program;

(B) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;

(C) Land planted in orchards or other perennials, other than land specified in subparagraph (D) of this paragraph, prior to maturity;

(D) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;

(E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;

(F) Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.213 (1)(x) and 215.283 (1)(u);

(G) Water impoundments lying in or adjacent to and in common ownership with farm use land;

The soil on the site is identified as “Burbank loamy fine sand” (“8B”) by the National Resources Conservation Service. This is a soil type found in relatively flat areas (2% to 5% slopes). The agricultural capability class is VIIe dryland or IVe irrigated. The “e” indicates highly erodible. Class IV land is included in the definition for agricultural land.² However, the site has no water right and no irrigation, therefore the site with Class VIIe soil is not considered agricultural land under the rule.

(H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;

(I) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;

(J) Any land described under ORS 321.267 (3) or 321.824 (3); and

(K) Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing.

(c) As used in this subsection, “accepted farming practice” means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

(3) “Cultured Christmas trees” means trees:

(a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(b) Of a marketable species;

(c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

(d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation.

² OAR 660-033-0020(1)(a)(A)

Discussion of Applicable Criteria and Standards

This application proposes amendments to both the Comprehensive Plan Map and the Zoning Map. Each requires a somewhat different analysis. In addition, an “exception” to Goal 3 is necessary to change the Comprehensive Plan designation from “Agriculture” to “Industrial”.

Morrow County Comprehensive Plan

The Morrow County Comprehensive Plan includes a chapter on “Review and Revision Processes”.³ The Plan calls for a biennial review to determine conformity with changes in

- 1. The Oregon Revised Statutes;*
- 2. Oregon Case Law;*
- 3. Oregon Statewide Planning Goals;*
- 4. Requirements of the County and Cities;*
- 5. Needs of residents or landowners within the County and Urban Growth areas;*
- 6. Concerns of the County and other affected governmental units.⁴*

Minor or quasi-judicial changes are “those which do not have a significant effect beyond the immediate area of the change” and require a “factual basis to support the change” as well as establishing the “public need and justification for the particular change....”⁵ Additional requirements of the chapter are procedural in nature, calling for notice, hearings, and so on.

The proposed Comprehensive Plan map amendment is a quasi-judicial change. As will be discussed further, no impact—certainly no “significant” impact—is anticipated from a change in designation for this site. Rather, the proposed change in designation is consistent with the present and historical use of the site.

No review criteria are provided for an amendment to the Comprehensive Plan, other than the criteria for the biennial review. The application is not prompted by changes to the ORS, case law, or Planning Goals (Criteria 1 through 3) or concerns of the county or

³ Comprehensive Plan, pages 295-298.

⁴ Comprehensive Plan, pages 295-296.

⁵ Comprehensive Plan, pages 296-297.

other agencies (Criterion 6). To some degree, however, the application does respond to the remaining two criteria:

Criterion 4: Morrow County adopted zoning code amendments in February, 2006, that established the “Tourism Commercial” and “Rural Light Industrial” zoning districts. The Rural Light Industrial Zone (“RLI”), incorporated into the Zoning Ordinance as Section 3.075, provides for a variety of uses suitable for non-UGB areas:

A. PURPOSE The Rural Light Industrial (RLI) Zone is designed to provide suitable areas for the development of small scale industry that does not require full urban services. The intent is to provide industrial uses of a local nature, unlike the uses that would normally be sited in the Port or General Industrial Zones. This zone can accommodate incubator facilities and allows storefront businesses. This zone is to be applied in areas where transportation opportunities are already in place and available.

This new zoning district, which has not yet been applied on the ground, includes the sorts of uses for which the site is suitable and for which the site has been used. This change in the County’s requirements, therefore, indicates a need for this type of land use which is not currently being met—as no area has been designated to date—and which could be met through designation of the subject site.

Criterion 5: The needs of residents or landowners within the County include a certain level of commercial and industrial services available in rural areas. This is essentially the determination made by the County Court in adopting the new zoning districts. The County’s population has increased, along with business and traffic associated with I-84. Some businesses are more suitable for rural locations, where potential impacts from heavy vehicle traffic or large storage areas are less noticeable and intrusive due to limited population density. Also, some businesses simply need larger land areas that may not be available within an Urban Growth Boundary (“UGB”) or may not be the best use of limited land that is available within an UGB.

For these reasons, the proposed Comprehensive Plan map amendment supports the relevant criteria listed in the Comprehensive Plan.

Morrow County Zoning Ordinance

Article 8 of the Zoning Ordinance sets forth the criteria for consideration of a change to the zoning map at 8.050:

A. That conditions have changed since the adoption of the Comprehensive Plan and zoning map that warrant an amendment, or that there was a mistake in the original designation.

The County's staff report from 2006 explains the changes in circumstances since the Comprehensive Plan was adopted, including the County's population growth and concomitant need for additional businesses and services, along with an increase in traffic—especially truck traffic—on I-84. The Port of Morrow owns most of the available industrially designated land and there is a need for more dispersed industrially designated sites to support other areas of the County.

Criterion A is satisfied because conditions in Morrow County have changed, requiring services that are dispersed throughout the County to support an increased population.

B. That public services and facilities are sufficient to support a change in designation, including, but not limited, to streets and roads (refer to the Transportation System Plan and Transportation Planning Rule).

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....

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. Altering land use designations, densities, or design requirements to reduce demand for automobile travel to meet needs through other modes.

Public services are sufficient to support the proposed change in zoning designation. Public sewer, water, and storm drainage are not available to the site and activities have been – and are anticipated to continue – at a low level that would not require “urban” levels of services.

Frontage Road is designated a “Major Collector” in the County's Transportation System Plan. The anticipated traffic for a road with this classification is given as a range for Rural Collectors I through III, with a Type I having 300 to 500 daily trips and a Type III having between 100 to 200 daily trips (Table 6-1).

Existing and future traffic volumes are provided in Figures 3-3 and 3-5, and reproduced here for convenience:

Frontage Road Traffic

Location	Present Daily Trips	Projected Daily Trips
At Patterson Road/I-84 interchange	430 trips	700 trips
At Ordnance Depot/I-84 interchange	390 trips	625 trips

Clearly, the classification of Frontage Road may need to be reconsidered at some point in the future as the projected daily trip levels exceed the “major collector” designation.

For purposes of this application, the present level of use at the site is expected to be similar to the trip generation level if rezoned. This level of intensity of use and trip generation would also be consistent with the uses previously allowed on the property, i.e. vehicle and equipment storage.

In summary, Criterion B is satisfied because the proposed change in zoning does not need public utility facilities (urban level of facilities) and is not anticipated to generate additional trips, certainly not to a level that would require a change in street classification (although, as noted, such a change may be inevitable in the future).

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

The proposed amendment to the Comprehensive Plan map is consistent with the unamended portions of the plan and relevant policies.

Citizen Involvement: This plan element calls for citizen involvement in the planning process and periodic re-evaluations of the Plan.

This application will be considered at public hearings before the Planning Commission and County Court, where citizen participation is encouraged. Through consideration of the application, a re-evaluation of the Plan map for the area will be reviewed by the County.

General Land Use Element: The Plan recognizes both the need to maintain productive farmlands and to allow non-farm development when compatible with adjacent farm uses and not disruptive to established farm uses and practices. Non-farm uses should have adequate public services, access to a County road, and have sufficient area for the use proposed.

This application will recognize the established non-farm nature of the uses that have occurred on the site. The recent vehicle and equipment storage businesses that have leased the site have been similar to the farm related vehicle maintenance and storage engaged in by the property owner. Any other use allowed in the RLI Zone would also be likely to have low traffic generation and low impacts on the adjacent farm activity (irrigated circle).

Agricultural Land Use: Irrigated agriculture is the major economic activity in Morrow County and a major employer directly or indirectly, according to the Comprehensive Plan. The policies of the Plan call for preservation of agricultural lands and ensuring non-farm uses have minimal impact on continuing agricultural operations.

This application will have no impact on the County's productive farmland. Although the site has been used in the past for activities in support of farm uses (equipment storage and maintenance, etc.), the property owner has other areas on the site and in the vicinity at the unirrigated corners where similar activities could occur in the future if needed. No irrigated farmland will be lost and no farm uses will be jeopardized by the proposal.

If the application is approved, the County will have an area where a farm-related (though not necessarily a "commercial use in conjunction with a farm use") and farm-supportive business may be established, such as equipment repair, veterinary clinic, or businesses requiring large land areas that are not compatible with higher density development, such as equipment storage, energy generation, animal shelter, and so on.

Economic Element: Although agriculture has been, and probably will continue to be, the base of the County's economy, other sectors are becoming increasingly important. The efforts of the Port of Morrow to expand the industrial uses in the County have created significant numbers of jobs. In addition, the growing population, especially in the north part of the County, requires supporting commercial businesses and services, and provides additional employment.

This application has the potential to provide a new business location in an area where there are essentially no commercial or industrial uses. The types of uses allowed in the RLI Zone would not cater to travelers (e.g. fuel stations and restaurants are not allowed) however could provide convenient services to the rural area or locate a land extensive use where it will neither reduce the supply of land available for higher intensity uses within an urban growth boundary or impact the adjacent agricultural activities.

At present, Morrow County has established the Rural Light Industrial Zone but has not identified any land for the zoning designation. Based upon the purpose statement in Section 3.075.A, previously quoted, the site proposed for designation by this application satisfies the intent of the zone, with sufficient area for a small scale industrial uses serving the vicinity, access to a County road, and no need for urban-levels of public services. The proposal supports County policies to diversify and improve the overall economy of the County, to provide opportunities to expand the range of local businesses

and industries to support local and regional needs, as well as to provide employment, and to minimize impacts on agricultural activities.

Housing Element: The County's policies call for maintaining sufficient housing opportunities to accommodate the expected population growth.

New housing in the County is primarily located within the UGBs of Boardman and Irrigon, as provided by Statewide Planning Goals. Some new housing and existing housing is allowed in agricultural areas, to support farm uses and provide accommodations for farm owners and employees.

The existing manufactured home on the site can be retained as a residence if the designation for the site is changed. Depending on the nature of the business, the residence could become a "caretaker residence" relating to a new permitted use. In any case, one dwelling will have virtually no impact on the County's housing supply.

Public Facilities and Services Element: The primary aim of this element is to assure that public facilities and services are available for new development in a timely, orderly, and efficient manner.

The proposed use will not require public sewer, water, or storm drainage, and will not directly utilize public services, such as schools or welfare services, owing to the scale and intensity of uses allowed in the RLI Zone. Water can be made available from a well and septic system used for waste disposal, as is common in the vicinity and feasible for this site. Fire protection will be managed as at present and any new structure may be required to incorporate appropriate measures to assure safety.

Transportation Element: This element is intended to assure the efficient and orderly development of the transportation system throughout the County.

The site has frontage on and access to Frontage Road, classified as a "Major Collector" in the County's Transportation System Plan. As noted in the introductory section of this narrative, the forecast level of traffic on Frontage Road potentially exceeds the level anticipated for a Rural Collector I. A change in designation for this roadway may be necessary in any event, so this application cannot by itself be considered to create a "significant" impact on the street. Any new use permitted in the RLI Zone would be a scale and intensity consistent with rural roadways. An increase in trips from the site, if any, appear to be anticipated in the increase in traffic projected on the Frontage Road. The site has been occupied by quasi-industrial uses for nearly 20 years, and this application merely confirms the appropriate land use designation.

Energy Conservation Element: The aim of this element is to conserve energy, maintain energy sources, and identify alternative energy sources.

This application would permit land uses supportive of nearby agricultural uses (e.g. equipment storage and repair, veterinary clinic, etc.) or that require large land areas with

outdoor storage and are not necessarily compatible with higher intensity and density urban areas (e.g., plumbing shop, transportation terminal, etc.). Having such businesses available in the rural area could save energy in travel by having such services available without lengthy trips. However, the proposal is more likely to be more or less neutral from an energy perspective: electricity is now required on the site and will continue to be in the future; no new energy production is proposed; vehicles will continue to come and go, with possibly some increase in traffic depending on the nature of any new use.

Urbanization Element: This element focuses on the five urban areas in the County.

This application does not require urban services—public sewer or water or storm drainage, police, fire protection, etc. To the extent that the present or future use of the site requires police or fire services, the level of such services available in the rural area would be sufficient because of the limited nature, scale, and intensity of uses permitted in the RLI Zone.

This application would not have any impact on Boardman or Irrigon, the closest urban areas, as the types of businesses that might utilize the site would be more appropriate outside of an UGB.

D. The factors listed in ORS 215.055 or others, which relate to the public need for healthful, safe and aesthetic surroundings and conditions.

ORS 215.055 was repealed in 1977.

“Other factors” pertaining to the public need for healthful, safe, and aesthetic surroundings and conditions are supported by this application. Uses that are more appropriate for a rural setting, as identified in the RLI Zone list of permitted uses, will be placed in a rural location where there will be minimal impacts on close neighbors and where scarce land within a UGB will be preserved for more intensive and higher density uses.

Based on the foregoing discussion of Comprehensive Plan elements, this application has been shown to support or have no impact on Plan policies and to be consistent with unamended portions of the Plan.

Statewide Planning Goals

The County’s Comprehensive Plan presently designates the site “Agriculture” and an “Exception” to Goal 3 must be taken for the designation to change to “Industrial” that would allow an RLI Zone.

ORS 197.732⁶ provides for three types of exceptions: “reasons”, “developed”, and “committed”. The “reasons” exception requires a demonstration of reasons sufficient to justify the proposed change (OAR 660-004-0020) and appropriate reasons for “rural industrial” are identified in OAR 660-004-0022(3). The “developed” exception is based upon the use of the site (OAR 660-004-0025) while the “committed” exception looks to the nature and extent of development in the vicinity of the site (OAR 660-004-0028).

The appropriate pathway for this application appears to be the “developed” exception, given the situation with the site, it’s history of quasi-industrial uses and lack of irrigation, and issues previously discussed. However, it may be arguable that the buildings and structures on the site do not necessarily preclude uses permitted in the “EFU” Zone (Exclusive Farm Use), therefore, the “reasons” exception criteria are also analyzed as justification for this request.

“Developed” Exception Criteria

The requirements for a “developed” exception are found in OAR 660-004-0025:

660-004-0025

Exception Requirements for Land Physically Developed to Other Uses

(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

Uses allowed under the Goal and County Ordinance include a variety of uses, including certain non-farm uses commonly found in rural areas such as public or private schools, churches and cemeteries, commercial uses in conjunction with farm uses, power

⁶ ORS 197.732 is repeated in the corresponding OAR, so will not be considered directly in this narrative. The text of ORS 197.732 is included as an Appendix.

generating facilities, facilities for processing farm crops, living history museums, and so forth.⁷

The site was used for storage and maintenance of farming vehicles in years past, however more recently, uses have involved storage of equipment and vehicles not necessarily related to farm operations. There is a large graveled parking/maneuvering area and a large storage building. A cell tower, which may be authorized by a conditional use permit, also occupies the site. The level of development precludes returning the area to strictly farm-related uses. The site has not produced any crop owing to lack of water right.

Please refer to the aerial photograph that shows the location of buildings on the site.

The existing level of development makes continued use of the site for farm-related uses impractical, and the site should be considered as “developed” for purposes of the rule.

“Reasons Exception” Criteria

A jurisdiction may justify an exception on the basis of “reasons” as specified in OAR 660-004-0020. For a rural industrial designation, specific reasons listed in OAR 660-004-0022(3) also apply.

660-004-0020

Goal 2, Part II(c), Exception Requirements

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

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

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

The reasons why the site should be changed from “Agriculture” to “Industrial” are:

⁷ Morrow County Zoning Ordinance, Section 3.010, pages 1 through 24.

1. The site is developed with structures and activities that are more suitable for industrial or quasi-industrial uses. In fact, the site has been put to such uses.
2. There are no facilities along I-84 between Boardman and Hermiston. The proposed change would not support tourist commercial uses, but could provide an opportunity for other uses that would support and be more accessible to the rural community.
3. The site has no water right and the soils capability class is VIIe, so the site is not "agricultural land" according to OAR 660-033-0020(1)(a)(A).
4. The scale and intensity of development allowed under the RLI Zone would not require an urban-level of public facilities and services.
5. The site has direct access to Frontage Road, and would not significantly impact any other property or use. The site is within a mile of the Ordnance Depot exit from I-84.

These reasons show that there is a need for rural industrial land in the vicinity and that the site is suitable for the proposed RLI Zone.

(b) "Areas which do not require a new exception cannot reasonably accommodate the use":

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

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

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

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

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

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

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

A map is included with the application. The site is not “agricultural land” based upon the soil classification of VIIe.

There is no alternative area that would not also require an exception and very few exception areas that are not committed to residential uses.

Possible alternatives could be the Port of Morrow Industrial Park, however that land is devoted primarily to development of larger tracts and is not particularly suitable for smaller scale operations. The exception land proposed for development of the speedway, adjacent to Port’s industrial property, is not approved for the small-scale industrial uses anticipated under RLI zoning. Another alternative might be within the UGB of Boardman or Irrigon, however the uses anticipated under RLI zoning generally are land intensive or otherwise not acceptable in proximity of higher intensity and density urban uses.

Therefore, the site best accommodates the range of RLI uses while providing business opportunities to serve rural areas.

(c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen

site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

Economic Consequences

Economic consequences of applying the “Industrial” Plan designation and RLI Zone to the site would be the opportunity for additional business opportunities and employment, which would benefit Morrow County. The small site might be suitable for one or more smaller businesses.

Most importantly, the site has no water right and is not agricultural land, so changing the designation to “RLI” for the site would not interfere with the County’s agricultural base.

Social Consequences

Social consequences of the proposal are expected to be minimal. One dwelling is on the site, which might be retained as a “caretaker residence.” If not, one dwelling unit might be lost to the County’s available housing supply. One or more new businesses on the site would create employment, which would support families within the County. The closest residence would be on a large lot just to the west of the site. Any potential impacts from new industrial uses could be buffered by vegetation or distance. Area residents may find a “new” industrial site intrusive, however uses on the site under RLI zoning should be similar to existing and previous uses.

Therefore, the economic benefits to the County appear to outweigh minor negative social consequences, if any.

Environmental Consequences

Environmental consequences are not expected, inasmuch as the types of uses that would be permitted under the RLI Zone have occurred on the site in the past. Water use would be allowed under the “exempt” type of well, and should not be great although this would depend upon the specific new use. Subsurface waste disposal should similarly be minimal. No significant environmental consequences are anticipated; potential consequences from specific types of uses (e.g. storage of oil or chemicals on the site) can be managed through site review.

Energy Consequences

Energy consequences could be expected to be positive, as any new business on the site would choose the location to be central to its activities so as to minimize fuel use. No energy consequences are anticipated from the proposed change in Plan and Zoning Map designations.

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

No adverse impacts were identified through the "ESEE" analysis. The types of uses allowed under RLI zoning have already occurred on the site, and have been generally compatible with the adjacent agricultural uses. Any new use can provide additional buffering, if necessary, through a zoning permit or site review process.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

This application proposes an exception for only one area, a small portion of Tax Lot 1100.

(4) For the expansion of an unincorporated community defined under OAR 660-022-0010, or for an urban unincorporated community pursuant to OAR 660-022-0040(2), The exception requirements of subsections (2)(b), (c) and (d) of this rule are modified to also include the following:

An unincorporated community is not involved.

This discussion demonstrates that the "four factors" of the rule are satisfied and the proposed exception to allow an Industrial plan designation may be adopted.

For a proposal for "rural industrial", additional specific "reasons" apply:

660-004-0022

Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to, the following:

(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports; or

The propose RLI zoning at this site does not depend upon a unique resource. Rather the site is most suitable for an industrial designation because it is non-agricultural land and lacks a water right.

(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or

The types of uses included in the RLI zoning designation are not suitable for land within an UGB due to the potential for noise or odors relating to the nature of the use (e.g. heavy equipment repair, taxidermy, freight terminal). In addition, some of the permitted uses have extensive land needs, a requirement that would be inappropriate for the higher density, higher intensity uses of land within an UGB.

(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages which support the decision.

The types of uses permitted in the RLI Zone are geared to small-scale industrial activities that would support nearby rural residents and businesses. The comparative advantage is the location, closer to rural markets than in-town businesses, and convenient access by way of the freeway and Frontage Road without potentially lengthy, dusty, and intrusive to neighbors along other, less directly accessible county roads.

As shown by the foregoing discussion, the specific reasons pertaining to rural industrial land uses are satisfied.

Conclusion

This narrative has identified the applicable criteria and standards for a change to the Comprehensive Plan and Zoning Maps, including an exception to Goal 3. The discussion of relevant factual information has demonstrated that the proposed “Industrial” Plan designation and “RLI” zoning designation is justified and the application should therefore be approved.

APPENDIX A: ORS 197.732

The full text of ORS 197.732 “Goal Exceptions” is reproduced here for convenience:

GOAL EXCEPTIONS

197.732 Goal exceptions; criteria; rules; review. (1) A local government may adopt an exception to a goal if:

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

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

(c) The following standards are met:

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

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

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

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

(2) “Compatible,” as used in subsection (1)(c) of this section, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(3) The commission shall adopt rules establishing:

(a) That an exception may be adopted to allow a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;

(b) Under what circumstances particular reasons may or may not be used to justify an exception under subsection (1)(c)(A) of this section; and

(c) Which uses allowed by the applicable goal must be found impracticable under subsection (1) of this section.

(4) A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the standards of subsection (1) of this section have or have not been met.

(5) Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(6) Upon review of a decision approving or denying an exception:

(a) The board or the commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;

(b) The board upon petition, or the commission, shall determine whether the local government's findings and reasons demonstrate that the standards of subsection (1) of this section have or have not been met; and

(c) The board or commission shall adopt a clear statement of reasons which sets forth the basis for the determination that the standards of subsection (1) of this section have or have not been met.

(7) The commission shall by rule establish the standards required to justify an exception to the definition of "needed housing" authorized by ORS 197.303 (3).

(8) As used in this section, "exception" means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

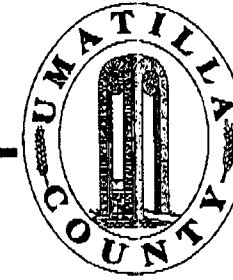
(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(c) Complies with standards under subsection (1) of this section.

(9) An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replacement Part) on or before August 9, 1983, continues to be valid and is not be subject to this section.

Umatilla County

Department of Resource Services and Development



VIA FACSIMILE: 541.922.4624 ~~3472~~

Director

Tamra Mabbott July 30, 2007

Planning &
Development
Division:

Morrow County Planning Department
Attn: Carla McLane, Planning Director
180 N.E. 2nd Street
Hermiston, Oregon 97838-1860

LAND USE
PLANNING
541-278-6252

CODE
ENFORCEMENT
541-278-6300

Re: Aylett Plan Amendment (ACM-004-07, AZM-002-07)

Dear Carla:

Emergency
Management
Division:

EMERGENCY
MANAGEMENT
541-966-3700

CHEMICAL
STOCKPILE
EMERGENCY
PREPAREDNESS
PROGRAM
(CSEPP)
541-567-2084
541-966-3700
1-877-367-2737

The Umatilla County Planning Department and Public Works Department have reviewed the Preliminary Findings of Fact for Comprehensive Plan Map Amendment #AC(M)-004-07 and Zoning Map Amendment #AZ(M)-002-07 proposed by Jedidiah and Cindy Aylett. Page two of the document states that the "road network serving the property consist of County roads (Frontage Lane, County Line Road and Patterson Ferry Road) and the State highway system (Interstate 84)." Two of the roads listed (Frontage Lane and County Line Road) cross the Umatilla/Morrow county line which results in shared jurisdiction over the construction and maintenance of such roads. Additionally, Page nine of the document states that the Ordinance Depot/I-84 interchange will serve traffic generated by the proposed zone change request. This interchange is located in Umatilla County.

County/State
Agency Liaisons:

OSU EXTENSION
SERVICE
541-278-5403

WATERMASTER
541-278-5456

Based on the above findings we believe that approval of the above request will impact roads under the jurisdiction of Umatilla County, specifically County Road #1329, #1224 and #1335 (map enclosed). Development resulting from the proposed zone change could also impact the functional classification of the Ordinance Road/I-84 interchange in the future. Therefore, we request that you include a condition requiring the applicant to enter into a Road Participation Agreement with the Umatilla County Road Department for the future mitigation of impacts to Road #1329, #1224 and #1335. The Road Participation Agreement is required in Umatilla County when we consider similar applications to the above request. The terms of the Road Participation Agreement would be agreed upon by both parties, provided to surrounding property owners for comment and recorded in the Office of Umatilla County Records. The applicant would be responsible for the notice costs and recording fees.

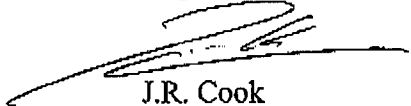
Additionally, the Umatilla County Development Code outlines the process for determining if a land use request will force a Significant Change in Trip Generation on County roads. A Significant Change in Trip Generation on county roads is considered an undue burden and the applicant must coordinate a traffic impact study, or similar effort, with the County Road Master to determine the level of impact and outline mitigation measures. The Umatilla County Road Master did not receive notice of this request as an impacted local agency and has not had the opportunity

to review any documents related to the potential trip generation or impacts of full build-out of the subject property. Even though the application does not currently propose any additional light industrial developments there appears to be a significant amount of vacant land included in the +/- 18 acres that could be developed at some point. Therefore, we request that an additional condition of approval be added requiring the applicant and the Morrow County Planning Department to coordinate the review of new development requests on the subject property with the Umatilla County Road Master. We also request that any proposed development utilizing Umatilla County road #1329, #1224 and #1335 receive the approval of the Umatilla County Road Master prior to Morrow County issuing land use approval.

The subject property is located within the boundaries of the Ordinance Gravel and Ordinance Basalt Critical Groundwater Areas (CGAs). CGAs are considered Goal 5 resources under OAR 660-023-0140. Groundwater right holders in these CGAs have been cut-off or allocated back due to significant water declines in both the basalt and alluvial aquifers. The County Line Water Improvement District (CLWID) has helped both Morrow County and Umatilla County agricultural producers by recharging the alluvial aquifer with enough winter Umatilla River water to maintain water supplies for the water right holders utilizing the alluvial aquifer. In consideration of this application, we request that Morrow County address the estimated water supply needs of developing +/- 18 acres for industrial uses. If the total water supply needs exceed the exempt limits allowed by the Oregon Water Resources Department we request that Morrow County consider the potential water supply sources and the potential impacts that developing these sources would have on the resource. CLWID and the existing water right holders and water users in the area.

Thank-you for the opportunity to comment, and please call should you have questions regarding any matter.

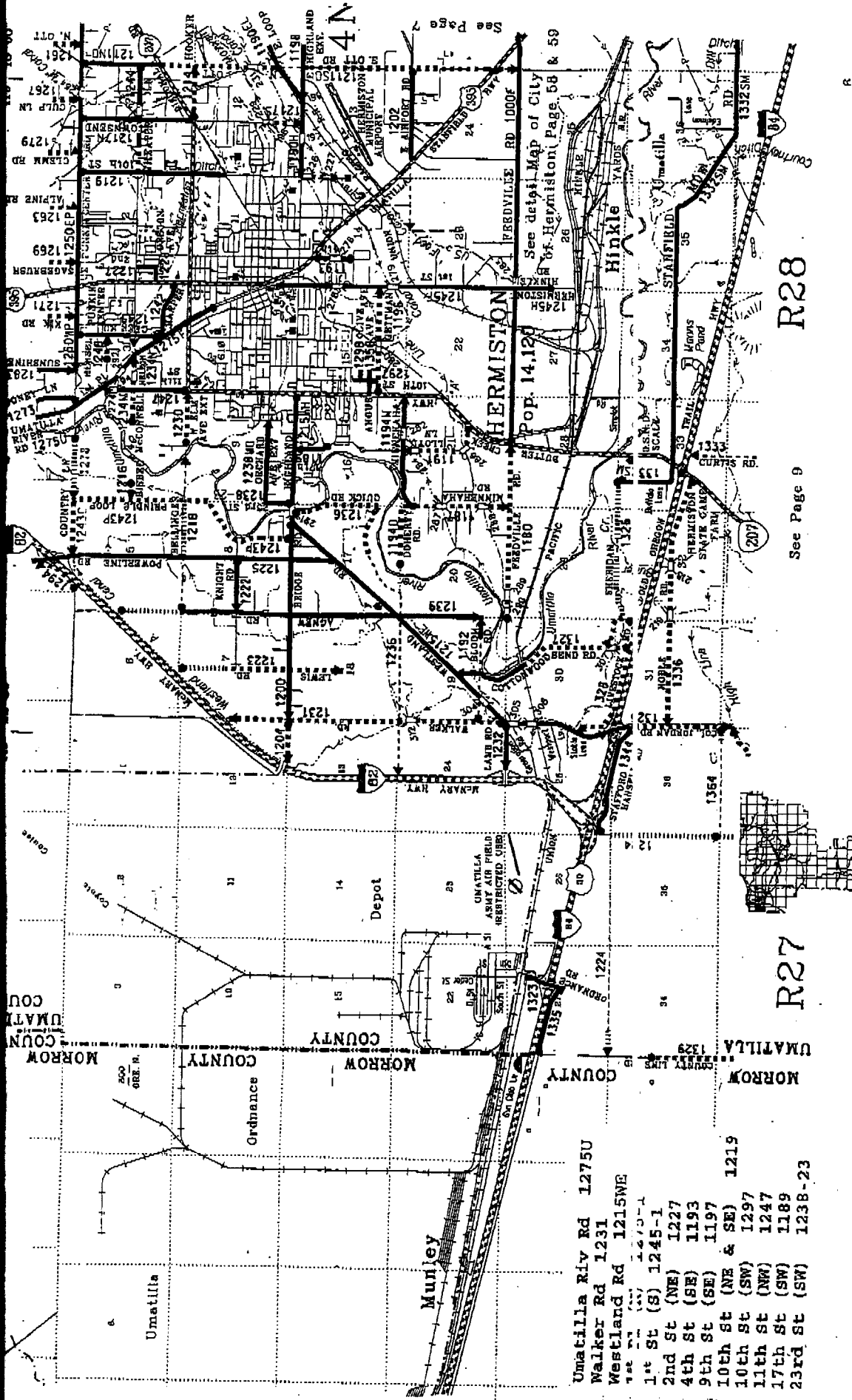
Regards,



J.R. Cook
Asst. Planning Director - Water and Land Use

Enclosures: (1) Umatilla County Road Map
(2) UCDC Chapters relating to Road Impacts

CC: Hal Phillips, Umatilla County Road Master, 216 S.E. 4th Street, Pendleton
Umatilla County Board of Commissioners
OWRD
CLWID



- Umatilla Riv Rd 1275U
- Walker Rd 1231
- Westland Rd 1215WE
- 1st St (S) 1245-1
- 2nd St (NE) 1227
- 4th St (SE) 1193
- 9th St (SE) 1197
- 10th St (NE & SE) 1219
- 10th St (SW) 1297
- 11th St (NW) 1247
- 17th St (SW) 1189
- 23rd St (SW) 1238-23

R27

R28

See Page 9

HERMISTON
Pop. 14,120
See detail Map of City
of Hermiton, Page 58 & 59

15-32

as opposed to products.

SERVICE STATIONS. See *AUTOMOBILE SERVICE STATION*.

SETBACK. The open yard space on a lot between any building and a lot line or a line defining an access easement or road right-of-way.

SHORELINE. All of the water areas of the county and their associated wetlands, together with the lands underlying them, including:

- (1) Significant wetlands as determined by the Comprehensive Plan and Comprehensive Plan Technical Report;
- (2) Streams;
- (3) Lakes and reservoirs;
- (4) Other watercourses.

SIDEWALK. A pedestrian walkway with permanent surfacing.

SIGN. Any medium, including its structure and component parts, used or intended to be used to attract attention to the subject matter for advertising purposes.

SIGN, OFF-PREMISE. A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premise on which the sign is located.

SIGN AREA. The entire face of a sign including the advertising surface and any framing, trim, or molding, but not including the supporting structure.

SIGNIFICANT CHANGE IN TRIP GENERATION. A change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property exceeding: (1) for gravel surfaced County roads, 30 vehicles of less than 10,000

pounds Gross Vehicle Weight (GVW) and/or 20 vehicles of greater than 10,000 pounds GVW; (2) for paved County roads, 75 vehicles of less than 10,000 GVW; and (3) for State paved Highways, 150 vehicles of 10,000 pounds GVW or less and/or 100 vehicles of greater than 10,000 pounds GVW.

SITE. A plot of land intended or suitable for development; also the ground or area on which a development occurs.

SITE PLAN. A plan, to scale, showing uses and structures proposed for a parcel of land as required by this chapter. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features (both natural and man-made) and proposed utility lines.

STORY. That portion of a building included between the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it. **FIRST STORY** means any floor not over four and one-half feet above the established grade, or is set back, above average ground level at front line of building.

STREAM. A watercourse having a source and terminus, banks, and channel through which waters flow at least periodically.

STREET or ROAD. A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.

STRUCTURE. Something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure.

STRUCTURE. Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not

15-41

(4) The following uses and activities are excepted from the above standards:

(a) Commercial forest practices regulated by the Oregon Forest Practices Act, being ORS 527.610 et seq.;

(b) Vegetation removal necessary to provide water access for a water dependent use;

(c) Removal of dead or diseased vegetation that poses a safety or health hazard;

(d) Removal of vegetation necessary for the maintenance or replacement of structural shoreline stabilization.

(5) In cases of zoning permits, conditional use permits, variances, and other land use actions which require site plan review or conditions for approval, and which are subject to provisions of this division, the review body shall prepare findings and address the maintenance, removal and replacement of riparian vegetation.

(B) Minor drainage improvements necessary to ensure effective drainage on surrounding agricultural lands shall be coordinated with the Oregon Department of Fish and Wildlife and Soil and Water Conservation District. Existing drainage ditches may be cleared to original specifications without review.

(Ord. 83-4, passed 5-9-83)

§152.017 CONDITIONS FOR DEVELOPMENT PROPOSALS.

(A) The proposed use shall not impose an undue burden on the public transportation system. Any increase meeting the definition of significant change in trip generation constitutes an undue burden.

(B) For developments likely to generate a significant increase in trip generation, applicant shall be required to provide adequate information,

such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding system. The scope of the impact study shall be coordinated with the providers of the transportation facility.

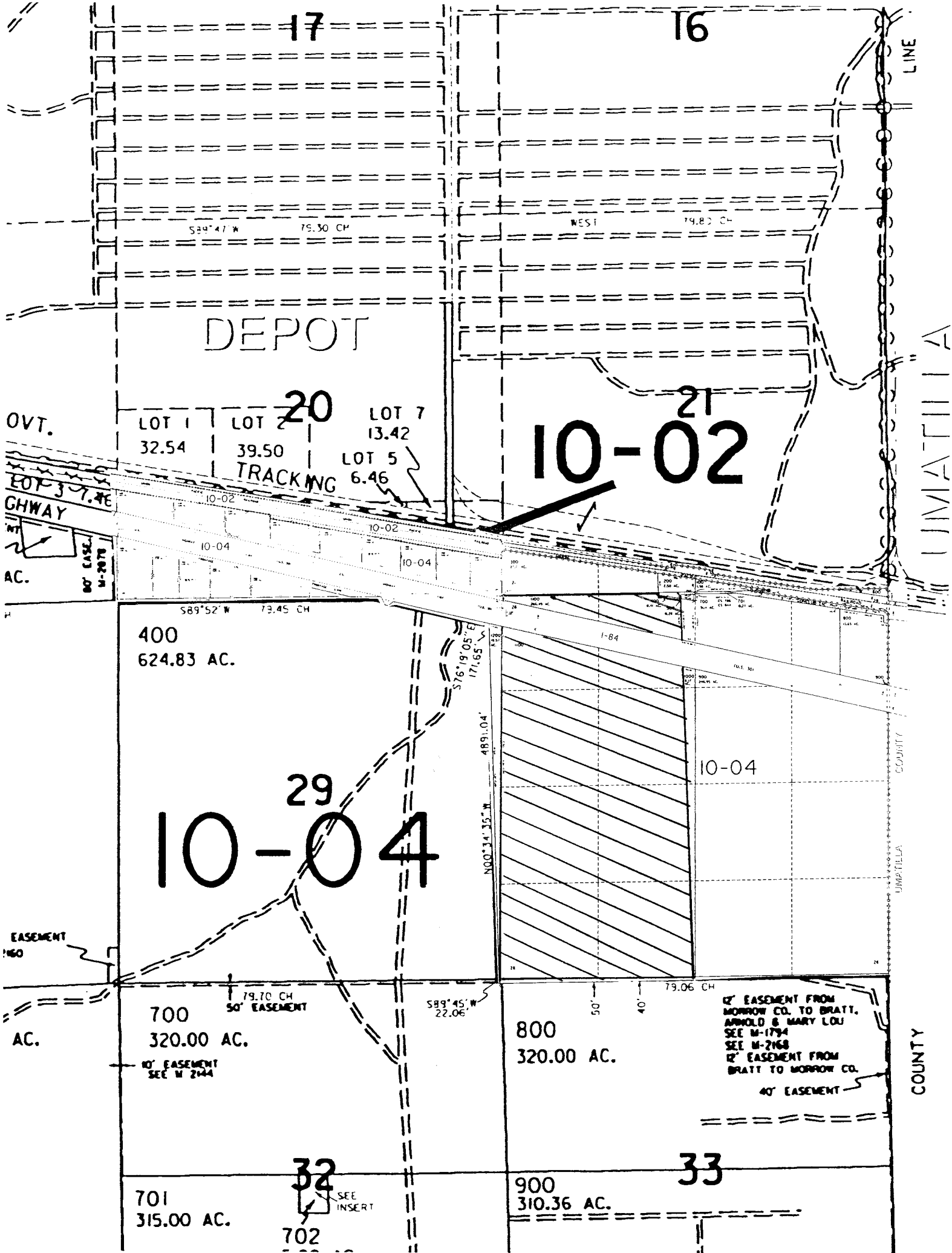
(C) The applicant or developer may be required to mitigate impacts attributable to the project. Types of mitigation may include such improvements as paving, curbing, bridge improvements, drainage, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways or paths. The determination of impact or effect should be coordinated with the providers of affected transportation facilities.

(D) Dedication of land for roads, transit facilities, sidewalks, bikeways, paths, or accessways may be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.

(Ord. 2002-08, passed 8-14-2002)

§ 152.018 ACCESS MANAGEMENT AND STREET CONNECTIVITY:

(A) The intent of this code is to manage access to land development while preserving the flow of traffic in terms of safety, capacity, functional classification, and level of service. Major roadways, including highways, arterials, and collectors serve as the primary network for moving people and goods. These transportation corridors also provide access to businesses and homes and have served as the focus for commercial and residential development. If access points are not properly designed, these roadways will be unable to accommodate the needs of development and retain their primary transportation function. This code balances the right of reasonable access to private property with the right of the citizens of Umatilla County and the State of Oregon to safe and efficient travel. To achieve this policy intent, state and local roadways have been categorized in the Transportation System Plan by function and classified for access purposes based upon their



17

16

DEPOT

20

21

10-02

LOT 1 32.54
 LOT 2 39.50
 TRACKING
 LOT 5 6.46
 LOT 7 13.42

OVT.

GHWAY

AC.

400
 624.83 AC.

29
 10-04

EASEMENT

AC.

700
 320.00 AC.

800
 320.00 AC.

12' EASEMENT FROM
 MORROW CO. TO BRATT,
 ARNOLD & MARY LOU
 SEE M-1794
 SEE M-2168
 12' EASEMENT FROM
 BRATT TO MORROW CO.

701
 315.00 AC.

900
 310.36 AC.

32
 SEE
 INSERT

33

LINE

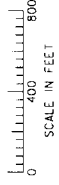
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COUNTY

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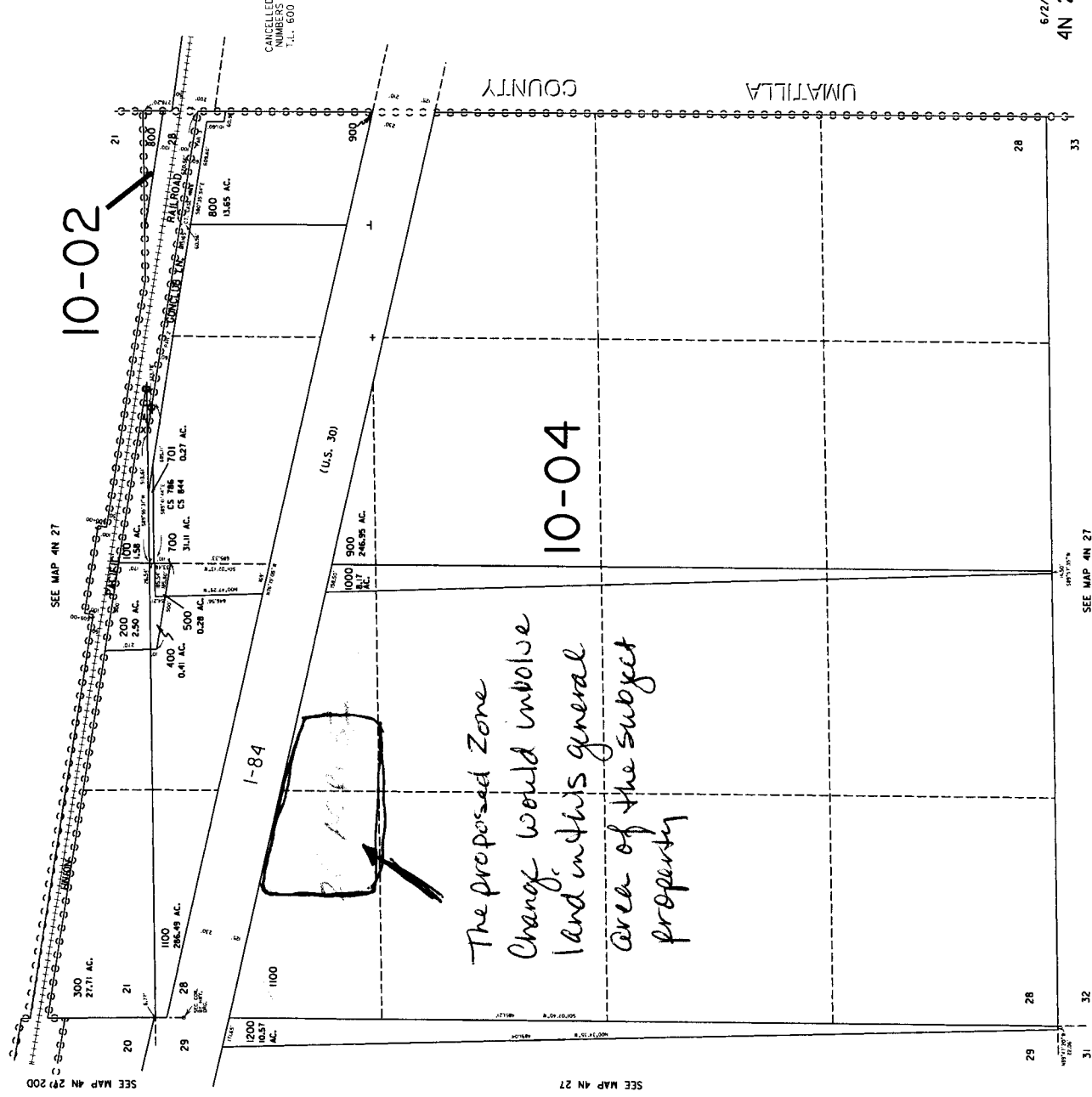
COUNTY

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



SECTION 28 T.4N. R.27E. W.M.
MORROW COUNTY
1" = 400'

4N 27 28



Tract 18

Fld 201

47.2 Ac

Fld 202

14.3 Ac

Fld 2

70.8 Ac

Fld 203

6.3 Ac

Fld 4

5.8 Ac

Fld 204

0.9 Ac

Fld 205

7.8 Ac

Fld 3

5.1 Ac

Fld 1

141.5 Ac

Fld 206

1.0 Ac

SHOP
LOCATED

Fld 203

17.4 Ac

Tract 19

Fld 3

4.6 Ac

Fld 201

SECTION 3.075 RURAL LIGHT INDUSTRIAL ZONE, RLI

A. PURPOSE

The Rural Light Industrial (RLI) Zone is designed to provide suitable areas for the development of small scale industry that does not require full urban services. The intent is to provide industrial uses of a local nature, unlike the uses that would normally be sited in the Port or General Industrial Zones. This zone can accommodate incubator facilities and allows storefront businesses. This zone is to be applied in areas where transportation opportunities are already in place and available.

B. USES: PERMITTED AND CONDITIONAL

The following uses, with accessory uses, will be permitted utilizing the Site Plan Review criteria found in Article 4 Section 4.165, unless criteria-based Site Development Review is required as outlined in Article 4 Section 4.170. Uses shall also meet the applicable development standards listed in other parts of Article 4.

Uses permitted conditionally will be required to meet the applicable criteria in Article 6 Sections 6.020, 6.030 and Article 4. Additional criteria may be found in Section 6.050. All Conditional Use Permits are subject to Planning Commission review and approval.

1. Light Industrial – Institutional

These uses are: public use; operated by a government entity; special district; or non-profit organization.

- a. Airport and related aviation uses, including hangar and maintenance facilities
- b. Animal shelter
- c. Freight, train, bus or taxi terminals
- d. Public and semi-public building, such as police or fire station, ambulance service, emergency medical facility, or museum.
- e. Utility structure
- f. **Conditional Use:** Utility yard, recycling center, resource recovery facility, sewage disposal plant, pumping or treatment facility, water storage reservoir, sewage transfer site, or waste transfer site. Some of these uses may also be subject to the Morrow County Solid Waste Management Plan and Ordinance.

2. Light Industrial – Sale and/or Service

- a. Automobile, truck and heavy equipment sales, parts and accessory stores, service stations, paint and body shop, tire sales and repair, and trucking facilities
- b. Heavy equipment and farm implement sales, service, rental or repair
- c. Photographic film processing, photo engraving, photocopying, printing, lithographing, blueprinting or publishing and distribution facilities or establishments
- d. Building maintenance service
- e. Plumbing and sheet metal shops
- f. Saw shops, including sales and repair
- g. Taxidermy
- h. Upholstery, automobile and furniture
- i. Veterinary clinic and hospital
- j. Food catering preparation with no onsite retail sales
- k. **Conditional Use:** Lockers, ice houses and meat or game processing facilities to serve the personal scale market
- l. **Conditional Use:** General or scientific laboratories, research or experimental facilities

3. Light Industrial – Repair, Assembly and Manufacturing
 - a. **Conditional Use:** Compounding, processing, packaging or treatment of products
 - b. **Conditional Use:** Temporary cement and asphalt batching, rock processing and crushing
 - c. **Conditional Use:** Metal works including foundry, metal reduction, milling, refining, fabrication, welding and repair
 - d. **Conditional Use:** Manufacture, assembly or repair of textiles, cloth, fiber or wood products, including secondary and tertiary processing
 - e. **Conditional Use:** Processing or packaging of food or drink products

4. Light Industrial – Storage and Distribution
 - a. Agricultural cooperative
 - b. Towing services and impound yard, overnight truck or trailer parking
 - c. Rental equipment facilities and storage yards
 - d. Commercial parking lot
 - e. Mini-storage units with office
 - f. Contractor's or building materials business, and other construction related businesses including plumbing, electrical, roofing, siding, etc., provided such is wholly enclosed within a building or no outside storage is permitted unless enclosed by sight obscuring fencing.
 - g. **Conditional Use:** Warehousing, receiving and shipping, wholesale sales or distribution of equipment or products including food, which may also include retail sales
 - h. **Conditional Use:** Local fuel distribution facility

5. Light Industrial – Support Services

These uses tend to provide support to other uses within the zone or adjoining zones.

 - a. **Conditional Use:** Caretaker or night watchman (quarters or manufactured dwelling).
The unit must be related to the business. The manufactured dwelling must be removed when the business ceases to operate. The resident must be an employee of the business and employee status must be documented
 - b. **Conditional Use:** Restaurant, lounge, tavern, food stand, coffee kiosk, mobile food vendors

C. DEVELOPMENT STANDARDS

All uses authorized by this Article and Section may be subject to certain additional permit, process and property development standards that are contained elsewhere in the Morrow County Zoning Ordinance, the Morrow County Transportation System Plan, other applicable County Ordinances, or identified below.

1. Site Plan Review.
Article 4 Section 4.165 is a ministerial review required of all development less than 100 acres in this zone.

2. Site Development Review.
Article 4 Section 4.170 is a Planning Commission review required of all development more than 100 acres, or it can be required by the Planning Commission for Conditional Use approvals of less than 100 acres.

3. Transportation Impact Analysis.
In addition to the other standards and conditions set forth in this section or in Article 4, a Traffic Impact Analysis will be required for all projects generating more than 400 new daily trips. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 daily trips. The Morrow County Transportation System Plan, specifically Appendix D Traffic

Impact Analysis Guidelines, provides the necessary information for a Transportation Impact Analysis to be completed.

4. Access and Parking

Article 4 provides information concerning access and parking requirements.

5. Exceptions.

Exceptions to this Section can only be considered using the criteria found in Article 5 of this Zoning Ordinance.

6. Variances.

Variances to this Section can only be considered using the criteria found in Article 7 of this Zoning Ordinance.

7. Airport Approach and Hazard Overlay Zones.

If the proposed use is located near an airport in Morrow County with an approved Airport Master Plan, provisions of the Airport Approach or Hazard Overlay Zone may apply.

8. Landscaping and Screening.

Properties bordering Tourist Commercial or Residential Zones need to have in place a site obscuring fence or landscaping of such design that the visual impact is reduced or eliminated. No other specific landscaping or screening is required in this zone.

9 Minimum lot size and frontage.

A minimum lot size has not been determined for this zone, however it is anticipated that most, if not all, uses will be sited on lots of at least two acres. The determination of lot size will be driven by the carrying capacity of the land given the proposed use. Minimum lot frontage shall be 300 feet on an arterial or collector; 200 feet on a local street. Shared accesses will be encouraged.

10. Setbacks.

No specific side or rear yard setbacks are identified within this zone, but may be dictated by provisions of the Building Code or other siting requirements. The minimum setback between a structure and the right-of-way of an arterial shall be 50 feet. The minimum setback of a structure from the right-of-way of a collector shall be 30 feet, and from all lower class streets the minimum setback shall be 20 feet.

11. Signs.

Signs installed in this zone will need to meet the requirements of Article 4 Section 4.070 Sign Limitations and Regulations.

12. Building height.

The height of the building needs to be less than 45 feet or three stories, unless the applicant can provide proof from the providing fire district that services can be provided in the event of an emergency.