

**BEFORE THE BOARD OF COMMISSIONERS
FOR MORROW COUNTY, OREGON**

AN ORDINANCE AMENDING THE MORROW)
COUNTY COMPREHENSIVE PLAN TO CHANGE THE)
PLAN AND ZONE DESIGNATION OF A 274-ACRE) ORDINANCE NO. ORD-2023-6
PARCEL FROM EXCLUSIVE FARM USE TO)
GENERAL INDUSTRIAL, AND ADOPT A LIMITED)
USE OVERLAY ZONE TO LIMIT USE TO A DATA)
CENTER, AND ADOPT EXCEPTIONS TO STATEWIDE)
PLANNING GOALS 3, 11 & 14 TO ALLOW THE)
ESTABLISHMENT AND OPERATION OF A DATA)
CENTER USE – COUNTY FILE NUMBERS AC-145-23,)
ACM-146-23 AND AZM-147-23)

WHEREAS, ORS 203.035 authorizes Morrow County’s duly elected Board of Commissioners to exercise authority within the County over matters of County concern; and

WHEREAS, Morrow County exercises exclusive land use planning and permitting authority over all unincorporated areas within its boundaries pursuant to ORS Chapters 197 and 215 and the County’s Comprehensive Land Use Plan (acknowledged by the Land Conservation & Development Commission on January 30, 1986) as amended; and

WHEREAS, Rowan Percheron LLC, as applicant and on behalf of the property owner Threemile Canyon Farms, submitted a development application on May 24, 2023 to Morrow County seeking approval for Comprehensive Plan Amendment and Zone Change with corresponding Exception to Statewide Planning Goals 3, 11 and 14 to construct and operate a data center campus on ~274 acres currently zoned Exclusive Farm Use (the “Application”) and more particularly described as Parcel 2 of Partition Plat No. 2023-3, also described as TL 100, Twp 3 North, Range 24 East, Sections 28 & 29 (the “Property”); and

WHEREAS, Morrow County deemed the Application complete on July 7, 2023; and

WHEREAS, after issuing notice required by Article 9 of the Morrow County Zoning Ordinance (MCZO) to the public and notice to the Department of Land Conservation & Development (DLCD) pursuant to ORS 197.610, the Morrow County Planning Commission held an initial public hearing on June 27, 2023, took public testimony on the proposal, kept the record open, and continued the hearing to July 25, 2023; and

WHEREAS, at the July 25, 2023 continued hearing, the Planning Commission accepted additional public testimony on the proposal, deliberated and voted 5:2 to recommend approval to the Board of Commissioners; and

WHEREAS, based upon the entire record compiled through the Planning Commission proceeding, including the Planning Commission’s favorable recommendation, the Morrow County Board of Commissioners convened a duly noticed public hearing on August 16, 2023, at

which time it accepted all manner of public testimony on the proposal, closed public testimony and deliberated.

NOW THEREFORE, based on the foregoing recitals, which are incorporated herein by this reference, the Morrow County Board of Commissioners Ordains as follows:

Section 1. Decision and Conditions. The application by Rowan Percheron LLC is approved as proposed, subject to the satisfactory completion of the following conditions of approval. These conditions are binding upon the applicant:

1. Prior to construction, Applicant shall enter into a Road Use Agreement with the Morrow County Public Works Department to fund \$267,000 to pay for chip seal on the first nine (9) miles of Tower Road.
2. Prior to construction, Applicant shall provide notice to Threemile Canyon Farms, the area farming operator, of its construction traffic schedule and coordinate with Threemile Canyon Farms to minimize any potential impacts to farm traffic during harvest.
3. Applicant shall obtain all local, state and federal permits and approvals for the data center campus construction and operation, including but not limited to:
 - a. Oregon Department of Environmental Quality (DEQ), National Pollutant Discharge Elimination System (NPDES) 1200-C Permit
 - b. DEQ, Onsite Septic Permit
 - c. DEQ, Basic Air Contaminant Discharge Permit (ACDP)
4. The project will require delivery of electricity and water from third-party providers, as described in the application record. Such services shall be delivered substantially as described in the record and the County shall require that all third-party infrastructure serving the project will receive all necessary local, state, and federal permits and approvals.

Section 2. Incorporation of Findings. In support of the decision, the Board of Commissioners adopts as its own and incorporates herein by this reference the Staff Report (Draft Findings of Fact) presented to the Planning Commission, dated June 26, 2023, as amended and supplemented by the applicant.

Section 3. Procedural Issue. In a July 25, 2023 letter, 1000 Friends of Oregon requested that the Planning Commission hearing be continued a second time and that the record be left open until August 22, 2023 to allow further review of, and rebuttal to, the applicant's submissions following the first Planning Commission hearing. The Planning Commission denied the request for two primary reasons. First, the Planning Commission's decision in this matter was merely a recommendation to the Board of Commissioners, who would then hold at least one more public hearing and would accept all manner of public testimony and evidence.

Second, the information submitted by the applicant following the Planning Commission's June 27, 2023 hearing was largely responsive to questions raised by the Planning Commission at its June 27th hearing and merely bolstered the substantive evidence already in the record. In this light, the applicant's post-hearing submissions were largely

argumentative and not particularly evidentiary. Absent these evidentiary pieces, the record already contained a significant amount of evidence in the application materials and documents submitted prior to the June 27th hearing, sufficient to support the applicant's assertions and conclusions about the project.

Finally, the applicant's submissions were submitted July 18, 2023, a full week before the Planning Commission's continuance hearing on July 25, 2023. 1000 Friends offers no cogent or convincing argument as to why one week was not sufficient time to review and rebut these exhibits at or before the continued hearing. For all of these reasons, the Planning Commission denied the request to continue the hearing and keep open the record, and we affirm that decision.

Section 4. The Record. The record in this matter consists of all of the application materials and supplemental exhibits provided by the applicant, all public and agency comments, the County's notices to the public, media outlets and DLCD about the application, public hearings and decisions, staff reports and the applicant's revisions thereto. The record also includes audio recordings of all public hearings before the Planning Commission and the Board of Commissioners and other over-sized exhibits submitted into the record.

Section 5. Effective Date. This Ordinance is a statutory land use decision and shall be effective upon expiration of the 21-day appeal period following the second reading.

ADOPTED and read for the first time by title only September 6, 2023. Read for the second time by title only and finally adopted September 20, 2023.

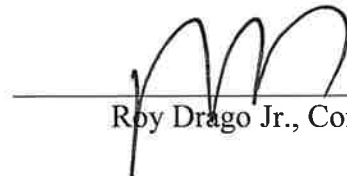
**BOARD OF COMMISSIONERS FOR
MORROW COUNTY, OREGON**



David Sykes, Chair



Jeff Wenzholz, Commissioner



Roy Drago Jr., Commissioner

Approved as to Form



Justin Nelson
Morrow County Counsel

OSB 807460

Morrow County Board of Commissioners
Findings of Fact
Rowan Percheron, LLC
AC-145-23, AC(Z)-146-23¹, AZM-147-23

REQUEST: to amend the Comprehensive Plan to change the Plan and zoning designation of a 274-acre parcel from Exclusive Farm Use (EFU) to General Industrial (MG) and adopt a Limited Use Overlay (LUA) Zone to limit use to a data center. Application also includes an exception to Statewide Planning Goal 3, 11 and 14 to allow for a data center use.

APPLICANT: Rowan Percheron, LLC
1330 Post Oak Boulevard, Suite 1350
Houston, TX 77056

OWNER: Threemile Canyon Farms
75906 Threemile Road
Boardman, OR 97818

PROPERTY DESCRIPTION: Parcel 2 of Partition Plat No. 2023-3; a 274-acre parcel described as a portion of Tax Lot 100 of Assessor's Map 3N 24 (project parcel or parcel)

PROPERTY LOCATION: The project parcel is located on Tower Road approximately 9 miles south of Interstate 84, west and south of the City of Boardman. Parcel is just north of the old Portland General Electric (PGE) Coal Fire Plant.

FINDINGS OF FACT:

I BACKGROUND INFORMATION:

The project parcel is vacant, non-irrigated, undeveloped land. Along the western boundary of the parcel is an existing 230-kV transmission line that runs south approximately 1.6 miles to the existing transmission infrastructure at the PGE Carty natural gas generating plant. To the east of the parcel is the Boardman Conservation Area (BCA) and to the southeast is the existing Carty site. There is a parcel of land zoned General Industrial (MG) approximately 5,000 feet to the south and west and a large parcel to the north and east zoned Space Age Industrial (SAI).

A. Project Description:

Rowan Percheron, LLC (Applicant) is the contract purchaser of the 274-acre parcel. Applicant proposes to develop a data center campus. The project parcel is currently zoned Exclusive Farm Use (EFU). The project parcel is vacant, non-irrigated, and uncultivated. There is no history of

¹ AC(Z)-146-23 was previously noticed as AC(Z)-146-22 initially and has since been corrected on the record. To avoid any confusion AC(Z)-146-23 and -22 are the same request.

active farming, irrigation, or grazing on the project parcel, dating back to the 1950s. The parcel is comprised predominately of nonarable soils and the Applicant and owner consider it to be not suitable for farm use. The property owner has been unsuccessful in putting the land into agricultural cultivation and does not believe grazing is an option. The landowner submitted an affidavit to this effect. Threemile Canyon Farm representatives also testified before the Planning Commission to this effect and provided additional reasoning for why the Project Parcel was not valuable to Threemile Canyon Farm’s operations historically or in the future.

The project parcel is located about 5,000 feet from the PGE Carty generating plant site and adjacent to an existing 230 kV transmission line right of way (ROW). The existing 230-kV transmission line runs about 1.6 miles along the western boundary of the project parcel and Tower Road. The PGE Carty site includes a 450-megawatt (MW), combined-cycle natural gas-fueled electric generating power plant, the Grassland Switchyard, the Carty Substation, a 500-kV transmission line and the Carty Reservoir. In total, the Carty site encompasses an approximately 4,997-acre site boundary.

The project parcel is relatively flat, with topography less than 15 percent slope, and the data center campus will be sited to avoid adverse environmental impacts to water availability, floodplains, wetlands, habitat, and sensitive species. Applicant proposes to limit development to 190 acres of the project parcel (project footprint). The application indicates that development of the data center campus will be phased according to market demand and conditions, with an estimated full build-out of the project footprint over a number of years. Applicant anticipates full build-out to include multiple data warehouse buildings, and all associated accessory components as described below.

The primary and associated components of the proposed data center constitute a “data center” within the meaning of MCZO 1.030 and are anticipated to be limited to the project footprint. The primary and accessory components of the proposed development may include:

- A data center campus including multiple data system warehouse buildings
- Parking areas for employees and interior access roads
- Anticipated onsite septic, stormwater, and wastewater management systems
- Fire protection system, including water storage tank(s)
- Back-up power supply systems
- Onsite substations and electrical interconnection equipment

These are the primary and accessory facility components based on Applicant’s conceptual design and represent the likely facility components of the final design, although the specific number and size of the particular facility components may vary. Applicant maintains, and the County agrees, that such variation does not undermine the analysis to support the requested goal exceptions and zone change to allow a data center within the project footprint.

Applicant has experience with data center development and plans to locate the proposed data center and accessory buildings in a manner that avoids impacts to the wetlands and floodplain within the project parcel. Additionally, the applicant proposes a 250-foot buffer from the adjacent BCA that runs along the eastern edge of the project parcel. In addition, in response to comments from the Oregon Department of Fish and Wildlife (ODFW) ahead of the June 27, 2023 planning commission hearing, Applicant proposes a 100-foot buffer from the surveyed wetlands and other riparian habitat, as on Attachment B the ERM Big Game and Wetland Tech Memo, dated July 18, 2023. In general, data centers have a relatively lower level of impact to the surrounding area than other industrial uses, due to less intensive operational traffic, noise, emissions, and viewshed impacts.

B. Surrounding Land Uses:

The surrounding land use is primarily agriculture however, to the east is the PGE Carty Reservoir and energy facilities and associated electrical infrastructure, as described above.

C. Soil Types:

As provided in Applicant's soil analysis memo, land capability classifications within the project footprint are predominantly 7e (non-irrigated) for Koehler and Quincy, 6e (non-irrigated) for Royal and Taunton, and a very small percentage of 4e (non-irrigated) for Sagehill fine sandy loam. Outside of the project footprint, soils are Class 4e, 6e, and 7e soils. The predominate non-irrigated soil land capability classifications indicate severe limitations (land capability classes 6 and 7) to cultivation for most of the project footprint and moderate limitations (land capability class 4) for the remaining area of the project parcel. There were multiple comments and questions concerning Applicant's soils analysis and in response, Applicant provide the ERM Soils Tech Memo, dated July 18, 2023 and Applicant's soils scientist from ERM testified before the Planning Commission on July 25, 2023, to reiterate the findings from the prior analyses to demonstrate thy the project parcel is not productive and has no value for farm use generally. The Board received similar testimony from Applicant's soil scientist during the August 16, 2023 hearing.

D. Water Supply:

The project will require potable water for employees and industrial water for processing and cooling. Applicant's water demand is currently estimated at 22,050,000 gallons per year. In its application, Applicant estimated that its water usage could range from 20 to 60 million gallons per year and that range was further refined as Applicant worked on its water demand matrix and its average versus peak needs. Applicant will conserve water by cycling the cooling process water an estimated 2-3 times before discharging the water as industrial wastewater to the onsite evaporation pond system. Applicant provided a water demand matrix ahead of the July 25, 2023, Planning Commission hearing showing the estimated total peaks of water usage on an annual basis, the average day demand, and the peak hour demand (Exhibit 65). It also contains Applicant's assumptions for evaporation and blowdown water loss.

Applicant evaluated options for sourcing the needed water, including (1) a water supply agreement for use or transfer of existing water rights from nearby water rights holder(s) and (2)

water supply and an infrastructure agreement with the Port of Morrow to obtain water from the Port's proposed water treatment facility located near the Boardman Airport Industrial Park. After evaluating options, Applicant eliminated option (1) and plans to secure water from the Port of Morrow (POM). The record contains a Memorandum of Understanding (MOU) between Applicant and the Port of Morrow Letter as well as a Letter of Intent (LOI) regarding the water supply and delivery consistent with Applicant's estimated demand of 22,050,000 gallons per year (Exhibits 36 and 51). Applicant will use on-site storage tanks to meet peak water demand.

Applicant also provided evidence into the record before the Planning Commission related to the proposed route within the public right of way along Tower Road (Exhibit 71). Applicant consulted with County Public Works regarding the proposed route. Applicant has accounted as part of its operations plan for the timing of the water delivery system from the Port of Morrow and is coordinating construction accordingly..

The application describes the benefits of working with the Port of Morrow as a water supplier. "First, the Port of Morrow is currently designing additional infrastructure to serve potable industrial uses near the Boardman Airport Industrial Park and extension of these services may serve the project parcel. In addition, this option would help to minimize impacts to the ground and surface water conditions in the immediate vicinity of the project parcel, including to adjacent productive farmlands. Applicant requests the Goal 11 exception as a part of this application because the Applicant seeks a water supply source that involves extension of public services from the Port of Morrow. While the plain language of Goal 11 does not reference extension of water services as triggering an exception, Applicant includes a Goal 11 exception request in its application given the Court of Appeals' ruling in *Foland v. Jackson County*, 239 Or App 60, 64-65 (2010) (finding that the overarching policies of Goal 11 and the history of amendments to the goal supported Land Use Board of Appeal's [LUBA] decision that Goal 11 prohibits the extension of city water services to serve an *urban use* on rural land without a Goal 11 exception). The county agrees with this approach. Applicant does not need a Goal 11 exception for sanitary or wastewater because all sanitary and wastewater will be managed on the project parcel. The POPM will not be receiving wastewater from the Project.

E. Power:

The project parcel is directly adjacent to an existing transmission line ROW that runs south along Tower Road for about 1.6 miles to the Carty site and Grassland Switchyard. The application indicates that the project will receive power from Pacific Power via a new 230-kV transmission line utilizing an existing ROW along Tower Rd, and 34.5kV distribution facilities. The existing transmission line ROW is shown on Applicant's ALTA survey . The data center campus project will also include the installation of onsite back-up power supply systems. Applicant is in discussions with Pacific Power to provide electricity to the project parcel via existing and proposed transmission infrastructure. To date, Pacific Power anticipates using the existing transmission line right away along Tower Road to provide a Point of Interconnection at the project parcel property line along Tower Road. Pacific Power may co-locate an interconnection substation on the project parcel adjacent to Applicant's project substation for the delivery of electrical services. This application addresses any electrical and transmission infrastructure that will be located on the project parcel. However, any electrical and transmission infrastructure not

located on the project parcel is the responsibility of the provider and the provider will be obligated to pursue all necessary approvals to locate and construct the infrastructure that serves the project. Applicant cannot commit Pacific Power to any particular service route at this point in time.

F. Wastewater:

Applicant proposes to manage all stormwater and industrial wastewater onsite with one or more onsite retention or evaporation ponds. The on-site stormwater retention pond design includes an infiltration rate of 2 inches/hour with a 6-foot pond depth and up to 2 feet of freeboard. The cooling wastewater evaporation pond will be separate from the stormwater retention pond. Specific design was not included in the application however the application indicates that the wastewater treatment systems are expected to be designed and engineered for the appropriate quantities of produced industrial waste water. Application indicates that a NPDES 1200-Z permit will not be needed, as there is no anticipated direct discharge or stormwater runoff. However, a copy of Public Notice and Findings were sent to DEQ who has regulatory authority over stormwater. Again, no Goal 11 exception is required for sanitary or wastewater because both will be managed onsite. For onsite black and grey water, the estimated annual volumes for a data center could range from 10,000 to 15,000 gallons per day (GPD) and will be managed with an onsite septic system.

G. Transportation & Access:

Applicant provided a transportation analysis and traffic impact analysis (TIA) as part of the application, which concludes that no roadway improvements are necessary to accommodate post-construction operational traffic. The TIA recommended that development include a new access to Tower Road be constructed and to install a stop sign. In response to comments and questions received from the Planning Commission, Applicant also worked with its consultants to prepare the Tower Road Traffic Volume Forecast, dated July 18, 2023, that addresses anticipated construction traffic and safety along Tower Road. The Forecast proposes mitigation based on commensurate potential impacts, consistent with the prior discussions between Applicant and the Public Works Department. Finally, in response to comments raised during the July 25 Planning Commission hearing, Applicant worked with Kittelson to provide a second forecast to evaluate potential traffic associated with construction, accounting for different classes of vehicles, phasing of construction, and construction of the POM water delivery system within the Tower Road right of way. That new Kittelson technical memo, dated August 7, 2023, was submitted into the record and responds to the traffic and road safety concerns regarding potential adverse impacts from the water delivery system construction (Exhibit 81). See additional discussion under Goal 11 exception request below.

The data center will operate 24-hours per day in shifts. On average, data center will employ at least 35 full-time equivalent employees and many additional third-party vendor employees. The jobs include data center engineering operations (managing the facility), data center operations (managing the servers in the data halls), and security operations staff.

II. MORROW COUNTY ZONING CODE STANDARDS APPLICABLE TO LEGISLATIVE DECISIONS

To approve Applicant's request, the county is required to adopt findings to show that the request meets the necessary criteria which are presented below in **bold** print with proposed findings (responses) in regular print.

MCZO 8.040 provides the applicable approval criteria for a zone change.

MCZO 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).

Response: The project parcel has been zoned EFU since the MCCP and MCZPO acknowledgement on January 30, 1986. Applicant provides the following analysis: "The purpose of the EFU Zone is to "preserve, protect and maintain agricultural lands for farm use, consistent with historical, existing and future needs, including economic needs, which pertain to the production of agricultural products." "Agricultural Lands" are defined as land of predominately Class I-VI soils and "other lands suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices." MCCP, Goal 3 (Agricultural Lands Element): OAR 660-033-0020(1)(a). The project parcel is comprised predominately of nonarable soils, not suitable for farm use. The underlying soils are unproductive, highly erodible, and the property owner has been unsuccessful in putting the land into agricultural cultivation; it is not even productive for grazing. Applicant provided an affidavit declaring the land is not farmable. Applicant's soil scientist from ERM provided written and oral testimony before the Planning Commission that soil productivity at the project parcel was inadequate for farm use. In addition, the underlying and surrounding landowner, Threemile Canyon Farm, testified to the project parcel's lack of farm value. The project parcel has not been historically farmed given site conditions and current conditions make it impractical to use for accepted farm practices. With ever changing environmental conditions, and without irrigation, the land will remain unproductive with likely increased soil erodibility.

The County received testimony challenging Applicant and the landowner's characterization of the land, however, no written evidence was provided to counter Applicant's expert soil report and testimony. The fact that the land is EFU does not mean it is productive, and the County maintains that Applicant adequately showed that conditions warrant a change in zoning because it is questionable whether the land even qualified as "agricultural land" when designated in 1986. Since then, the site specific conditions demonstrate that the land is unproductive, not getting more productive, and therefore, circumstances have changed and Criteria A is 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.

Response:

Stormwater or Wastewater Services and Facilities. No public stormwater or wastewater services or facilities are proposed or needed. The County finds that this criterion does not directly apply. Nonetheless, the county finds that Applicant has adequately demonstrated that it will manage all stormwater and industrial wastewater onsite. See Section I.F above for additional details on Applicant's proposed systems and onsite management, which are incorporated here by reference. Therefore, alternatively, the County finds that Criterion B is met for stormwater and wastewater to then extent it applies.

Water Services and Facilities. The development will require potable water for employees and industrial water for processing and cooling. For industrial process water, on average, Applicant's water demand is currently estimated at 22,050,000 gallons per year. In its application, Applicant estimated that its water usage could range from 20 to 60 million gallons per year and that range was further refined as Applicant worked on its water demand matrix and its average versus peak needs. As discussed in Section I.D, Applicant plans to enter into a water supply agreement with the POM to obtain water from a new water infrastructure project located at the Port's Boardman Airport Industrial Park. The POM will delivery water meeting Applicant's quantity and quality requirements to the project parcel for use at the data center campus and the proposed route for water delivery infrastructure is proposed for within the Tower Road right of way to the extent practicable. If additional water is needed during peak usage, Applicant will have stored water onsite. POM anticipates that it will be prepared to begin water delivery service in line with the project's construction timeline. However, depending on construction timeline, Applicant is prepared to truck in potable water to be stored onsite to serve the facility operations until such time as the POM completes construction of the water delivery infrastructure. Applicant anticipates securing this purchased water from the POM. In their August 15, 2023 comment letter, 1000 Friends of Oregon (Friends) raised concerns related to water provision, specifically referencing MCZO 8.040(B). Friends mention that applicant is still negotiating with the POM and that would "involve construction of a new wastewater processing facility and new pipelines requiring additional permitting, and only covers 1/3 of the total of water potentially needed for the project." It appears that this statement does not account for the additional information Applicant provided about water and water demands through the course of the proceeding. With respect to the negotiations, the County finds that Applicant can secure, and the POM can provide, the public water service necessary for the data center; no new wastewater facility or wastewater services is contemplated. Further, the County imposed a condition of approval requiring that all third-party infrastructure, including the POM water delivery system, receive appropriate approvals prior to construction. Finally, the County will not issue the necessary zoning permit or building permits if the project is unable to demonstrate that water will be available as contemplated in the application, whether that be by the completion of construction of the water delivery system or via onsite storage. Accordingly, the County finds that the public water services for the Project are available in both quantity and quality to serve the Project needs and Applicant has taken into account potential impacts to public roadways from the delivery of such water. Criterion B is met for water services and facilities.

Police/Fire/Emergency Response Services and Facilities. The project parcel is within the Boardman Rural Fire Protection District's (RFPD) service area. A copy of the Public Notice was sent to Boardman Rural Fire Protection District. Since submitting the application, Applicant reached out to RFPD to discuss its fire and emergency response plans. A letter from BRFD is in the record. Applicant also reached out to the Morrow County Sheriff's Department. Applicant, in coordination with the Public Works Department, is committed to continuing to coordinate with the Sheriff's Department on traffic management for Project construction. For these reasons, Criterion B is met for emergency response services and facilities.

Transportation Services and Facilities. The TIA in the record concluded that the proposed zone change will not result in significant impacts to the County's transportation system and the existing roads. The TIA calculated traffic impacts during construction and operation. Based on the TIA and the recommended conditions, the County may find that the public transportation system is adequate to support the zone change. In addition to addressing the zone change traffic analysis, Applicant provided supplemental technical memos addressing Project construction and operation. See Section I.G for discussion of traffic and transportation memos in the record. There were public comments and testimony regarding traffic safety along Tower Road, including the multiple and different types of users. In addition, there was testimony about the potential Oregon Department of Transportation Project at the overpass that may have potential impact to routing for the Project's construction trips. This questions were subsequently addressed in Applicant's supplemental traffic reports submitted prior to and following the July 25 Planning Commission hearing. In addition, Applicant also addressed traffic related concerns associated with the construction of the POM water delivery system in the Tower Road right of way in Kittelson's technical memo dated August 7, 2023. The results of these analyses demonstrated that Applicant has implemented measures to minimize impacts and will mitigate impacts to acceptable levels. Applicant will be obligated to continue coordinating with the Public Works Department as the Project moves forward to ensure that potential adverse impacts to the transportation system, particularly Tower Road, are minimized and mitigated to acceptable levels. The County imposes a condition of approval to ensure this ongoing commitment. Accordingly, Criterion B is met for transportation services and facilities.

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.***

Response: As discussed under Subpart (2) below, this zone change application does not significantly affect a transportation facility, therefore Subpart (2) does not apply to this application.

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)

Response: The application concludes that the zone change application does not significantly affect a transportation facility, as demonstrated in the TIA. Morrow County Public Works reviewed the TIA and found that the recommendations for an access permit and stop sign are acceptable. However, Public Works also recommends Applicant enter a Road Use Agreement to pay for a chip seal of the northerly nine (9) miles of Tower Road after construction is complete (prior to issuance of an Occupancy Permit). Morrow County has responsibility to maintain the northerly 8 miles of Tower Road, from the intersection of Interstate 84 south to milepost 8. From milepost 8 to the south, Portland General Electric has responsibility for road maintenance, including snow plowing and surface improvements. Under the proposed Road Use Agreement, the County will assume responsible for milepost 8 to milepost 9. Applicant is continuing to coordinate with Portland General Electric regarding road use and maintenance.

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.

Response: Applicant addressed consistency with the MCCP goals and policies in the application and findings of compliance are addressed in Section 5 below. The application is, or can be made through conditions, consistent with the MCCP for the reasons provided in Section 5 and incorporated here. With respect to public need, the County has a recognized need for continued economic development around particular industry sectors to reduce unemployment, offer more living wage employment opportunities, and facilitate growth of County work force. The County adopted amendments to the Economic Element in 2015 to guide land use decisions for the next 20 years and beyond. One important focus of the Economic Element Amendments is large industrial activity sector and industrial diversification of the County's traditional agricultural economic base. The record demonstrates that this public need will be served by the data center project. Applicant performed an alternatives analysis to justify rezoning the project parcel to allow for the data center use. The alternatives analysis concluded that "[t]he proposal serves a public need of providing safe, reliable data storage, benefitting individuals, as well as public and private entities." The alternatives analysis also concludes that "another site is not reasonably available." Applicant applied 8 siting criteria when evaluating potential sites: (1) access to

electrical infrastructure and power supply; (2) water supply and discharge capability; (3) suitable land characteristics; (4) ability to avoid environmentally sensitive resources and protected areas; (5) road access; (6) fiber network connectivity; (7) land use and zoning; and (8) financial feasibility. The alternatives analysis methodology is detailed in the alternatives analysis and the considered sites are presented in Table 1 of Application Appendix C. In performing the alternatives analysis, Applicant started with an overarching assessment of land in Umatilla and Morrow counties, looking at potential sites in UBGs, then sites zoned for data center use, and then non-resource lands. The assessment resulted in 6 sites for further analysis, and finally, the selection of the project parcel. The project parcel satisfies, on balance, all siting criteria except being properly zoned for data center use (siting criterion 7).

In response to comments from the Planning Commission and Oregon Department of Land Conservation and Development (DLCD), Applicant undertook a more detailed alternatives analysis that expanded upon Applicant's broad review of similar types of areas (Exhibit 82). Applicant performed a site specific comparison following receipt of DLCD's August 15, 2023 comment letter identifying with varying levels of specificity 9 potential alternative locations for the Project (Exhibit 86). A full description of Applicant's alternatives analysis methodology and results are discussed fully in Exhibit 86. The County finds that Applicant has demonstrated why other areas within Morrow County could not reasonably accommodate the Project at the time of Applicant's site selection process based on Applicant's complete Alternatives Analysis (Attachment 1).

Further, there is no evidence in the record that owners in the area are facing a burden by the proposed zone change. In fact, the adjacent landowner supports Applicant's requested zone change and no others in the vicinity have raised concerns. Applicant addressed the project's compatibility with adjacent land uses and the record demonstrates that the surrounding landowner does not have concerns with compatibility (*see* oral testimony before the Planning Commission, June 27, 2023 and the Board of County Commissioners, August 16, 2023). Further, the project plans to use water provided by the Port of Morrow, not from an onsite groundwater well or water transfer agreement, a change which addressed staff's concerns raised earlier in the Staff Report.

For these reasons, the County finds that the evidence in the record, supported by the County's own comprehensive plan goals and policies, support a finding of need for the rural economic development offered by the Project and the need will be best served by approving the requested zone change. There was no testimony on the record raising concerns under MCZO 8.040(C). Criterion C is met.

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

Response: Applicant demonstrates in the EESE Analysis (see Section III below) that the proposal will not result in significant environmental, economic, social or energy consequences, which the County views as capturing public health and welfare considerations. No specific health or welfare concerns were directly raised in public testimony. Some testimony touched on impacts to wetlands, big game, water supply, and traffic having potential environmental or welfare consequences although Applicant provided responsive evidence to each of these points that the demonstrate that public health and welfare has been appropriately accounted for.

Applicant does not anticipate the proposed construction and operation of the data center would result in public health or welfare concerns and nothing in the record to date raises any such concerns. The County is proposing a condition of approval to ensure that Applicant will obtain all required environmental permits. Accordingly, Criterion D is met.

III. GOALS 3, 11, AND 14 EXCEPTION REQUESTS

Applicant proposes to develop an urban-scale industrial use on rural agricultural land that requires public services for water supply. In such circumstances, when urban-scale development and public services or facilities are proposed to be located on rural agricultural land, an applicant must demonstrate compliance with the applicable standards for goal exceptions in both OAR 660-004 and OAR 660-014.

A. Goal Exception Process, OAR 660-004-0010

(1) The exceptions process is not applicable to Statewide Goal 1 "Citizen Involvement" and Goal 2 "Land Use Planning." The exceptions process is generally applicable to all or part of those statewide goals that prescribe or restrict certain uses of resource land, restrict urban uses on rural land, or limit the provision of certain public facilities and services. These statewide goals include but are not limited to:

(a) Goal 3 "Agricultural Lands"; however, an exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses allowed in an exclusive farm use (EFU) zone under ORS chapter 215 and OAR chapter 660, division 33, "Agricultural Lands", except as provided under OAR 660-004-0022 regarding a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;

** * **

(c) Goal 11 "Public Facilities and Services" as provided in OAR 660-011-0060(9)

(d) Goal 14 "Urbanization" as provided for in the applicable paragraph (l)(c)(A), (B), (C) or (D) of this rule:

** * **

(D) For an exception to Goal 14 to allow urban development on rural lands, a local government must follow the applicable requirements of OAR 660-014-0030 or 660-014-0040, in conjunction with applicable requirements of this division;

Response: Application includes goal exceptions under OAR 660-004-0010(1)(a) Agricultural Lands, (c) Public Facilities, and (d)(D) Urbanization. The findings below support the County's conclusion that the goal exception requests can meet the applicable requirements of OAR 660-004-0020, 660-004-0022, 660-011-0060(9), and 660-014-0040.

B. Planning for the Goal Exception Area, OAR 660-004-0018

(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, OAR 660-014-0040, or OAR 660-014-0090, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

Response: Applicant seeks reason exceptions to Goals 3, 11, and 14 to allow for urban-scale industrial use and provision of public water service on land designated and zoned agricultural. The County notes that while OAR 660-011-065 does not explicitly require an exception to be taken to extend water service to rural land, case law suggests that such an exception is in fact required and therefore Applicant has requested, and the County has required, Applicant demonstrates reasons for a Goal 11 exception. *See Foland v. Jackson County*, 239 Or App 60, 64-65 (2010) (finding that the overarching policies of Goal 11 and the history of amendments to the goal supported LUBA's decision that Goal 11 prohibits the extension of city water services to serve an *urban use* on rural land without a Goal 11 exception). To ensure that the County meets OAR 660-004-0018(4), the applicant requested that the County impose a Limited Use (LU) overlay zone on the project parcel to limit the industrial uses allowed in the M-G Zone to only a data center under MCZO 3.070(16). The proposed development falls within the definition of "data center" under MCZO 1.030, as discussed above in Section 1, Background Information.

C. Goal Exception Requirements, OAR 660-004-0020

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

Response: This requirement can be met by amending the MCCP to document the exceptions and ensure compliance with OAR 660-004-0020(1).²

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

Response: Goal 2, Part II(c) imposes four standards for evaluating the requested goal exceptions. The findings supporting compliance with each are presented below.

1. Reasons Justify the Requested Exceptions:

(2)(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

² Applicant notes that OAR 660-014-0040(4) mirrors OAR 660-004-0020(1), requiring that exceptions be captured in the MCCP.

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;

Response: OAR 660-004-0020(2)(a) provides the first of four standards for goal exception requests. It requires an applicant to (1) demonstrate reasons justifying why the applicable goal policies should not apply, (2) describe the amount of land for the use, and (3) explain why the use requires a location on resource land.

With respect to “*reasons,*” justifying why the applicable policies of Goals 3, 11, and 14 should not apply to the project parcel, the affected Goal 3 Policy would not apply as the policy preserves agricultural lands for farm use, the affected Goal 11 Policy would not apply as the policy prohibits extension of public services to serve industrial uses on rural lands, and the affected Goal 14 Policy would not apply as the policy prohibits urban-scale uses on rural land.

OAR 660-004-0020(2)(a) does not prescribe the “*reasons*” that may be used to justify an exception. OAR 660-004-0022, 660-011-0060(9), and 660-014-0040 provide reasons for justifying the requested goals exceptions, although these rules do not provide an exclusive list of reasons. The language is clear that the list of reasons to justify an exception “include but are not limited to” those in rule. *See 1000 Friends of Oregon v. Jackson County*, 292 Or App 173, 183-184 (2018) (citing *State v. Kurtz*, 350 Or 65, 75 (2011) to find that, within the context of OAR 660-004-0022, 660-011-0060, and 660-014-0040, “statutory terms such as ‘including’ and ‘including but not limited to,’ when they precede a list of statutory examples, convey an intent that an accompanying list of examples be read in a nonexclusive sense”). Applicant demonstrated for reasons detailed below why the requested exceptions justify not applying the state policies embodied in Goals 3, 11, and 14 to the project parcel.

With respect to the “*amount of land for the use being planned,*” Applicant is requesting up to a 274-acre exception area for the project parcel. However, the actual footprint of the development will be smaller than 274-acres at 190 acres. Applicant plans to microsite the data center project within the project parcel and limit the impacts to the project footprint in order to avoid impacts to drainages and wetlands. This 190-acre footprint will accommodate the warehouses needed to store the required equipment to service the size of customer Applicant anticipates would require based on the size and scale of other data center campuses within Morrow County.

With respect to “*why the use requires a location on resource land,*” Applicant states that the location on agricultural land, adjacent to large tracts of agricultural land, “allows for the opportunity to manage process water onsite, alleviating the need for the extension of public sanitary services or facilities.” In addition, rural resource land proposed for the project parcel is adjacent to critical infrastructure (existing and planned transmission infrastructure with capacity), a siting factor that was severely constrained for other sites considered as a part of the alternatives analysis. The alternatives analysis identifies the siting criteria, the alternatives analysis methodology, and the geographic areas the Applicant evaluated before selecting the project parcel. Based on the above, and the findings addressing OAR 660-004-0020(2)(b) and OAR 660-014-0040(3)(a), the County concludes Applicant has adequately explained why the project would be located on this particular piece of resource land.

The following sections provide three reasons that the County accepts as justifying the requested goal exceptions. Together with the above, Applicant satisfies OAR 660-004-0020(2)(a).

a. Reason 1: Rural Industrial Development (OAR 660-004-0022(3)(c))

(3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts may 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;

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

(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 that support the decision.

The proposed development is industrial-scale in nature and would be located on resource land outside of an Urban Growth Boundary (UGB). According to the Applicant, and the County agrees, the data center campus has significant comparative advantages located on the project parcel based on the following:

- **Proximity to Transmission and Capacity.** The project parcel is directly adjacent to an existing transmission line ROW that runs south along Tower Road for about 1.6 miles to the Carty site and Grassland Switchyard. Applicant understands the Carty site to be in close proximity to existing and planned Pacific Power transmission infrastructure and capacity. The existing and planned critical electrical infrastructure and transmission located at the Carty site gives the project a significant comparative advantage by reducing the length of new transmission lines and takes advantage of existing right of way to serve the Point of Interconnection. The project plans to receive power from Pacific Power, who anticipates providing service via a new 230-kV transmission line utilizing existing ROW along Tower Rd and capacity in the area.
- **Proximity to Industrial Activity and Energy Facility.** The project parcel is almost adjacent to the existing Carty site that is zoned for industrial use and historically operated as a power generation facility with supporting transmission infrastructure. The project parcel is effectively co-locating next to an existing industrial operation and its associated power infrastructure. This location, with proximity to existing industrial operations avoids and minimizes impacts to surrounding lands and offers

the project a significant comparative advantage because it is readily compatible with adjacent uses.

- Availability of Suitable Land for Onsite Stormwater and Wastewater Management. The project parcel is of sufficient size, topography, and soil composition to accommodate onsite stormwater and wastewater management, thereby minimizing the need for offsite land application or extension of public sanitary services.

In selecting the site, Applicant performed an alternatives analysis that evaluated potential sites against 8 siting criteria. Applicant's complete Alternatives Analysis (as discussed in section (2) below and included as Attachment 1) discussed the unavailability of services at other locations (e.g., fiber, power). Overall, the County finds that the project parcel is locationally dependent on the availability of existing and planned transmission infrastructure, and it has a significant comparative advantage over other sites because it is vacant, has no productive agricultural value, and is suitable for onsite stormwater and wastewater management. The alternatives analysis (Application Appendix D) supports a conclusion that the project parcel satisfies all of Applicant's siting criteria except Siting Criteria 7, Land Use and Zoning and no other site evaluated has the same comparative advantage as the project parcel. For these reasons, the County finds that Applicant has sufficiently justified a "reason" for the requested Goal 3, 11, and 14 exceptions and the exceptions are warranted under OAR 660-004-0022(3)(c).

b. Reason 2: Other Reasons (OAR 660-004-0022(1)): Minimal Impact to Productive Agriculture

Applicant maintains that the project and removal of the project parcel from Goal 3, 11, and 14 protections will have no impact to productive agriculture because the parcel is comprised predominately of Class 7, a nonarable soil, has not been irrigated, and has no history of any agricultural productivity. The parcel has not been grazed or farmed due to poor soil conditions and topography. The soil analysis memo and the landowner affidavit included with the application package support these conclusions. There were multiple comments and questions concerning Applicant's soils analysis and in response, Applicant provided the ERM Soils Tech Memo, dated July 18, 2023 and Applicant's soils scientist from ERM testified before the Planning Commission on July 25, 2023, and the Board of County Commissioners on August 16, 2023, to reiterate the findings from the prior analyses to demonstrate thy the project parcel is not productive and has no value for farm use generally. Threemile Canyon Farm representatives also testified before the Planning Commission to this effect and provided additional reasoning for why the Project Parcel was not valuable to Threemile Canyon Farm's operations historically or in the future.

DLDC and others raised concerns that the project parcel was zoned EFU and therefore removing it from Goal 3 protection could have agricultural impacts, but based on the County's review of the testimony, none of it demonstrated with any degree of specificity how the requested goal exceptions would have an impact on productive agriculture in such a way that would undermine Applicant's presented evidence. On this basis, the County agrees with Applicant that removing the project parcel from the agricultural land supply will not diminish any potential agricultural economic benefit because historically, no benefits have been derived from the project parcel. Further, as discussed more fully under OAR 660-004-0020(2)(d) and

incorporated here, the proposed use of the project parcel can be compatible with the surrounding ongoing agricultural operations.

The County agrees with Applicant that the request results in minimal impacts to agricultural land that is a sufficient justification to warrant the requested goal exceptions. Removing up to 274 acres of nonproductive agricultural land from the agricultural land supply will have minimal impact to the County's agricultural economy, particularly given that about 80 acres of the property are sloped, comprised of wetlands or drainages (the area outside of the project footprint). Applicant requests, and the County agrees, that the reason provided under OAR 660-004-0022(1) not only justifies a reason for the Goal 3 exception, the reason also supports the requested Goal 14 exception to allow urban scale use of rural resource land. Applicant correctly points out that "reasons for a Goal 14 exception are not limited to only those set forth in OAR 660-014-0040(2). OAR 660-014-0040(2) specifically provides that "[r]easons that can justify why the policies in Goals 3, 4, 11, and 14 should not apply *can include, but are not limited to* * * *." Further, Applicant concludes that "a reason that supports a Goal 3 exception may also support a Goal 14 exception." Staff concurs that reasons that support the Goal 3 exception may in part support a Goal 14 exception notwithstanding the application complies with other Goal 14 exception requirements.

c. Reason 3: Other Reasons (OAR 660-004-0022(1)): Comparative Economic Benefit

Applicant claims the parcel "is unused because it has no economic value for agricultural operations." Goal 3 does not require that resource land be highly productive. In fact, Goal 3 protects lands that have moderate to low economic value. The reality that the Goal 3 exception would likely bring higher revenues than a marginally productive farm use is not by itself, sufficient to justify compliance with this reasons standard. There must be greater comparative economic benefit for the community to warrant an exception. Applicant did submit a third-party analysis with the application package of the economic impacts of data center projects in the area and of local market wages and employment characteristics. A summary of the economic impact analysis is below:

- On average, data center projects in the greater Oregon region have brought between \$500 million to \$800 million in initial investment to the Oregon economy, with subsequent expansions bringing total investment figures to over \$1.8 billion to \$2 billion. This project is assumed to bring investment figures commensurate with these projects.
- Over the course of data center expansions, similar projects of similar anticipated size have grown to support construction employment in the thousands, and over 200 full-time permanent positions.
- During operation, the Project may offer a minimum of 35 full-time jobs with direct employment opportunities with estimated average wages of \$75,000 per employee, well above the median annual earnings of Morrow County residents with full employment (\$44,500).

The record has letters of support from the likes of City of Heppner, City of Boardman, the Greater Eastern Oregon Development Corporation, Blue Mountain Community College, Senator

Hansell, Threemile Canyon Farms, and Boardman Chamber of Commerce, all of whom support the economic contribution of data center development for the region.

Applicant correctly points out that the data center development “furthers the goals and policies MCCP Goal 9, Economic Element. The Economic Element provides the foundation for the economic situation in Morrow County. The County adopted amendments to the Economic Element in 2015 to guide land use decisions for the next 20 years and beyond. One important focus of the Economic Element Amendments is large industrial activity sector and industrial diversification of the County’s traditional agricultural economic base. Applicant’s proposal directly contributes to industrial diversification and adds to the large industry activity sector, helping further the County’s Economic Element Goals and Policies, specifically Goals 2-4.

Goal 2: To expand job opportunities and reduce unemployment, reduce out-migration of youth and accommodate the growth of the County work force.

Policy 2A: To maximize utilization of local work force as job opportunities increase.

*Policy 2B: To increase the income levels of County residents by * * * encouraging the location of industries in the County which will hire local residents.*

Response: The project supports MCCP Economic Element, Goal 2 and Policy 2A and Policy 2B by providing increased job opportunities during construction and operation. The application claims the new data center jobs will increase “wages well above the median annual earnings of County residents.” Applicant provided an economic impact analysis (Application Appendix G) that supports Applicant’s economic impact findings. The analysis relied on IMPLAN (IMPact for PLANning) economic multiplier model. *See Application Appendix G, p 5.* Although, Applicant did not submit a separate demographic and labor study, the economic impact analysis provides data that shows the jobs will exceed the average wage in Morrow County. During construction, Applicant estimates there will be 200 FTE at a wage “well above median earnings of a county resident, and for operation, a minimum of 35 FTE at about \$75,000 per FTE is anticipated (well above the \$44,500 median annual earnings of a full-time employed County resident).“ This finding supports MCCP Policy 2B.

Goal 3: To diversify local businesses, industries and commercial activities and to promote the economic growth and stability of the County.

Policy 3A: To encourage local producers to new markets for local products and to seek out new products that are in demand in the market place and that can be produced locally.

Response: The project promotes continued growth in the cloud storage and energy sectors in the County, as well as the construction and technology industries, including supporting service providers. Application appears to support MCCP Goal 3 above. The project does not directly further Policy 3A, however, the economic benefits from the project are anticipated to indirectly benefit local producers and likely encourage continued growth of the local market.

Goal 4: To encourage the development of compatible land uses throughout the County and to protect areas suitable for industrial development from encroachment of incompatible land uses.

Policy 4A: To limit uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with industrial and commercial development.

Response: The project parcel is located next to the Carty site and existing and planned transmission infrastructure, which gives the project a significant comparative advantage to other considered sites. This co-locating of industrial uses minimizes the need for transmission line extensions or new high voltage transmission lines across agricultural land. Given this and the proximity to infrastructure, the project supports MCCP Goal 4 and Policy 4A.

2. No Alternative Site Can Reasonably Accommodate the Project:

OAR 660-004-0020(2)(b) and OAR 660-014-0040(3)(a) require applicant to demonstrate that other areas, not requiring an exception, cannot reasonably accommodate the use and that the use cannot be accommodated through an expansive of UGB or intensification of development in an existing rural community. This standard can be met by a “broad review of similar types of areas rather than a review of specific alternative sites. [...] Site specific comparisons are not required [...] unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use.” OAR 660-004-0020(2)(b)(C). This requires evaluation of alternative sites within existing exception areas, irrevocably committed resource lands, and urban growth boundaries. *Columbia Riverkeeper v. Columbia County*, 70 Or LUBA 171, 178-179 (2014). Additionally, the alternatives analysis for Goal 14 exception provides 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.” OAR 660-014-0040(3)(a). Applicant provided proposed findings under OAR 660-004-0020(2)(b) to demonstrate that Applicant also satisfies OAR 660-014-0030(3)(a), as the rule language and requirements almost mirror each other. The County agrees with this approach. To the extent the rule language varies, additional findings for the Goal 14 exception are presented in Section III.D below.

OAR 660-004-0020(2)(b) “Areas that do not require a new exception cannot reasonably accommodate the use”. The exception must meet the following requirements:

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

Response: Applicant submitted maps showing the location of areas considered in the alternatives analysis, including areas that do not require a new exception. See Exhibit 4, Appendix D, Figures 6a, 6b, and 6c. See also Exhibit 82, Figures 1a, 1b, 2b, 2c. Applicant also provided a map showing the site of the requested exception area. See Exhibit 4, Appendix D, Figure 6f. This requirement is met.

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

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

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

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

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

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

Response: This proceeding largely focused on Applicant’s Alternatives Analysis and whether other reasonable alternatives existed that were already zoned industrial or located within a UGB. Applicant initially submitted the original Alternatives Analysis in the application package and subsequently prepared supplements in response to testimony and questions received during the proceeding. The County looks to Exhibits 6, 48, 59, 60, 82, and 86 for Applicant’s complete Alternatives Analysis. Applicant’s complete Alternatives Analysis is included as Attachment 1 to these Findings and supports these Findings and to the extent where these Findings may be less detailed, the County relies on the additional findings in Attachment 1. The County evaluated the evidence compiled, considered the Planning Commission discussion concerning alternatives, and factored public comments received into the record. In doing so, the County’s decided that Applicant’s request complies with OAR 660-033-0020(2)(b)(B) and (C). The County explains its decision below.

With respect to subpart -0020(2)(b)(C), during the proceeding, general areas and certain locations were identified as potential alternative locations for the project. Applicant’s original

Alternatives Analysis more generally described the site selection process, although it did identify five alternative sites with specificity. Following comments from the Planning Commission, Friends, and DLCDC from the June 27 hearing, Applicant provided specific information in response to identified locations to their best ability given that not all sites were identified with particular specificity (e.g., not by parcel or address but rather by general vicinity or within a designated industrial area). DLCDC then submitted on August 15, 2023, a comment letter with nine geographic areas or sites identified as potential alternatives. At the August 16 hearing before the Board, Applicant requested additional time to provide a written response to DLCDC's identified sites. Some of the locations DLCDC identified were already included in Applicant's earlier analyses but Applicant provided additional review and analyses to supplement what was already provided in the record. Accordingly, the County finds that Applicant's information provided into the record contains the site specific comparisons necessary to satisfy OAR 660-004-0020(C) and responds to identified sites that DLCDC asserted could "more reasonably" accommodate the project. The complete Alternatives Analysis includes a site specific comparison as required by Goal 2. It also demonstrate why no alternative site could reasonably accommodate the project.

a. Applicant's Methodology

Applicant identified 8 siting criteria for selecting a data center project location and noted that no single criteria was determinative. Applicant applied these 8 siting criteria when evaluating sites within Umatilla and Morrow Counties between 2020 and early 2021. The process involved many months of interactions and inquiries with local utilities, elected officials, county and city managers, landowners, and other stakeholders to assess viability of potential sites against the siting criteria. The County finds that the 8 siting criteria are reasonable screening factors for determining whether a site could accommodate the proposed project. They are all factors that go to whether an appropriately sized facility could be constructed in a reasonable amount of time in a manner that could serve a customer's needs. No specific customer has been identified for the project although Applicant is developing the project for a large-scale data center customer that needs a mission-critical facility to support the customer's robust and scalable workloads for data processing and storage requirements (*see Applicant's August 16 testimony before the Board*).

With respect to geographic extent of Applicant's alternatives, Applicant evaluated alternatives using the following hierarchy:

- Applicant first evaluated the possibility of siting the data center campus on non-resource lands within the Urban Growth Boundaries (UGBs) of Umatilla and Morrow Counties.
- Applicant then evaluated the possibility of siting the project outside the UBG, but within zones where a data center may be allowed in both Umatilla and Morrow counties.
- Applicant then evaluated the possibility of siting the project outside the UBG and within an industrial zone that may require a zone change to allow the proposed data center campus.

- Finally, Applicant looked to resource land that would require a goal exception and rezone.

When evaluating potential sites under the above geographic hierarchy, Applicant applied its identified 8 siting criteria to determine whether a site was “reasonable” as an alternative. To be “reasonable” the site had to, on balance, satisfy the siting criteria. The criteria reflect factors, including economic, for determining that the proposed data center campus cannot be reasonably accommodated on a site, and include (1) access to electrical infrastructure and power supply; (2) water supply and discharge capability; (3) suitable land characteristics; (4) ability to avoid environmentally sensitive resources and protected areas; (5) road access; (6) fiber network connectivity; (7) land use and zoning; and (8) financial feasibility. Applicant further defined the key considerations that went into applying each siting criterion:

1. Access to Electrical Infrastructure and Power Availability. The proposed data center requires considerable electrical power and power reliability. Key siting considerations related to power delivery include:
 - a. Proximity to existing infrastructure to minimize impacts and reduce project costs. Only lands directly adjacent or with clear access (e.g., via a transmission easement) to an existing electrical infrastructure (e.g., substation or high-voltage transmission line) were assessed as reasonable alternatives.
 - b. A viable site required electrical infrastructure (i.e., transmission lines and a substation) with available load capacity of at least 200 megawatts (MW).
 - c. Power needed to be available and delivered at high voltages (138 kilovolt [kV] or higher) due to the power use of the proposed data center and electrical pricing.
 - d. Power needed to be available and delivered to a site within 24–36 months of the initial load interconnection application.
 - e. System upgrades to provide the requested power load needed to be economically feasible for the Project.

This criterion was chosen because the lack of adequate power or transmission capacity in close proximity to a site may result in the need for prohibitively expensive improvements that would take too long a lead time to develop and construct to serve a single property.

2. Water Supply and Discharge. The proposed data center requires water supply and sufficient land to manage industrial wastewater onsite or have access to a municipal sanitary system. Applicant considered sites that could be served by private infrastructure, as well as municipal infrastructure. Key siting considerations related to water supply and discharge include:
 - a. Either location within the service territory of a municipal utility with sufficient capacity to service the needs of the Project or the potential for financially feasible upgrades to service the Project.
 - b. Alternatively, feasibility for private onsite wells and wastewater treatment facilities to be permitted and constructed.

This criterion was used to help choosing a site with minimum impact on water resources and infrastructure of the region.

3. Land Characteristics. The proposed data center requires a particular parcel size and topography. Key siting considerations related to land include:
 - a. A site with a minimum of 200 contiguous acres (about 0.5 to 1.0 acre per MW is required in order to accommodate the proposed Project's infrastructure).
 - b. A vacant undeveloped site.
 - c. Sites could include more than one parcel as long as contiguous.
 - d. Topography needed to be less than 15 percent slope to minimize grading.

This criterion was used to help choosing a site that could reasonably accommodate the proposed use while minimizing the impact on existing uses and create a reasonable footprint for the proposed use.

4. Environmentally Sensitive Resources and Protected Areas. Applicant seeks to avoid sensitive biological, water, and cultural resources, as well as areas that are potentially contaminated or under legal protection or conservation. Key siting considerations related to environmentally sensitive resources and protected areas include:
 - a. A site must have approximately 200 acres that are unconstrained by sensitive resources. Avoiding sensitive reasons minimizes adverse environmental impacts and streamlines permitting.
 - b. A site must be permissible within 1 year or less to meet the Applicant's commercial operation date.
 - c. Contaminated sites with potential remediation liabilities may be viable in some circumstances, but are generally less desirable for Project siting.

This criterion was used to pick a site for the proposed use that would be respectful of the environment and natural and cultural resources and minimize any impact on those resources.

5. Road Access. Applicant requires that a site be located within 100 feet or less of public right-of-way access to allow for direct or near direct access to the site and avoid construction of new access roads. This criterion was use to minimize impact on neighboring communities.
6. Fiber Network Connectivity. The proposed data center requires reasonable access to multiple long-haul fiber lines with available capacity to service the data center's communication needs. Key siting considerations for fiber network connectivity include:
 - a. Fiber network with an available capacity must be available regionally.
 - b. Fiber network connectivity to the site must be feasible via easements.
 - c. Fiber network providers must be willing and able to meet the Project's needs within 12 months of the service request.

This criterion was used to choose a site that would not require substantial construction and disturbance of land around the project area.

7. Land Use and Zoning. Applicant requires that the proposed data center be located on land zoned for data center use, as a permitted or conditional use or that there be a viable pathway for rezoning a site. This criterion was used to focus as an initial step on zones allowing the proposed use, while acknowledging that sites requiring a conditional use permit or rezoning may be a better fit due to the consideration of other criteria.
8. Financial Feasibility. While not determinative, Applicant requires that costs for land, energy, water, fiber easements, grading, and environmental mitigation be aligned with the financial feasibility goals for the Project.

Applicant applied these 8 siting criteria consistently as it evaluated the alternative geographic locations that were raised during the proceeding. It also provided additional evidence to support the conclusions like communication with the Port of Morrow regarding the lack of land availability (Exhibit 86, Appendix A), communication the City of Hermiston regarding the inability to accommodate a UGB expansion or site within the UGB (Exhibit 86, Appendix C), and Threemile Canyon Farm, the agricultural operator of the majority of the SAI zoned land within the POM Boardman Airport Industrial Park (*see* oral testimony from Planning Commission hearings). Applicant also provided information on the power demands for the region to support Siting Criterion 1 as it related to alternative sites DCLD identified. The County finds that is unreasonable to assert that an applicant should have to wait for multiple years to see if power could be available at a particular site or if a property owner may seek to sell at a later date. The alternatives analysis required under Goal 2 is a set in time analysis to evaluate the proposed site against other potentially alternative sites available at the time. A project development timeline and factors like Applicant's siting criteria, including the timeliness of power and water delivery, must be considered in applying the alternatives analysis requirements as those factors all go to determine whether a site could "reasonably accommodate" the proposal.

b. Alternatives Evaluated

Applicant evaluated the geographic areas described above against the siting criteria and narrowed the alternatives to 5 alternatives and the proposed project parcel. Table 1 in Exhibit 6 summarizes the results of the original Alternatives Analysis and is incorporated herein. During the Planning Commission hearings, there were questions and testimony concerning the availability of sites, particularly related to the Army Depot, lands zoned industrial located within the Boardman Airport Industrial Park, and land within UGBs. In response, Applicant prepared a supplemental alternatives analysis (Exhibit 59) and draft findings (Exhibit 79) to address these questions.

Table 1 provides an overview of Applicant's Overarching Assessment while additional site by site discussion follows. A general theme in Applicant's review of potential sites was the lack of access to electric infrastructure and transmission capacity (Criteria 1). Morrow County hosts several data center sites and there is significant capacity constraints within the region.

Table 1: Alternatives Analysis Discussion- Overarching Assessment

Alternatives Sites Considered	Distance from Selected Site (miles)	Jurisdiction	Zoning	Within or Distance to UGB	Conclusion*
Overarching Assessment: Umatilla County UGBs	25-30	Umatilla County	Various	Within	Criteria 1, 3, and 6 not met
<p>Discussion: Applicant evaluated the sites included in the Umatilla County UGBs and found in its Overarching Assessment that the available sites failed to provide adequate power (Siting Criterion 1), vacant or suitable land condition (Siting Criterion 3), and fiber network availability (Siting Criterion 6). Hermiston and Hinkle UGBs are already saturated with developments within and in surrounding potentially compatible surrounding parcels (Siting Criterion 3). The Stanfield UGB area lacks critical electrical capacity necessary to serve the Project (Siting Criterion 1). The Pendleton UGB, although less saturated is located too far away to be commercially viable fiber network (Siting Criterion 6).</p>					
Overarching Assessment: Umatilla County RLIZ, LRLIZ, HI Zones	25	Umatilla County	RLIZ, LRLIZ, HI	0-1 miles	Criteria 3 not met
<p>Discussion: As shown in Figures 2a-2b, attached, there are limited areas that fall within the zones that allow data centers to be permitted outright as all of these zoned areas are already occupied with existing infrastructure or development (Siting Criteria 3 and 7). In addition, other areas where a data center use would potentially be compatible were also analyzed and Applicant found that some sites were already developed or committed (Siting Criterion 3) and/or presented environmental constraints, including wetlands and floodplains (Siting Criterion 4).</p>					
Overarching Assessment: Umatilla County Non- resource Lands	20+	Umatilla County	Various	Various	Criteria 1 and 3 not met
<p>Discussion: Areas outside of the Hermiston, Hinkle, and Stanfield UGBs and permitted zones not requiring a goal exception were analyzed and deemed not to have available electrical infrastructure (Siting Criterion 1) or meet the landowner and land requirements (Siting Criterion 3 and 4). Particularly, environmental constraints such as sensitive biological, water, cultural resources or areas protected for conservation or potentially contaminated present a myriad of issues for Applicant, making sustainable development of those sites unachievable.</p>					
Overarching Assessment: Morrow County UGBs	12 -20+	Morrow County	Various	Within	Criteria 1 and 3 not met
<p>Discussion: As shown on Figure 1a, Morrow County UGBs to the north within Boardman and Irrigon, Oregon, are already occupied with development (Siting Criterion 3). The UGBs to the south, see attached Figure 2b, lone, Lexington and Heppner do not meet requirements related to available transmission capacity (Siting Criterion 1) and topography (Siting Criterion 3). Additionally, adjacent land uses would not be compatible with a data center as areas along existing transmission line routes are not appropriately zoned and some appear to be in active agriculture use.</p>					
Overarching Assessment: Morrow County MG, PI, ALI Zones	0.27 - 20	Morrow County	MG, PI, ALI	0 – 20 miles	Criteria 3 not met

Discussion: As shown on Figure 1a, attached, no undeveloped, vacant land available that meets the size requirements of Siting Criterion 3 was available for the Project. Existing MG, PI and ALI zones are all either occupied by existing development, planned for future development by the landowner, not available for sale or lease to the Applicant, or do not contain the amount of buildable land required (Siting Criterion 3).

Overarching Assessment: Morrow County Non- resource Lands	5+	Morrow County	Various	Various	Criteria 1 and 3 not met
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Discussion: Areas outside of the UGBs and permitted zones but not requiring a Goal 3 exception were analyzed and deemed not to have available electrical infrastructure (Siting Criterion 1) or meet the landowner and land requirements (Siting Criterion 3). Adjacent sites with zoning that could be compatible with the data center use, such as SAI zones, appear to be in active or historical agriculture production and irrigated (Siting Criterion 7).

Land within UGBs or Proximity. Reviewing those UGBs in accordance with the siting criteria, Applicant found that UGBs to the north within Boardman and Irrigon were already occupied and committed to other uses (siting criterion 3), while the Ione, Lexington, and Heppner UGBs did not meet siting criteria requirements related to available transmission capacity (siting criterion 1), fiber network (siting criterion 6), topography (siting criterion 3), and environmentally sensitive resources and protected areas (siting criterion 4).

Nonresource Land with Appropriate Zoning. For sites within zones where a data center may be allowed outside of UGBs, Applicant found that all of the land that could have otherwise met certain siting criteria were already occupied with existing infrastructure and development (siting criteria 3 and 7). In addition other areas where a data center use could have been compatible presented insurmountable environmental constraints, including wetlands and floodplains (siting criterion 4). Finally, no undeveloped, vacant land meeting the size requirements for the project was available in the existing MG, PI, and ALI zones (siting criterion 3). Applicant’s analysis of those sites is detailed and summarized in Applicant’s complete Alternatives Analysis.

Nonresource Land requiring Zone Change. Applicant next assessed other non-resource lands in Umatilla and Morrow Counties that may have required a zone change, but would not require a goal exception. As described further in Table 1 and in Applicant’s Amended Supplemental Tech Memo, Applicant found that those sites were not reasonable alternatives because they did not have available electrical infrastructure (siting criterion 1) and did not meet land requirements (siting criterion 3).

Resource Land. Lastly, Applicant evaluated EFU-zoned sites against the siting criteria that would require a goal exception. Of these sites, the main constraints were land characteristics, sensitive resources, and financial feasibility, with the exception of the project parcel that met all siting criteria except for being zoned to allow a data center and requiring an exception.

Sites Raised with More Specificity during Planning Commission Proceeding. The Planning Commission and DLCD raised the SAI zone within the POM’s Boardman Airport Industrial Park and the Army Depot as potential locations for the project that would not require an exception. Applicant had previously evaluated these sites in the original Alternatives Analysis but in response to questions and testimony, engaged in a more detailed evaluation of these two areas.

- SAI zone. With regard to the SAI zone, Applicant addressed this area in its Amended Supplemental Tech Memo (Exhibit 82) and correctly pointed out that the zone did not authorize the siting of data centers (siting criterion 7). In addition, over 9,000 acres of the of the SAI zone is currently used and considered as highly productive agricultural land with active pivot irrigation and unavailable (siting criterion 3). While some areas zoned SAI are not in pivot irrigation, those areas are included in the Boardman Conservation Area and may not be developed due to environmental constraints (siting criterion 4). Lands adjacent to the SAI zone and not in pivot are zoned EFU and constrained by the Boardman Conservation Area and similarly not developable for a data center due to environmental constraints (siting criterion 4). *See also* Section 1.2 from Exhibit 82 included in Attachment 1 and incorporated herein.
- Army Depot With regard to the Depot Site, Applicant considered land within the Depot Site but concluded that this site was not a reasonable alternative because it lacked the required power capacity (siting criterion 1), required development characteristics (siting criterion 3), or involved environmental sensitive areas (siting criterion 4). In addition, Umatilla County only allows data centers in specific areas of the Depot Site (subareas 2 and 3), restricting potential available sites, and Applicant would not have been able to develop its project within those subareas due to timing and contractual constraints associated with the project, as well as the financial burden of securing financing and insuring a previously contaminated site (siting criteria 4 and 8). *See also* Section 1.3 from Exhibit 59 included in Attachment 1 and incorporate herein.

Sites Raised with More Specificity in DLCD August 15 Comment Letter. DLCD submitted a letter ahead of the August 16 Board hearing, identifying 9 possible alternative sites (Exhibit 84). The majority of the sites identified by DLCD were already addressed by Applicant in some form in technical memos, including the Army Depot (referred to in DLCD’s submittal as the Columbia Development Authority site), the POM industrial parks, and industrially zoned land in Umatilla County. The County adopts by reference Applicant’s responses to DLCD’s comments contained in Exhibit 86 to demonstrate why these additional sites are not “reasonable” to accommodate the proposed project: DLCD Sites 1 and 2 are discussed in Sections 2.1.1 and 2.1.2, DLCD Sites 3-7 are discussed in 2.2.1 to 2.2.5, and DLCD Sites 8 and 9 are discussed in Sections 2.3.1 and 2.3.2. These sites, on balance, do not satisfy Applicant’s 8 siting criteria and therefore are not considered reasonable for the reasons discussed in Exhibit 86 that the County adopts as its own. DLCD appears to take issue with Applicant’s Siting Criterion 1 and provided figures showing transmission and substations within the region of Morrow and Umatilla counties. The figure shows electrical and transmission infrastructure of all scale, including taps that are not viable for interconnection of a data center project. Siting Criterion 1 details the factors that go into determining whether Siting Criterion 1 can be met. DLCD’s comments fail to take into consideration the availability of interconnection or the capacity of available existing or planned infrastructure. In response, Applicant conducted a review of BPA que positions and information regarding energy capacity available in the region (Exhibit 86, Appendix B). The County finds the evidence provided in Exhibit 86 more convincing and while DLCD raised sites with a level of specificity requiring further analysis, the County finds that Applicant provided the required level of response and agrees with the conclusion that notwithstanding the sites identified, none

area reasonable to accommodate the proposed data center campus for purpose of Goal 2 and the requested exceptions.

The County agrees that Applicant carefully evaluated all the required land types as a part of the alternatives analysis before identifying the project parcel. The County also finds that the presented alternatives analysis, supplemented by the Amended Supplemental Tech Memo, demonstrates that other areas in the vicinity cannot reasonably accommodate the proposed data center campus and OAR 660-004-0020(2)(b)(B) and (C). While no one to date has identified other sites with specific that would require the Applicant to undertake a more detailed evaluation of specific alternative sites, Applicant did provide additional analysis regarding the large SAI zone and the Depot Site in response to comments from the Planning Commission, which also demonstrated that those areas cannot reasonably accommodate the proposed data center campus. This requirement is met.

3. *Environmental, Economic, Social and Energy Consequences (“EASE Analysis”):*

An EASE Analysis required for a goal exception. OAR 660-004-0020(2)(c) (e.g., Goal 2, Part II(c)(4)) provides the general EASE analysis for goal exceptions.

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

The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding.

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

Environmental. Applicant evaluated agricultural productivity, water availability, wetlands, habitat, and sensitive species for the project parcel to demonstrate that the proposed data center will not have an adverse environmental impact. The project parcel meets the Applicant’s siting criteria, including avoiding environmentally sensitive resources and protected areas, having a topography of less than 15 percent, and being underutilized, vacant, and/or undeveloped land.

Moreover, the project parcel anticipates avoiding the adjacent floodplain, existing jurisdictional water features by at least 80 feet, and incorporate a 250-foot BCA buffer.

Applicant has characterized the vegetation onsite and performed a preliminary site survey for sensitive habitat and species. *See* Exhibit 13, Application Appendix K (Threatened and Endangered Species Habitat Assessment) and Exhibit 10, Application Appendix H (Washington Ground Squirrel Protocol Survey Results). The project parcel contains no Washington Ground Squirrels. Applicant's consultant also concluded that the project parcel does not hold a high potential to support Laurence's milkvetch. No other sensitive species or habitat was identified. Applicant also performed a wetland delineation, had a site visit with the Oregon Department of State Lands (DSL), and filed the wetland delineation with DSL for concurrence. *See* Exhibit 14, Application Appendix L (Wetland Delineation Report and DSL Concurrence). Applicant will avoid wetlands, drainages, and development within the Federal Emergency Management Agency (FEMA) floodplain. *See* Exhibit 21, Application Figure 4 (Project Area and Key Site Features).

In addition, applicant performed a desktop study of potential cultural resource impacts for the project parcel and engaged in consultation with the Oregon SHPO and the Confederated Tribes of the Umatilla Indian Reservation. There are no known cultural resources onsite and Applicant will implement an inadvertent discovery plan during construction. *See* Exhibit 15, Application Appendix M (Cultural Resources Desktop Report) and Exhibit 16, Application Appendix N (Tribal Email Correspondence).

In response to comments received from the planning commission, Applicant supplemented the record with a Big Game and Wetland Habitat Technical Memo from ERM. (Exhibit 61) The memo supplemented the earlier environmental surveys and expanded Applicant's analysis of habitat quality and quality for big game. *See* Exhibit 61, ERM Big Game and Wetland Habitat Tech Memo, dated July 18, 2023. Applicant also conducted a site visit with ODFW on July 24, 2023 to discuss the habitat and potential impacts. ODFW has expressed no further concern and Applicant imposed a 100-foot buffer from the surveyed wetlands and other riparian habitat, as shown on Attachment B of Exhibit 61, ERM Big Game and Wetland Habitat Tech Memo.

Applicant seeks to minimize adverse impacts from construction and operational activities. Applicant will conduct all construction and operational activities such that they comply with local and state permitting requirements. Applicant anticipates pursuing an NPDES 1200-C permit from Oregon Department of Environmental Quality (DEQ), a DEQ onsite septic permit, a DWT basic air contaminant discharge permit, and any other local or state permit that may be required for construction and operation of the data center campus. For these reasons, the County concludes that the proposed data center will not result in negative environmental impacts.

Economic. The project parcel has no history of agricultural productivity or any other viable productive use. *See* Exhibit 4, Application Appendix B (Landowner Affidavit). Removing the project parcel from the agricultural land supply will have no economic ramifications on area agricultural operators or land supply. The County received comments from 1000 Friends and DLCD that seemed to question this conclusion but neither provided any evidence into the record that undermines Applicant's evidence provided to date. Further, the proposed data center will result in economic benefits to the local community, provide family-wage jobs, and continue to support the County's economic development goals. *See* Exhibit 9, Application Appendix G (Economic Analysis Summary Memo); see also the findings under OAR 660-004-0020(2)(b) and

OAR 660-014-0040(3)(a) above. Applicant will be responsible for sourcing any water supply and is anticipating managing industrial wastewater onsite. There should be no increase in burden on any public service provider. Accordingly, the County finds that the proposed data center will not result in negative economic impacts.

Social. The proposed data center campus will provide increased local job opportunities for area residents, during construction and operation. It will also provide social benefits in the form of taxes for the County's social programs. There was some concern that potential traffic safety impacts may raise a social consequence, however, the additional evidence provided in the record, coupled with the proposed conditions of approval resolve this potential concern. In addition, Applicant has evaluated potential cultural resource impacts for the project parcel and engaged in consultation with the Oregon SHPO and the Confederated Tribes of the Umatilla Indian Reservation. There are no known cultural resources onsite and Applicant will implement an inadvertent discovery plan during construction. *See* Exhibits 15-16, Application Appendices M and N. On this basis, the County concludes that the proposed data center will not result in negative social impacts.

Energy. The proposed data center requires high-voltage transmission service and proximity to existing and planned transmission infrastructure with capacity to serve the project parcel. The project parcel is ideal given its proximity to existing and planned transmission infrastructure at the Carty site and the advantage of an existing transmission ROW running from the Carty site to the project parcel, along Tower Road. Applicant is in conversations with Pacific Power to provide the required power infrastructure and supply for the data center campus in accordance with Oregon Public Utility Commission-approved rules and regulations and tariffs. the County finds that the proposed data center will not result in negative energy impacts.

Based on the above EESE analysis, the County finds the long-term EESE consequences of the proposed data center campus on the project parcel will reduce adverse impacts and will not result in significantly more adverse impacts than would typically result from the same proposal being located in areas requiring a goal exception.

4. *The Project is Compatible with Adjacent Uses:*

(2)(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 practice." "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Response: To the north and west, adjacent land is in center pivot irrigation and is farmed. Land to the east is uncultivated and located within the conservation area. To the south is the Carty site. The project does not appear to have significant adverse impacts on the environment or existing public services or facilities. Temporary impacts from construction may involve dust and increased traffic, but these impacts will be managed with dust control, traffic management, and other measures to ensure compatibility with adjacent uses during construction. Applicant seeks

the ability to use public water supply to avoid having to use groundwater. Therefore, no impacts to groundwater or agricultural irrigation are anticipated. Further, the onsite management of stormwater and process wastewater is not anticipated to create incompatibilities, as it is already a common practice in the County and subject DEQ regulation. Threemile Canyon Farms is the surrounding property owner and views the proposed data center as compatible with its existing operations. There were some comments on the record that there may be other uses in the vicinity of the project that may be negatively impacted, although none appeared to raise concerns on the record themselves. Therefore, based on the evidence in the record, the County concludes that the proposed data center use will be compatible with the adjacent uses.

D. Compliance with OAR 660-011-0065 (Goal 11 Rule)

As discussed in the application, Goal 11, nor the implementing regulations, expressly on their face require Applicant to take a goal exception to extend public water service to the project parcel. However, the court of appeals ruled in *Foland v. Jackson County*, 239 Or App 60, 64-65 (2010), that Goal 11 prohibits the extension of city water services to serve an urban use on rural lands without a Goal 11 exception. Applicant provided reasons to justify the Goal 11 exception under OAR 660-004 and OAR 660-014, and the County agrees that the presented reasons justify the requested Goal 11 exception. *Foland* made clear that the same factors that justify a Goal 14 exception may be the same factors that justify the Goal 11 exception. 239 Or App at 72. Nonetheless, the County adopts findings under the Goal 11 rule to demonstrate why the requested Goal 11 is justified to the extent that findings under the rule are required.

(2) Consistent with Goal 11, local land use regulations applicable to lands that are outside urban growth boundaries and unincorporated community boundaries shall not:

(a) Allow an increase in a base density in a residential zone due to the availability of service from a water system;

(b) Allow a higher density for residential development served by a water system than would be authorized without such service; or

(c) Allow an increase in the allowable density of residential development due to the presence, establishment, or extension of a water system.

Response: The project involves a non-residential, urban-scale use on rural land. The provisions of OAR 660-011-0065 do not apply to the project as there is no proposed increase in residential density or development. The LU overlay zone will limit use on the project parcel to only the proposed use. The County finds that the requested Goal 11 exception is justified for the reasons presented in Section III.C and E. Applicant is not requesting to extend public sanitary services outside of the UBG and the POM will not be receiving any wastewater returns from the project; all stormwater and wastewater will be managed onsite. Only municipal water will be extended outside of the UBG to serve the project parcel. With respect to the Goal 11 exception, Applicant provided supplemental transportation analysis to address potential adverse impacts from construction of the water delivery system from the POM Boardman Airport Industrial Park to the project parcel along Tower Road right of way. The County maintains that Applicant has adequately addressed the Goal 11 exception requirements for this request. Any future

construction of the water delivery system along the proposed route will be required to obtain the necessary approvals from the County for a water distribution line, like a right of way permit.

E. Compliance with OAR 660-014-0040 (Goal 14 Rule)

Applicant requests goal exception for “rural agricultural land” or “undeveloped rural land” as used within the meaning of OAR 660-014-0040. County may justify the requested Goal 14 exception based on reasons set forth under OAR 660-004 and OAR 660-014-0040. OAR 660-014-0040 contains similar requirements to OAR 660-004 for granting a goal exception. There are certain sections, however, where the language varies slightly. To the extent the language in OAR 660-014-0040 corresponds and mirrors the language in OAR 660-004, the County opts to rely on the findings under OAR 660-004 rather than making duplicate findings under OAR 660-014-0040. However, to the extent the requirements different between OAR 660-004 and OAR 660-014-0040, the County makes findings below, supported by Exhibit 60, Applicant’s July 18, 2023 Supplemental Analysis for Goal 14 Exception Request (“Goal 14 Supplemental Analysis”) and Section 4 of Exhibit 86.

The following sections provide findings under OAR 660-014-0040 to detail how the County evaluates Applicant’s requested Goal 14 exception, finds reasons to justify it, and supplements the findings under Section III.C above.

1. Reasons Justify the Exception

(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.

Response: OAR 660-014-0004(2) does not prescribe the “reasons” that may be used to justify a Goal 14 exception. While the rule provides *a reason* that may justify a Goal 14 exception, plain language of the rule makes clear that other reasons may be the basis for a Goal 14 exception. The language is clear that the reasons to justify an exception “include but are not limited to” those in rule.³ The County makes findings under OAR 660-014-004(2) with respect to the requested Goal 14 exception but relies more heavily on the reasons presented under OAR 660-004-0020 and -0022 to justify the requested exceptions, including the Goal 14 exception request because the reasons identified by the Applicant to justify the Goal 3 exception also support the extension of public water service to the project parcel from the Port of Morrow Airport Industrial Park and the requested Goal 14 exception. The development would have significant economic benefits and will bring higher economic value to a parcel of farmland compared to farming on the parcel. The economic benefits are dependent on having access to existing and planned

³ *1000 Friends of Oregon v. Jackson County*, 292 Or App 173, 183-184 (2018) (citing *State v. Kurtz*, 350 Or 65, 75 (2011) to find that, within the context of OAR 660-004-0022, 660-011-0060, and 660-014-0040, “statutory terms such as ‘including’ and ‘including but not limited to,’ when they precede a list of statutory examples, convey an intent that an accompanying list of examples be read in a nonexclusive sense”).

transmission infrastructure with capacity. The application does show how economic benefits are dependent upon having a large parcel with relatively flat topography and well-drained soil types that will accommodate the onsite stormwater and wastewater management. The application initially did not specifically show how the urban-level data center campus and the related economic activity from the development is “dependent upon an adjacent or nearby natural resource.” Since the application was submitted, Applicant provided additional information related to this question. The proposed use is a necessary supplement to other critical infrastructure in Morrow County and the surrounding area and is located in close proximity to this critical infrastructure such as the Carty site, an existing 230 kV transmission line right-of-way, and the existing electric infrastructure. *See* Exhibit 60, Goal 14 Supplemental Analysis, at 1. The proposed use will help meet the rising data center and cloud storage demand needs across all sectors. *Id.* A data center is akin to a resource management use as it houses, hosts, and provides security for data that others use for economic activity. This resource management economic activity is dependent on power service and capacity adjacent to the project parcel. *Id.* at 2.

Applicant maintains that the project parcel, and the proposed urban-level development of the parcel, is dependent on a consistent, quality water supply that the Port of Morrow can provide from a nearby natural resource, the Columbia River. In addition, the project parcel is located in an area with a relatively mild climate (air and water), which is an important factor for proper data center operational functions. The County accepts these arguments as sufficient to address the reason enumerated in OAR 660-014-0040(2) and coupled with Applicant’s other reasons above, justify the requested Goal 14 exception.

2. UGB Sites Cannot Reasonably Accommodate the Project

(3) 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;

Response: Applicant evaluated alternative sites, including potential sites located within and adjacent to existing UGBs of Umatilla and Morrow Counties, as well as sites already zoned for data centers. The complete Alternatives Analysis conclude that sites within existing UGBs or rurally zoned industrial areas cannot reasonably accommodate the project, even with further intensification of development on those lands, as shown in response to the standards of OAR 660-004. Applicant applied 8 siting criteria as a part of the Alternatives Analysis and the project parcel met 7/8 criteria. Sites that could not accommodate the Project and meet the siting criteria were deemed not reasonable sites because they would unreasonably disturb land not related to the proposed use, disturb natural resources, or require significant infrastructure investment to serve a single use. Those sites did not have the required power or transmission infrastructure, did not meet the required acreage requirement, and would have resulted in unreasonable impact to natural resources.

DLCD's August 15 comments question Applicant's ability to satisfy this prong of the Goal 14 goal exception test. The County incorporates by references its findings under OAR 660-004-0020(2)(b)(B) and (C) here to support findings specifically related to the sites that DLCD identified that are within UGBs or near UGBs. At the time of Applicant's evaluation, there simply was not a site that could reasonably accommodate the proposed use in a UGB or through intensification of development in a rural community. The project requires a large project parcel, ability to manage stormwater and wastewater onsite, proximity to water and power supply, and sought to avoid environmental impacts among other things. The County finds that the required alternatives analysis does not need to be an exhaustive search – the rule allows Applicant to provide a broad alternatives analysis at first and then must address specific sites if raised during the process. Further, there is an element of reasonableness built into the alternatives analysis and the County finds that the 8 siting criteria are well developed, thoughtful factors to apply in selecting a site for the proposed data center use. Applicant addressed the sites DLCD identified with sufficient specificity to demonstrate that the proposed use "cannot be reasonably accommodated" within an existing UGB or intensifying development in a rural community. No evidence provided by DLCD convinces the County otherwise. Accordingly, the County finds that the Applicant meets OAR 660-014-0040(3)(a).

County finds the application complies with this standard.

3. EESE Analysis

(3) 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 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.

Response: The County found above under OAR 660-004-0020(2)(c) that the proposed use would not result in EESE consequences significantly more adverse than if the proposed use was sited elsewhere. The project will not result in significant adverse impacts to air, water, or land or surrounding land as the proposed use is found to be compatible with the surrounding agricultural operations and industrial uses at the Carty site. Further, the County found under OAR 660-004-0020(2)(a) why the amount of land included in the goal exception request is appropriate and limited to accommodate only the proposed data center. For these reasons, the County finds that

Applicant meets OAR 660-014-0040(3)(b).

4. The Project is Compatible with Adjacent Uses:

(3) To approve an exception under section (2) of this rule, a county must also show:

** * **

© That Goal 2, Part ©(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 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.

Response: The amount of land included in the exception area is appropriate and gives Applicant flexibility to avoid sensitive environmental resources and impose a 250-foot buffer to avoid impacts to drainages, wetlands, and the floodplain. The project parcel appears to be of sufficient size to manage stormwater and wastewater onsite through evaporation and retention ponds. Applicant indicated they have studied the potential environmental impacts and demonstrates, based on available information, the development “should not, with appropriate minimization and mitigation measures achieved through appropriate permitting, result in adverse impacts to air, water, energy, and land resources of the surrounding area.” Additionally, to verify application complies with this standard, Applicant will be obligated to obtain all local, state, and federal environmental permits prior to construction and operation. The County finds that Applicant complies with this criteria.

5. Appropriate Level of Public Water Services:

(3) 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; and

Response: Applicant has entered into an MOU and an LOI with the Port of Morrow for the Port to supply water to the project parcel from its water project located at the Airport Industrial Park. The MOU and LOI evidence that the water supply may be provided in a timely and efficient way. Applicant is currently working with Port of Morrow to finalize the water delivery agreement and is highly confident that water will be available by the time the proposed use is ready for operations. As contingency, Applicant will be ready and able to truck water as required until the site is connected to the Port of Morrow’s facilities. In addition, all wastewater from the site will be processed on-site through a system of evaporation ponds and will not otherwise require service from a public utility. See MCZO 8.040(B) above for additional findings to

support why appropriate level of public water services is likely to be provided in a timely and efficient matter. The County finds that Applicant complies with this criterion.

6. Coordination of New Urban Development on Rural Land:

(3) To approve an exception under section (2) of this rule, a county must also show:

* * *

(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.

Response: The County is the affected jurisdiction where the new urban development would take place on rural land. The County is undertaking a coordinated comprehensive plan amendment for the establishment of new urban development (data center campus) on rural land (Project Parcel). These findings address the project’s compatibility with the County’s applicable MCCC goals and policies along with SWPGs. Accordingly, this standard is met.

IV. RESPONSE TO MCZO 3.110 LIMITED USE (LU) OVERLAY

The goal exception rules in OAR chapter 660, Division 004, require that the uses permitted by a goal exception are limited to only those evaluated under the goal exception request. The purpose of the LU overlay zone is to ensure that the uses allowed under a goal exception are limited to only those analyzed and justified in the exception request. Therefore, Applicant requests that the county impose an LU overlay zone limiting the use of the parcel to those uses allowed either under MCZO 3.010 (EFU) and a data center under MCZO 3.070(16). Applicant proposes the additional provisions for the LU overlay zone:

- The data center construction is subject to ministerial site plan review under MCZO 4.165
- The data center must obtain all necessary local, state, and federal permits and approvals.
- The data center must report findings of cultural, archaeological or historical artifacts if uncovered. Reports shall be made to the Oregon State Historic Preservation Office (SHPO) and the Cultural Resources Protection Program (CRPP) of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR).
- The data center must use drought tolerant landscaping and to the extent practicable, native plants to meet any landscape requirements; no long-term irrigation shall be allowed
- The data center perimeter does not require screening, as no adverse impacts to visual resources have been identified (as supported by EESE analysis)

The County agrees with these provisions for the proposed LU overlay zone and find that the provisions meet the intent of the LU overlay zone.

V. CONSISTENCY WITH MORROW COUNTY COMPREHENSIVE PLAN GOALS AND POLICIES

The MCCP goals and policies identified below are most relevant and applicable to this application.

Goal 1 (Citizen Involvement)

The Citizen Involvement Goal develops and implements a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process. Citizen Involvement Policy 3 encourages people to attend and participate in Morrow County Planning Commission and Board of County Commissioner meetings and hearings. The goal and policy are satisfied through the opportunities afforded to the public to participate at public hearings before the Planning Commission and Board of Commissioners on the proposed amendments, as provided for by state law and the county's Zoning Ordinance. Additionally, the Applicant hosted a public meeting on November 3, 2022, to hear comments and obtain feedback on the proposed project parcel and the proposed development.

Goal 2 (General Land Use)

General Land Use Policy 9 requires that all plan and zone changes comply with all applicable state-wide planning goals and County policies and procedures. This policy can be satisfied upon approval of the Findings and analysis of compliance with the state-wide goals and applicable County zoning provisions that are contained in this application.

Goal 3 (Agricultural Lands Element)

Applicant is seeking a Goal 3 exception. Nonetheless, Applicant did address the project's consistency with the MCCP's Goal 3 policies to the extent the project parcel furthers the County's policies.

Agricultural Land Objective 3 seeks to minimize and prevent conflict between farm and nonfarm uses. The proposed development appears to be consistent with this policy because, as demonstrated by over decades of ongoing use, the existing industrial operations (Carty site) and existing agricultural operations (Threemile Canyon Farms) are compatible.

Agriculture Policy 2 permits development outside of UGBs only where conflicts with productive agricultural areas are minimal and where the development complies with the Comprehensive Plan. Conflicts between the proposed data center campus and agricultural uses appear to be minimal. Industrial development nearby appears to be compatible and is a good comparison for determining the proposed data center would also be compatible with farming.

Agriculture Policy 6 provides that the County to consider the needs of the farming community in evaluating future development projects in other sectors of the economy. This policy appears to be partially satisfied because the land proposed for conversion from agriculture to industrial is not productive and the lease or sale of the land could be reinvested in farming. However, where increased traffic on Tower Road may interfere with farming, particularly during harvest season,

the proposed development may have some negative impact to farming. This can be addressed by coordinating with the area farming operations, specifically Threemile Canyon Farms, during harvest season when construction is occurring. The County proposes a condition of approval to require Applicant to coordinate with the surrounding farming operator to minimize potential traffic impacts during harvest and construction.

Goals 5 and 6 (Natural & Cultural Resources Elements)

The Natural Resources Element of the plan provides a general overview of all natural resources common to the County. In general, natural resources are considered vital to the County's historical and future development and are recognized as a primary base for the County's economy.

In the context of this application and amendments, Natural Resource General Policy M states that the County should establish policies for the analysis of zone changes effect on air, water, and land quality. The County has not promulgated such a policy and relies instead on individual, site specific and project specific circumstances and conditions. Application claims that this policy is met because the development “will have a limited impact on air quality, water, and land quality.”

The parcel is located within the Lower Umatilla Basin Groundwater Management Area (LUBGWMA) an area designated based on drinking water levels that exceed the 10pp/m federal drinking water standard. The subject parcel is just north of the Ella Butte *Classified* Groundwater Management Area. A *Critical* Groundwater Area designation is a “Significant Goal 5 Resource” that would require mitigation. The attached map includes both the LUBGWMA and the GWA areas in county. The subject parcel is not located in a “Critical Groundwater Area.”⁴

Initially, when Applicant was considering groundwater as an option for the project’s water supply, staff had a concern over the project potentially having an impact on water quantity where groundwater supplies in the basin are limited. Since the submission of the application, Applicant has worked with the Port of Morrow to secure an LOI for the supply of potable water to the project parcel thereby avoiding use of groundwater for the project’s water needs. Given this project modification, the County finds that the application is consistent with Policy M.

Land Resource Policy A “[c]ounty shall conserve land resources in the manner most supportive of the county’s economic base” and Land Resource Policy B, “[c]ounty shall recognize the predominant need for the maximum preservation of land for agricultural and forestry uses” apply to this exception and rezone application. The Applicant did not address this policy in their application but did conclude that the subject parcel “should be considered non-productive” and has no value for agricultural use. Water Resources Policy F discusses the need to evaluate the quality and quantity of groundwater prior to approving projects or developments that would impact those resources. Water quality and quantity is regulated by the Oregon Department of Water Resources (OWRD) and water quality is regulated by the Oregon Department of Environmental Quality. While development-related approvals will be obtained, the County could require the Applicant to show further analysis to evaluate the impacts to water supply. However,

⁴https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/15301/cgwa_area_2021.pdf.

given that Applicant has refined its water supply sourcing, the County does not believe further analysis is necessary and Water Resource Policy 5 has been adequately addressed.

Goal 9 (Economic Element)

A number of economic goals and policies apply to this proposed plan amendment. Most of these goals and policies are aspirational or directory to the County, rather than mandatory to an Applicant.

Economic Goal 1 provides direction to Morrow County relating to economical housing facilities and affordability to meet housing needs. While not directly relevant, the impact of construction workers and housing needs is important to consider.

Economic Goal 2 and its various economic policies directs Morrow County to reduce unemployment, as well as promote various factors to decrease outmigration of the County's youth through growth of the County's workforce. The application meets this goal with this plan amendment request as it seeks to optimize the County's industrial zoning to attract development and jobs in an emerging field and technology (data center).

Economic Goals 2 and 3 seek to diversify local business, industry, and commercial activity. While this plan amendment application cannot ensure diversification of job opportunities, locating industrial zoning in an area where a natural industrial corridor is organically happening, due to the current land base and land use and zoning designations, could lead to diversification of new and existing job opportunities in the County. This plan amendment application appears to foster diversification of job opportunities.

Economic Goal 4 encourages compatible land uses throughout Morrow County. The proposed amendments further these goals by providing new industrial development opportunities on land that is only marginally suitable for farming and because of its location between and adjacent to existing industrial uses, such as the Carty site and several commercial dairy operations. There is established compatibility between agriculture and industrial uses.

Economic Goal 5 seeks to minimize noise levels and heavy traffic volumes, as well as other undesirable effects of heavy commercial and industrial developments. This plan amendment meets the goal of minimizing noise as the remote location would be a fair distance away from residences. The increased traffic volumes could prove problematic based on the already high traffic volumes and overall condition of Tower Road and the congestion at the Interstate 84 and Tower Road intersection. This can be addressed and mitigated with a Road Maintenance Agreement between Applicant and the County. The County proposes a condition of approval to require Applicant to enter into a Road Use Agreement with the County prior to construction.

Economic Goal 6 seeks to maintain a balance between economic and environmental activities. The proposed parcel to be rezoned for industrial use is located in an area with other industrial zoning and uses and will not negatively impact adjacent agricultural or industrial uses. As stated throughout these Findings, the project parcel has never been farmed. The proposed development is not anticipated to have an impact on water supply because Applicant will source water from the Port of Morrow. The parcel contains limited habitat for threatened or endangered species,

contains one wetland and one stream, both of which will be avoided, and no known cultural resources. The proposed rezone to industrial zoning appears to have only minimal impact to environment.

Economic Goal 7 requires the County ensure adequate water supplies to meet all needs associated with economic development. Applicant is coordinating with the Port of Morrow to ensure adequate water supply for the Project, avoiding use of a high-volume groundwater well and potential impacts to surrounding water users. Therefore, the County does not see any impacts to water supply and Economic Goal 7 has been addressed.

Goal 11 (Public Facilities and Services Element)

Applicant is seeking a Goal 11 exception. Nonetheless, Applicant addressed the application's consistency with the MCCP's Goal 11 policies to demonstrate how the project furthers other Goal 11 policies.

General Policy D requires that the provision of public facilities and services to rural areas being changed to urban use shall be based on (1) the least time required to provide the service, (2) the most reliable service, (3) lowest financial cost, and (4) adequate levels of service that satisfy long range needs. General Policy E calls for the coordinated development of all necessary urban facilities and services appropriate to an urban area. The Applicant is requesting an Goal 11 exception to extend public water services to avoid using limited groundwater. Applicant is not seeking the extension of public sanitation services at this time. The Port MOU and LOI demonstrate that such public water services may be provided. The development will utilize fire and law enforcement services, however Applicant does not expect that to be burdensome as the data center would be developed with a state-of-the-art fire suppression system and security systems, limiting the need and potential need for response by the county. The County Sheriff's office did review the application relative to potential impacts to law enforcement and emergency response and did note that response time to calls on or off Tower Road can be slow if Tower Road is blocked. The County recommends further consultation with the County Sheriff's Office may be warranted to discuss emergency services and to ensure such coordination happens, the County will impose a condition requiring further coordination prior to construction.

General Policy F calls for the siting of utility lines and facilities on or adjacent to existing public or private ROW or through generally unproductive lands to avoid dividing existing farm units. The application indicates that a transmission line ROW already exists to the west, along Tower Road. Evidence of this is presented on the record in Application Appendix A that includes the Applicant's ALTA survey for the project parcel (Application, Appendix A). Tower Road ROW varies in width between 60 feet and 150 feet. An application for a new transmission line would be required prior to development, unless Applicant can provide evidence that there is capacity to serve the property with the existing transmission line or through an upgrade to the transmission line within the existing ROW.

General Policy G requires that public facilities and services not exceed the carrying capacity of the air, land, and water resources. The application notes that "through compliance with DEQ air quality regulations for industries, high air quality standards can be maintained and the County agrees. Similarly, water quality can be maintained through the permitting process and the water

supply will be from a publicly available source through the Goal 11 exception. Finally, the land is both suitable for the proposed use and is proposed to be developed in an environmentally friendly and responsible manner with respect to slopes, soils, water resources, and wildlife. The application is consistent with General Policy G.

General Policy K is an aspirational policy that establishes a goal of achieving a maximum balance of public costs versus benefits and revenues in the provision of public facilities and services. This policy may be satisfied because the development does not propose requesting or requiring the provision of additional county services and the project will provide economic benefits such as new employment, payroll, spending with vendors on construction and operations, and new tax revenue.

Utilities Policy F calls for coordination of development with utilities providing electrical, natural gas, cable television, and telephone services. The project will coordinate with and use local services available to serve the data center.

Water and Sewer Policy A provides that when development occurs in unincorporated areas, minimum state sanitation and health requirements are required. The proposed development will require permits for subsurface sewage disposal system, and waste water permitting.

Solid Waste Policies A and B can be met by a new industrial development using the same processes for which solid waste management occurs elsewhere in the County, which is typically with a contract for solid waste services or direct hauling of waste to Finley Buttes Landfill.

Goal 12 (Transportation Element)

While most of the County's Goal 12 objectives are general in nature and directly towards the County, four – Objectives 2, 5, 14, and 15 – apply more directly to this application. This application complies with the objectives for the following reasons:

- This application may be consistent with Objective #2, as the proposed land use amendment can be accommodated by the existing transportation infrastructure network, a single county roadway connecting the land to Interstate 84. However, as noted elsewhere, the conditions and traffic volume on Tower Road may warrant additional mitigation. This concern can be addressed and mitigated with an Road Maintenance Agreement between Applicant and the County. The County proposes a condition of approval to require Applicant to enter into a Road Use Agreement with the County prior to construction.
- This application may be consistent with Objective #5, as the proposed land use amendment will have some impact to the existing county's roadway system. This development as a stand-alone matter will not necessarily result in a reclassification of Tower Road. Where some impacts to the roadway will occur, the County will require a Road Use Agreement and proposes a condition of approval to this effect as mentioned above.
- This application is generally consistent with Objective #14, however the proposed land development will have some impact to Tower Road. One remedy for this impact is to require a Road Use Agreement to repair Tower Road and agree to fund a chip seal of the northerly eight (8) miles of Tower Road. The County will impose a condition of approval requiring the County and Applicant to negotiate a Road Use Agreement prior to construction.

- This application is consistent with Objective #15, as the proposed land use amendment will not require nor will it prevent expansion of the County's transportation system.

Applicable Transportation Policies 1, 2, 4, 5, 6, 7, 9, 10, and 11 are summarized below.

- The overall transportation network is capable of accommodating the overall transportation-related demands on the multi-modal network (Policy 1).
- No modifications or updates are needed to the Morrow County Transportation System Plan (Policy 2).
- No changes are required to the roadway functional classification system (Policy 4).
- No changes to the standards that implement the management and maintenance of the system (Policy 5).
- Traffic impacts may require maintenance and repairs (Policy 6). The County will impose a condition of approval requiring the County and Applicant to negotiate a Road Use Agreement where Applicant agrees to pay costs to chip seal the first 9 miles of Tower Road following construction of the facility.
- Traffic generation will be compatible with the function of the applicable roadway network (Policy 7).
- The classification of Tower Road is appropriate to accommodate the limited movement of the data center employees and personnel. After construction, the Project estimates only 252 (138 weekday a.m., 114 weekday p.m.) peak hour trips, which represent a nominal increase in traffic along Tower Road. Construction traffic impacts will be mitigated through the Road Use Agreement.

Goal 13 (Energy Conservation Element)

Energy Conservation Policies 1 and 14 are applicable to this application. As with many other MCCP policies identified, these policies are directory or aspirational in nature, rather than mandatory to an Applicant. While they are not standards upon which approval or denial is based, they are nevertheless addressed herein.

Energy Conservation Policy 1 encourages the use of renewable and/or efficient energy systems, design, siting, and construction materials in all new development in the County. The data center campus operations are anticipated to be supported with 100% renewable energy, with procurement structure and approach to be finalized prior to operations.

Energy Conservation Policy 14 encourages the County to combine increasing density gradients along high-capacity transportation corridors to achieve greater energy efficiency. This proposal is consistent with this policy by consolidating lands for industrial development in an area bordering a minor collector, Tower Road, which should encourage greater utilization of appropriate industrial infrastructure by industry in the County.

Goal 14 (Urbanization Element)

Applicant is seeking a Goal 14 exception to allow for the siting flexibility to build an urban-level facility and extend public water service to the project parcel to avoid using limited groundwater resources.

VI COMPLIANCE WITH APPLICABLE STATEWIDE PLANNING GOALS.

The County makes findings under its own Comprehensive Plan and also make findings under applicable Statewide Planning Goals (SWPG).

Statewide Planning Goal 1: Citizen Involvement

Goal 1 requires a citizen involvement program that is widespread, allows two-way communication, allows for citizen involvement through all planning phases and is understandable, responsive and funded.

Generally, Goal 1 is satisfied when a county complies with public notice and hearing requirements in the Oregon Statutes and in the local Comprehensive Plan and Land Use Code. The County's Zoning Ordinance is consistent with State law with regards to notification requirements. Pursuant to Section 9 of Morrow County Zoning Ordinance at least one public hearing before the Planning Commission and Board of Commissioners is required. Legal notice in a newspaper of general circulation is required. The County has met these requirements and notified DLCDC 35 days prior to the first evidentiary hearing.

Statewide Planning Goal 2: General Land Use

Goal 2, Part I, requires that actions related to land use be consistent with acknowledged Comprehensive Plans of cities and counties. The proposed amendments' consistency with applicable provisions in the MCCP is demonstrated in this document.

Goal 2, Part I, also requires coordination with affected governments and agencies, evaluation of alternatives, and an adequate factual base. In preparing the application, Applicant consulted with agencies and stakeholders, as discussed in Section 4 of the Application. In part, Applicant consulted with the Morrow County Planning Department, planning director, and contacted representatives of the United State Navy (Bombing Range Rep.) and Oregon Department of Transportation (ODOT) for feedback on the proposed Project and conceptual layout. *See* Application Appendix I (Navy Correspondence). The goal exceptions, together with the supporting documents and evidence submitted in support of the exceptions, provide an adequate factual base to support the proposed plan and land use regulation amendments required to adopt these exceptions. For these reasons, Goal 2, Part I is met.

Goal 2, Part II, sets out the standards for goal exceptions. Goal 2, Part II, is implemented through OAR 660, Division 4, and referenced administrative rules. Goal 2, Part II, is satisfied for the reasons set out in the goal exceptions analysis included in this =.

Statewide Planning Goal 3: Farmland

Goal 3 requires counties to preserve and maintain agricultural lands for farm use. Goal 3 does not allow nonfarm uses like industrial development on EFU zoned land unless a local government adopts findings justifying an exception to Goal 3. The project parcel is unique in that it is designated as agriculture and zoned EFU, but all available evidence suggests that it has never been farmed, irrigated, or grazed. For these reasons it should be considered “non-productive farmland” and should not be afforded the protections applicable to “agricultural lands.” The redesignation and rezoning of land from Agricultural (EFU) to Industrial (MG) is consistent with the purpose and intent of Goal 3 for the protection of farmland because no productive farmland will be impacted by the proposed Project. Therefore, the re-designation and rezoning is appropriate given the project parcel-specific conditions and the project parcel’s proximity to existing industrial development and transmission.

Statewide Planning Goal 5: Natural Resources, Scenic and Historic Areas, and Open Space

Goal 5 addresses the preservation of natural resources, scenic and historic areas, and open spaces. In the context of the application’s proposed amendments, the Applicant reviewed Morrow County’s existing inventories for wetlands, wildlife habitat, and cultural resources and areas, as well as conducting its own due diligence for project parcel resource inventories.

Desktop and field verified wetlands delineations for the Project took place on October 14, 2021 and March 31, 2022, and were submitted to Oregon DSL. The results, included in the Wetland Delineation Report and DSL Concurrence, attached as Application Appendix L, indicate one wetland and one intermittent stream located within the project parcel, as shown on Application Figure 4, both are avoided by the project footprint.

According to the US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) online report, there are no federally protected, Endangered Species Act (ESA)-listed threatened or endangered species documented as occurring on or in the immediate vicinity of the Project Parcel and no designated critical habitats mapped within the parcel. *See* Application Appendix K (Threatened and Endangered Species Habitat Assessment). According to ODFW, state-listed threatened, endangered, and/or candidate wildlife species with the potential to occur in the Project Parcel include the WGS (*Urocyon washingtoni*), which is listed as a state-endangered species. According to the USFWS, the WGS are found in the Columbia plateau of both Washington and Oregon. Their preferred habitat consists of sagebrush and bunchgrasses. They nest and burrow in sandy or silt-loam textured soils that are conducive for their burrow structures. Applicant conducted presence/absence protocol surveys for the WGS in March to May 2023. No active WGS colonies were identified. *See* Application Appendix H (WGS Protocol Survey Results). However, should active WGS colonies be identified, Applicant will address presence accordingly through avoidance, mitigation, and/or take permits in coordination with ODFW.

Based on the Applicant's review of publicly available records, no known cultural resources have been documented within or adjacent to the project parcel. However, the project parcel has not been previously surveyed for cultural resources. No report has been submitted to SHPO. Despite the undeveloped nature of the project parcel, a low potential for buried archaeological sites exists. Although the project parcel and immediate vicinity have not been previously surveyed for

cultural resources, Oregon SHPO records indicate a low archaeological site density on parcels of land that have been previously surveyed within approximately one mile of the Project Parcel. *See* Application Appendix M (Cultural Resources Desktop Report).

Goal 6 (Air, Water, and Land Resources Quality) 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 project will require air and wastewater permits from the Oregon DEQ and must meet applicable state and federal permitting requirements prior to construction and operation.

The uses authorized by the requested plan amendments should not create noise that differs from the types of energy facility- and farm-related noise already in the area. The project would contribute to ambient noise levels with similar equipment such as, generators, cooling towers, and transformers. The location of these industrial uses in very close proximity to each other is appropriate and are not anticipated to a significant adverse impact noise sensitive receptors . Notably, there are no “Noise Sensitive Properties” or “Quiet Areas” pursuant to OAR 340-035-0015, in the vicinity of the project parcel.

Statewide Planning Goal 9 Economy

Goal 9 requires local governments to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens to adopt comprehensive plans and policies. Goal 9 is a directive to the County to ensure that the local plans address economic development opportunities, land supply for industrial and commercial uses, and address economic projections among other things. As discussed above, the project promotes and furthers the County’s Goal 9 policies

Statewide Planning 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." The Public Facilities Planning Rule, OAR 660, Division 11, implements Goal 11. Applicant seeks an exception to Goal 11 to allow the possible extension of water service from the Port of Morrow to the project parcel. No extension of public sewer services or facilities are proposed.

Statewide Planning 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. Goal 12 requires, among other things, that the County’s Transportation Plan facilitate the flow of goods and services, so as to strengthen the local and regional economy. The Project supports this goal and will produce substantial economic benefits, see Application Appendix G for an analysis of economic impacts. Other requirements include the encouragement of multi-modal transportation, avoidance, and minimization of reliance on one mode of transportation, and consideration of the transportation disadvantages and justification for the

project's compliance and requests are set out in the goal exceptions analysis included in this application.

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. The Applicant completed a Traffic Impact Analysis (TIA) in July 2022. The TIA provides guidance on traffic impacts and mitigation measures (if applicable) associated with Project-related impacts, see Application Appendix I.

The following project-specific results, as identified in the TIA, address criteria outlined in the Transportation Planning Rule:

- The proposed MG Zone will not require or result in any changes to the functional classification of any transportation facility in the vicinity of the Project Parcel.
- The proposed MG Zone will not require changes to the standards that implement the functional classification system.
- The proposed MG Zone would result in future traffic volumes that remain consistent with the functional classifications of the roadways in the study area.
- The proposed MG Zone would not degrade operations of the study intersections below adopted performance targets.

Based on the results of the TIA, the proposed project and MG zone change are not expected to result in a significant effect on the surrounding transportation network or require offsite mitigation.

Statewide Planning Goal 13 Energy Conservation

Goal 13 directs cities and counties to manage and control land and uses developed on the land to maximize the conservation of all forms of energy, based on sound economic principles. The proposed amendments will help conserve energy by consolidating and co-locating the proposed industrial use area near an existing industrial use (the Carty site) and existing transmission infrastructure, thereby reducing the amount of automobile and truck trips required to serve and maintain the area.

Statewide Planning Goal 14 Urbanization

Goal 14 requires counties and cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. Specific to this application, Goal 14 prohibits urban uses on rural lands and in order 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. Applicant seeks a Goal 14 exception to allow the industrial use of the Project Parcel.

VI. CONCLUSION


Approved with conditions as set forth in the adopting ordinance.

Dated this 20th day of September 2023.

**BOARD OF COMMISSIONERS
MORROW COUNTY, OREGON**


David Sykes, Chair


Jeff Wenzholz, Commissioner


Roy Drago Jr., Commissioner

**Memorandum**

To	Rowan Percheron LLC
From	ERM
Date	May 7, 2023
Reference	Percheron Data Center Project, Morrow County, Oregon
Subject	Alternatives Analysis to Support Goal Exceptions Request

INTRODUCTION

Goal 2, Part II(c) requires that an applicant demonstrate that “areas that do not require a new exception cannot reasonably accommodate the use.” The elements of the required alternatives analysis are set out in Oregon Administrative Rules (OAR) 660-004-0020(2)(b)(A)-(C).¹ Rowan Percheron, LLC (Applicant) performed an alternatives analysis with a study area that included the entire area of Umatilla and Morrow Counties, a region that has seen recent growth in significant cloud infrastructure presence. Applicant first identified siting criteria for the minimum requirements necessary for a site to reasonably accommodate the proposed Percheron Data Center (data center or Project). Applicant then applied the siting criteria to land within Umatilla and Morrow Counties to identify sites that could reasonably accommodate the proposed data center without requiring a new goal exception. The results of the analysis show that there are no available sites in Umatilla or Morrow Counties that meet the Project’s defined siting criteria and would not require a new goal exception.

SUMMARY OF APPLICANT’S SITING CRITERIA

Applicant identified eight siting criteria for selecting a viable site for the proposed data center. These siting criteria account for locational, infrastructural, and physical parameters, as well as economic factors affecting the viability of a potential project. These criteria reflect the relevant factors, including economic, for determining that the proposed data center cannot be reasonably accommodated in other areas.²

The eight siting criteria are listed below. No one siting criteria is determinative in site selection; each factor into whether a potential site is reasonable to accommodate the proposed data center.

1. Access to Electrical Infrastructure and Power Availability
2. Water Supply and Discharge

¹ Note that OAR 660-014-0040 also requires than an applicant consider alternatives to satisfy Goal 2, Part II(c), showing that “the proposed urban development cannot be reasonably accommodated in or through expansion of existing [UBG] boundaries or by intensification of development in existing rural communities.” Applicant maintains that alternatives analysis for purposes of OAR 660-014-0040(2)(a) requires the same analysis as OAR 660-004-0020(2)(b)(A)-(B). Therefore, or purposes of this application, Applicant relies on the proposed findings under OAR 660-004-0020(2)(b)(A)-(C) to meet both alternatives analysis requirement in Goal 2, Part II(c).

² See OAR 660-004-0020(2)(b)(B).

3. Land Characteristics
4. Environmentally Sensitive Resources and Protected Areas
5. Road Access
6. Fiber Network Connectivity
7. Land Use and Zoning
8. Financial Feasibility

DESCRIPTION OF APPLICANT'S SITING CRITERIA

1. **Access to Electrical Infrastructure and Power Availability.** The proposed data center requires considerable electrical power and power reliability. Key siting considerations related to power delivery include:
 - a. Proximity to existing infrastructure to minimize impacts and reduce project costs. Only lands directly adjacent or with clear access (e.g., via a transmission easement) to an existing electrical infrastructure (e.g., substation or high-voltage transmission line) were assessed as reasonable alternatives.
 - b. A viable site required electrical infrastructure (i.e., transmission lines and a substation) with available load capacity of at least 200 megawatts (MW).
 - c. Power needed to be available and delivered at high voltages (138 kilovolt [kV] or higher) due to the power use of the proposed data center and electrical pricing.
 - d. Power needed to be available and delivered to a site within 24–36 months of the initial load interconnection application.
 - e. System upgrades to provide the requested power load needed to be economically feasible for the Project.
2. **Water Supply and Discharge.** The proposed data center requires water supply and sufficient land to manage industrial wastewater onsite or have access to a municipal sanitary system. Applicant considered sites that could be served by private infrastructure, as well as municipal infrastructure. Key siting considerations related to water supply and discharge include:
 - a. Either location within the service territory of a municipal utility with sufficient capacity to service the needs of the Project or the potential for financially feasible upgrades to service the Project.
 - b. Alternatively, feasibility for private onsite wells and wastewater treatment facilities to be permitted and constructed.
3. **Land Characteristics.** The proposed data center requires a particular parcel size and topography. Key siting considerations related to land include:
 - a. A site with a minimum of 200 contiguous acres (about 0.5 to 1.0 acre per MW is required in order to accommodate the proposed Project's infrastructure).
 - b. A vacant undeveloped site.
 - c. Sites could include more than one parcel as long as contiguous.
 - d. Topography needed to be less than 15 percent slope to minimize grading.

4. **Environmentally Sensitive Resources and Protected Areas.** Applicant seeks to avoid sensitive biological, water, and cultural resources, as well as areas that are potentially contaminated or under legal protection or conservation. Key siting considerations related to environmentally sensitive resources and protected areas include:
 - a. A site must have approximately 200 acres that are unconstrained by sensitive resources. Avoiding sensitive reasons minimizes adverse environmental impacts and streamlines permitting.
 - b. A site must be permittable within 1 year or less to meet the Applicant's commercial operation date.
 - c. Contaminated sites with potential remediation liabilities may be viable in some circumstances, but are generally less desirable for Project siting.
5. **Road Access.** Applicant requires that a site be located within 100 feet or less of public right-of-way access to allow for direct or near direct access to the site and avoid construction of new access roads.
6. **Fiber Network Connectivity.** The proposed data center requires reasonable access to multiple long-haul fiber lines with available capacity to service the data center's communication needs. Key siting considerations for fiber network connectivity include:
 - a. Fiber network with an available capacity must be available regionally.
 - b. Fiber network connectivity to the site must be feasible via easements.
 - c. Fiber network providers must be willing and able to meet the Project's needs within 12 months of the service request.
7. **Land Use and Zoning.** Applicant requires that the proposed data center be located on land zoned for data center use, as a permitted or conditional use or that there be a viable pathway for rezoning a site.
8. **Financial Feasibility.** While not determinative, Applicant requires that costs for land, energy, water, fiber easements, grading, and environmental mitigation be aligned with the financial feasibility goals for the Project.

ALTERNATIVES ANALYSIS METHODOLOGY

Applicant evaluated sites within Umatilla and Morrow Counties between 2020 and early 2021. The process involved many months of interactions and inquiries with local utilities, landowners, and other stakeholders to assess viability against the siting criteria.

Applicant first evaluated the possibility of siting the Project on non-resource lands within the Urban Growth Boundaries (UGBs) of Umatilla and Morrow Counties. Applicant then evaluated the possibility of siting the Project outside the UGB, but within zones where a data center may be allowed, specifically Rural Light Industrial Zone (RLIZ), Limited Rural Light Industrial Zone (LRLIZ), and Heavy Industrial (HI) for Umatilla County and General Industrial (MG), Port Industrial Zone (PI) and Airport Light Industrial Zone (ALI) for Morrow County. Based on this review, no reasonable alternative sites were identified in either the UGB areas or zones allowing a data center. The identified sites did not meet the siting criteria with the main constraints being lands already

developed with another use, availability of existing transmission infrastructure and capacity, topography, and land availability (e.g., willing landowner). Table 1 details the analysis of the siting criteria, describes why these sites failed to satisfy the siting criteria, and therefore, were not reasonable alternatives.

Applicant next assessed other non-resource lands in Umatilla and Morrow Counties that may have required a zone change, but would not require a goal exception. As described further in Table 1, there were available sites that met some of the siting criteria, but ultimately, none of the identified sites were reasonable alternatives because they failed to satisfy the siting criteria, with the main constraints being availability of transmission capacity and land characteristics.

Lastly, Applicant evaluated Exclusive Farm Use (EFU)-zoned sites against the siting criteria that would require a goal exception. Of these sites, the main constraints were land characteristics, sensitive resources, and financial feasibility, with the exception of the Project Parcel that met all siting criteria except for being zoned to allow a data center and requiring an exception.

RESULTS OF ALTERNATIVES ANALYSIS

Applying the siting criteria and methodology described above, Applicant considered over 10 sites for the proposed data center. Applicant selected the Project Parcel for the proposed data center because it met all the siting criteria except for Criteria 7, Land Use and Zoning. The key siting considerations for Applicant in selecting the Project Parcel is its proximity to existing transmission infrastructure at the Portland General Electric (PGE) Carty Generating Station and Reservoir (Carty site); the existing high-voltage transmission line right-of-way adjacent to the Project Parcel along Tower Road that provides direct access to the existing transmission infrastructure at the Carty site; the ability of the electrical service provider to provide the required power for the Project; and the lack of sensitive resources within a large portion of the Project Parcel, including unproductive, unfarmed land. In addition, the Project Parcel has existing public access, its relatively flat to minimize grading and ground disturbance, and is of adequate size to manage all stormwater and industrial wastewater management onsite.

TABLE

Table 1 Alternatives Analysis

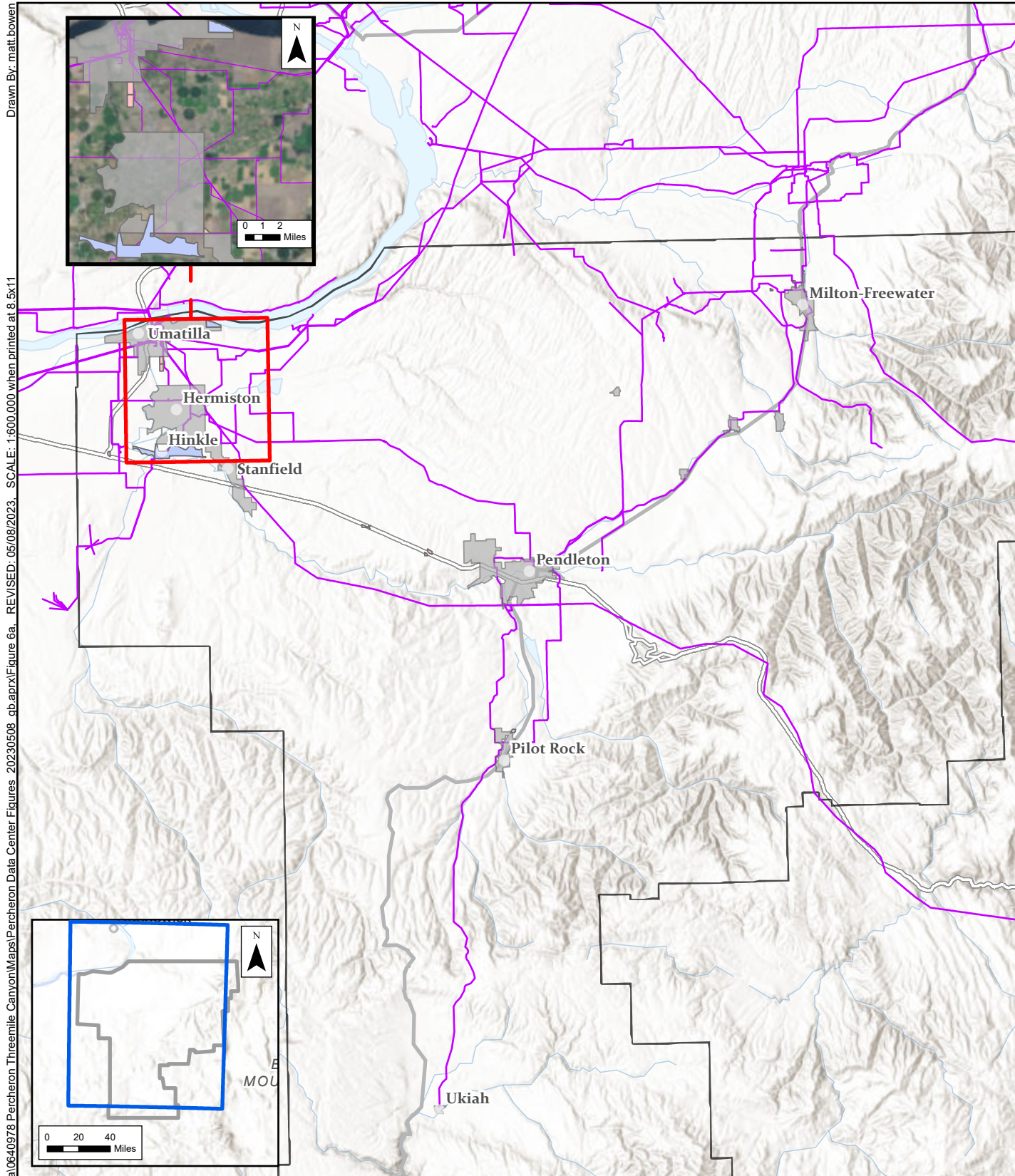
Alternatives Sites Considered	Distance from Selected Site (miles)	Jurisdiction	Zoning	Within or Distance to UGB	Zoning of Adjacent Lands	Criteria Assessment	Conclusion
Overarching Assessment: Umatilla County UGBs	25-30	Umatilla County	Various	Within	Various	As shown on Figure 1a, UGBs within Umatilla County are either already occupied or lack suitable electrical infrastructure. Specifically, Hermiston and Hinkle are already saturated with developments, whereas Stanfield lacks available transmission capacity and Pendleton is too far to be a commercially viable (e.g., no market) fiber network.	Criteria 1, 3, and 6 not met
Overarching Assessment: Umatilla County RLIZ, LRLIZ, HI Zones	25	Umatilla County	RLIZ, LRLIZ, HI	0-1 miles	Various	Figure 1a shows the limited areas that fall within the zones that allow data centers to be permitted outright. All of these zoned areas are already occupied with existing infrastructure.	Criteria 3 not met
Overarching Assessment: Umatilla County Non-resource Lands	20+	Umatilla County	Various	Various	Various	Areas outside of the UGBs and permitted zones, but not requiring a Goal 3 exception, were analyzed and deemed not to have available electrical infrastructure or meet the landowner and land requirements of Criteria 4.	Criteria 1 and 3 not met
Overarching Assessment: Morrow County UGBs	12 -20+	Morrow County	Various	Within	Various	As shown on Figure 1b, UGBs to the north within Boardman and Irrigon, Oregon, are already occupied. UGBs to the south do not meet requirements related to available transmission capacity and topography.	Criteria 1 and 3 not met
Overarching Assessment: Morrow County MG, PI, ALI Zones	0.27 - 20	Morrow County	MG, PI, ALI	0 – 20 miles	Various	No undeveloped, vacant land available that meets the size requirements of Criteria 3. See relevant zones on Figure 1b.	Criteria 3 not met
Overarching Assessment: Morrow County Non-resource Lands	5+	Morrow County	Various	Various	Various	Areas outside of the UGBs and permitted zones, but not requiring a Goal 3 exception, were analyzed and deemed not to have available electrical infrastructure or meet the landowner and land requirements of Criteria 4.	Criteria 1 and 3 not met
Alternative 1a: Carty Generating Station	0.24	Morrow County	MG	12 miles	MG	Land already occupied by a generating station.	Criteria 3 not met
Alternative 1b: Carty Open Space/BCA	0.40	Morrow County	EFU	10 miles	EFU, MG	Landowner not interested in selling or leasing property and partially within the BCA or slated for future 50-megawatt solar development.	Criteria 3 not met
Alternative 2: Umatilla Army Depot	20	Umatilla County	UDM, DI-U	3 miles	EFU, LI	No available power capacity within criteria distance. Also, concern with prior uses and potential contamination.	Criteria 1 and 3 not met
Alternative 3: Pedro Land Company	28	Umatilla County	EFU-40	3 miles	LI	Site was previously under control with landowner in 2020/2021, though power analysis determined that interconnection would be too costly and not arrive within the Project's schedule. Also zoned agriculture.	Criteria 1 and 8 not met
Alternative 4: JR Simplot Property	28	Umatilla County, Hinkle area	HI, EFU	Directly adjacent	DI-U, EFU, LI	Adjacent to the Calpine Power Facility in Hinkle, and it was assumed power would be available. However, the owner was not interested in selling or leasing the parcels. There were also substantial wetlands and floodplains encumbering the site.	Criteria 3 and 4 not met
Proposed Sites: Selected Alternative	0	Morrow County	EFU	12 miles	EFU, MG, SAI	Adjacent to electrical infrastructure that meets all elements of Criteria 1 and 2. Threemile Canyon Farms is willing to sell land. Land was never farmed, grazed, or irrigated. Outside of the BCA and able to meet sizing criteria, while avoiding wetlands and floodplain. Existing fiber back haul accessible from site. Access to site through Tower Road. Parcel zoned EFU though surrounded by MG and SAI uses, including the Carty Generating Station.	Meets all siting criteria except for 7 (the subject of this application)

Notes:

- Airport Light Industrial Zone (ALI)
- Boardman Conservation Area (BCA)
- Depot Industrial (DI-U)
- Heavy Industrial (HI)
- Exclusive Farm Use (EFU)
- General Industrial (MG)
- Light Industrial (LI)
- Limited Rural Light Industrial Zone (LRLIZ)
- Port Industrial Zone (PI)
- Rural Light Industrial Zone (RLIZ)
- Military (UDM)
- Urban Growth Boundaries (UGBs)

FIGURES

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- Existing Transmission Infrastructure
- Umatilla County Boundary
- Urban Growth Boundary
- Zoning**
- Rural Light Industrial Zone
- Limited Rural Light Industrial Zone
- Heavy Industrial

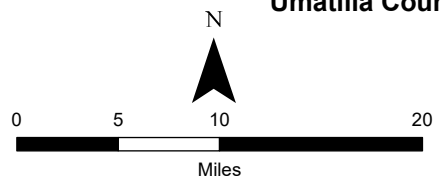
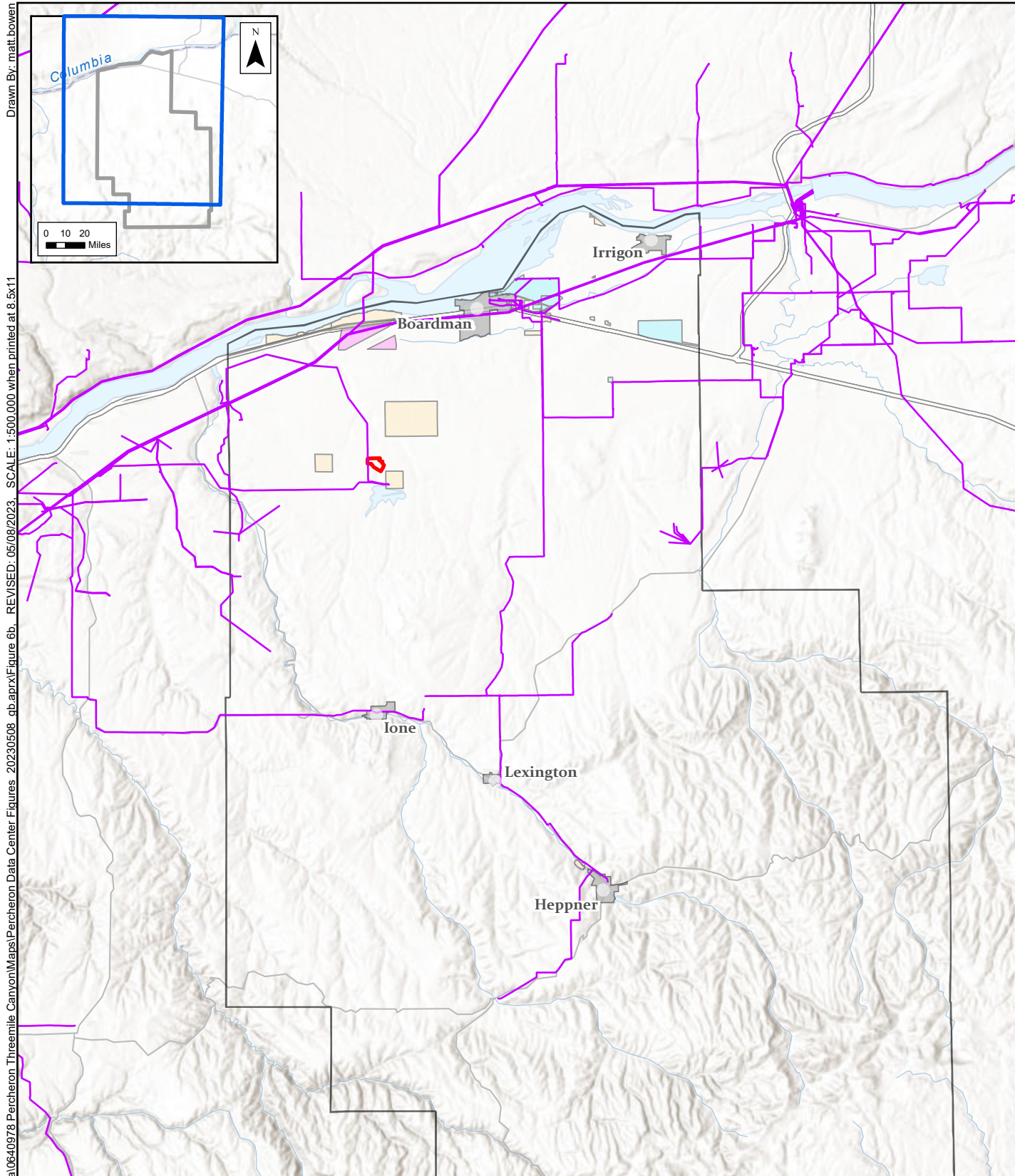


Figure 6a
Umatilla County UGB and Permittable Zones
 Percheron Data Center
 Rowan Green Data, LLC
 Umatilla County, Oregon



Source: Esri - World Topographic Map; NAD 1983 2011 StatePlane Oregon North FIPS 3601 Ft Int



Drawn By: matt.bowen
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- Existing Transmission Infrastructure
- Project Parcel
- Morrow County Boundary
- Urban Growth Boundary
- Boardman Bombing Range
- Zoning**
- General Industrial Zone
- Port Industrial Zone
- Airport Light Industrial Zone

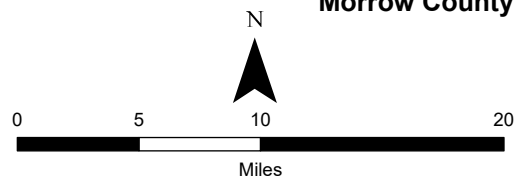
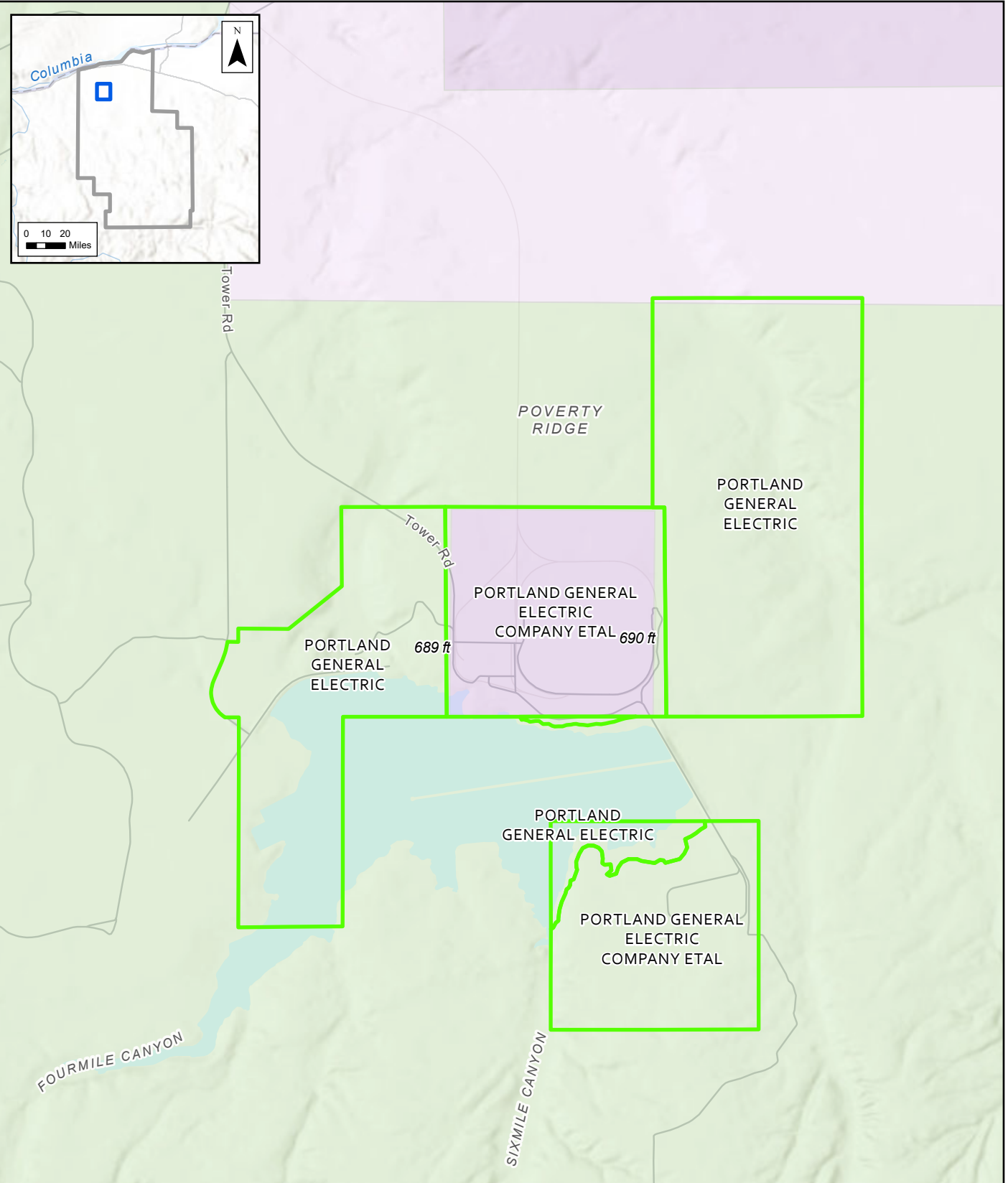


Figure 6b
Morrow County UGB and Permittable Zones
 Percheron Data Center
 Rowan Green Data, LLC
 Morrow County, Oregon



Source: Esri - World Topographic Map; NAD 1983 2011 StatePlane Oregon North FIPS 3601 Ft Intl

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 Drawn By: matt.bowen



- Alternative Site 1
 - Urban Growth Boundary (Nearest - 12.7 miles)
- Zoning**
- Exclusive Farm Use
 - General Industrial
 - Space Age Industrial

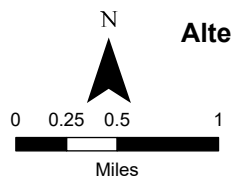
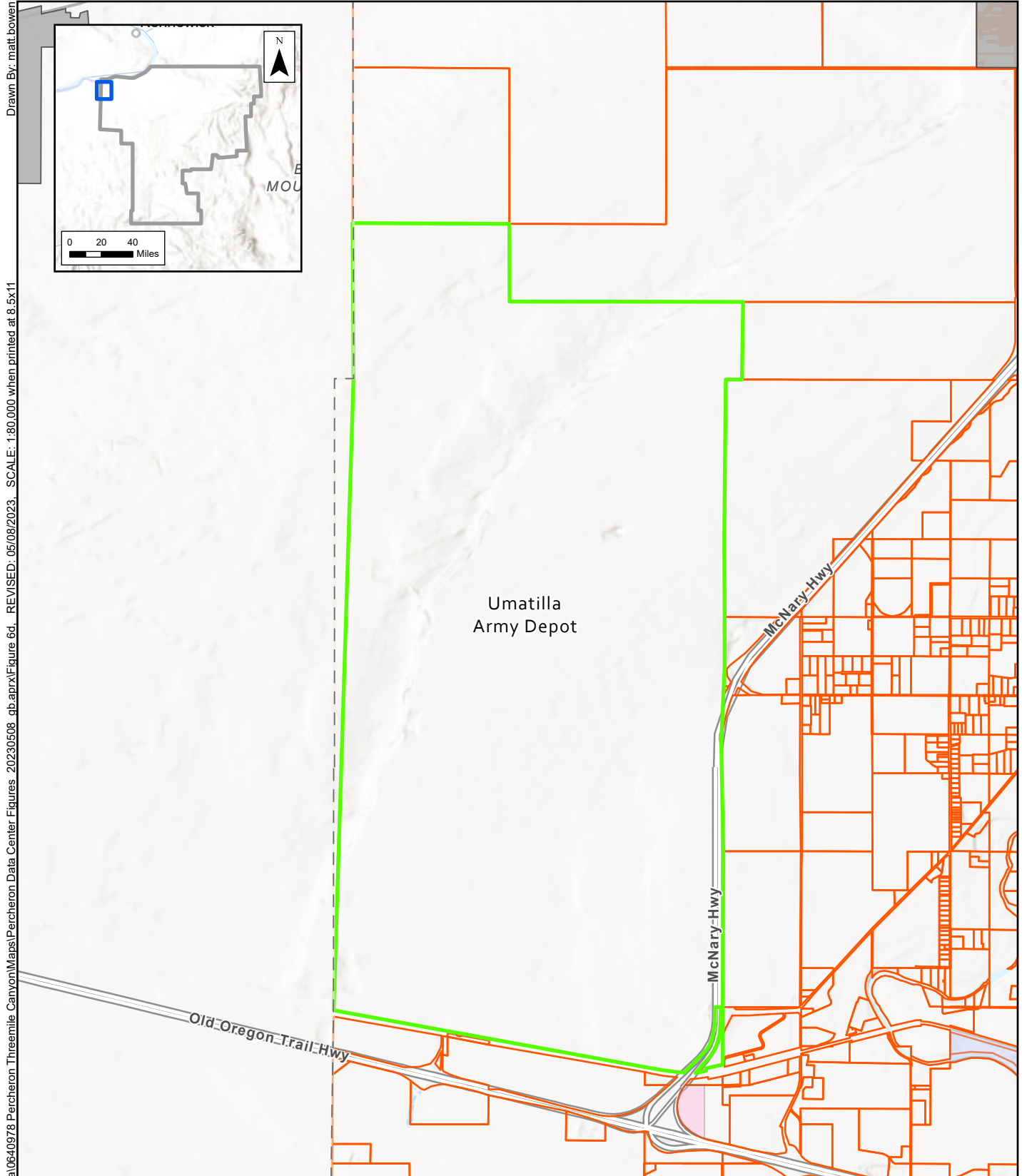


Figure 6c
Alternative Sites Considered
Alternative Site 1: Carty Generating Station
 Percheron Data Center
 Rowan Green Data, LLC
 Morrow County, Oregon

Environmental Resources Management
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Source: Esri - World Topographic Map; WGS 1984 Web Mercator Auxiliary Sphere

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- Alternative Site 2
 - Urban Growth Boundary (Nearest - 3.1 miles)
- Zoning**
- Limited Rural Light Industrial Zone
 - Heavy Industrial

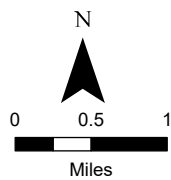
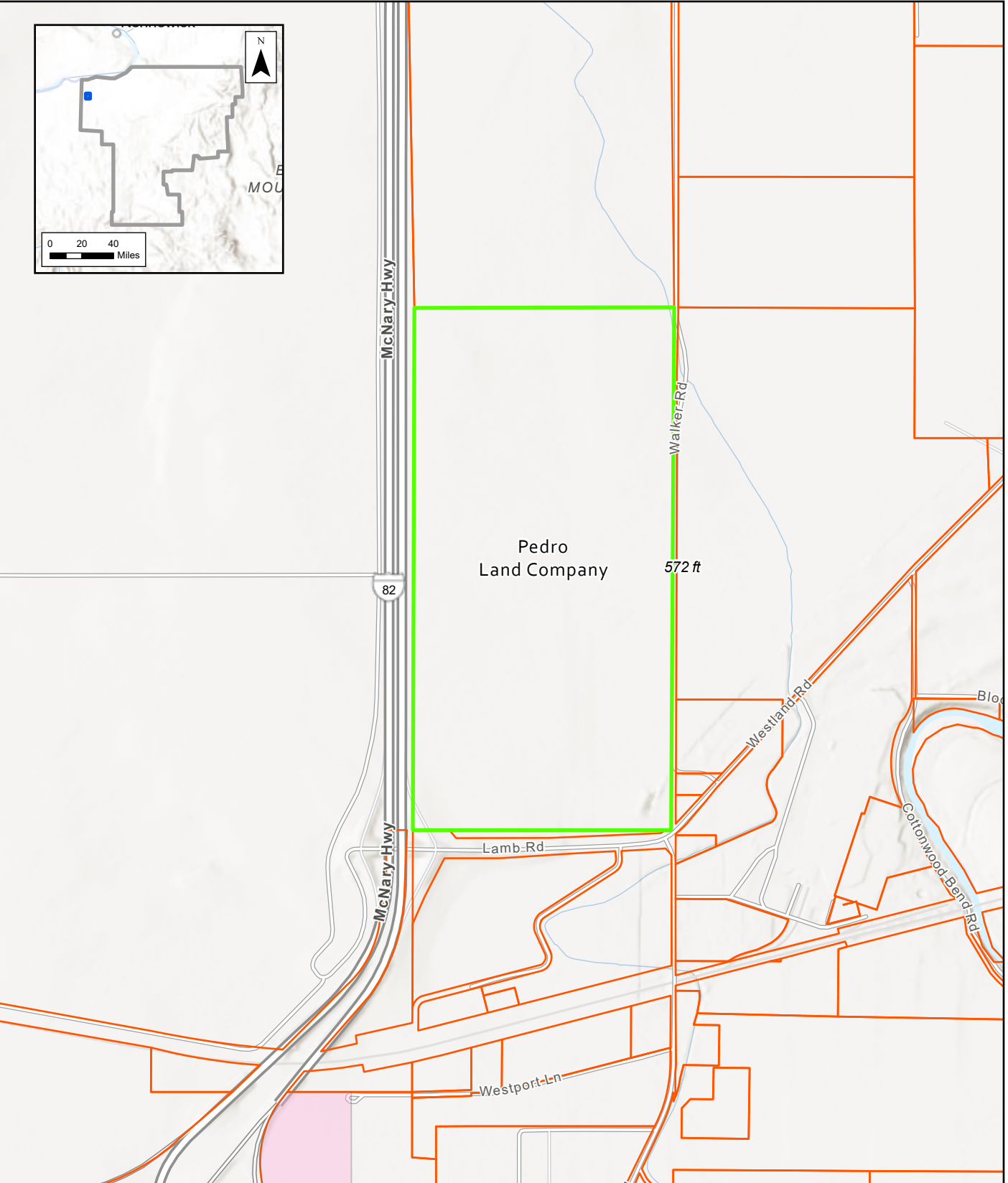
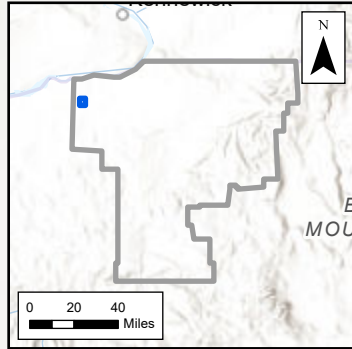


Figure 6d
Alternative Sites Considered
Alternative Site 2: Umatilla Army Depot
 Percheron Data Center
 Rowan Green Data, LLC
 Umatilla County, Oregon

Environmental Resources Management
www.erm.com

Source: Esri - World Topographic Map; WGS 1984 Web Mercator Auxiliary Sphere



- Alternative Site 3
 - Urban Growth Boundary (Nearest - 2.8 miles)
- Zoning**
- Limited Rural Light Industrial Zone

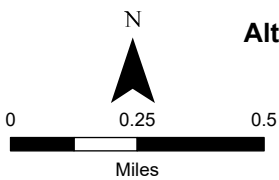
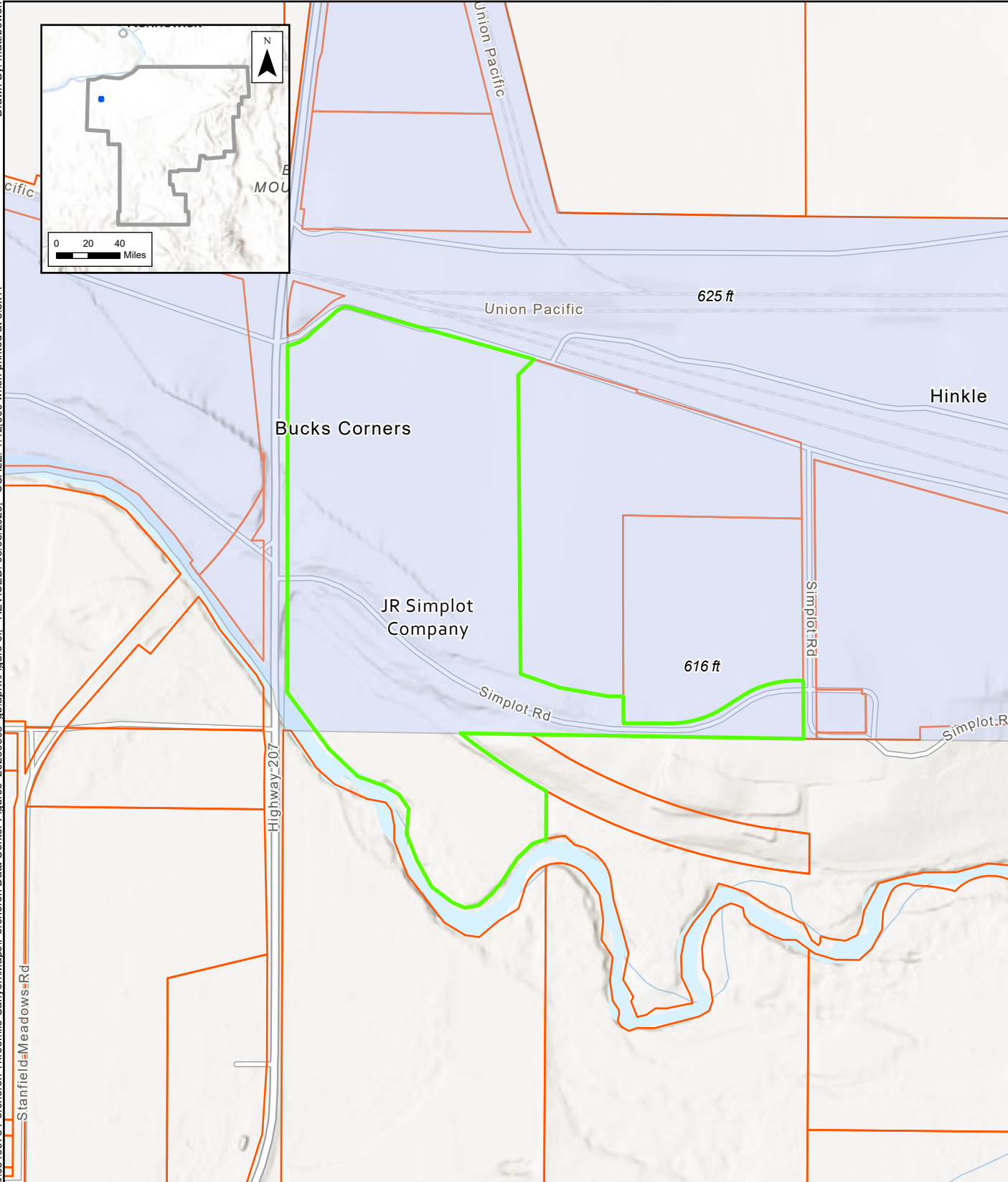
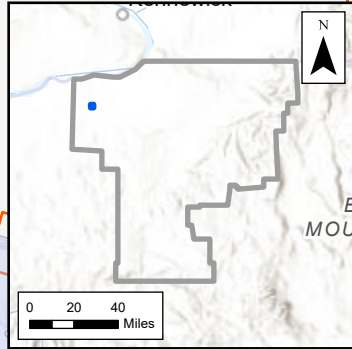





Figure 6e
Alternative Sites Considered
Alternative Site 3: Pedro Land Company
 Percheron Data Center
 Rowan Green Data, LLC
 Umatilla County, Oregon

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Drawn By: matt.bowen



-  Alternative Site 4
-  Urban Growth Boundary (Nearest - 0.9 miles)
- Zoning**
-  Heavy Industrial

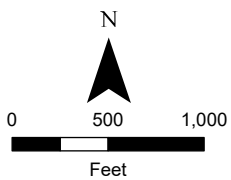


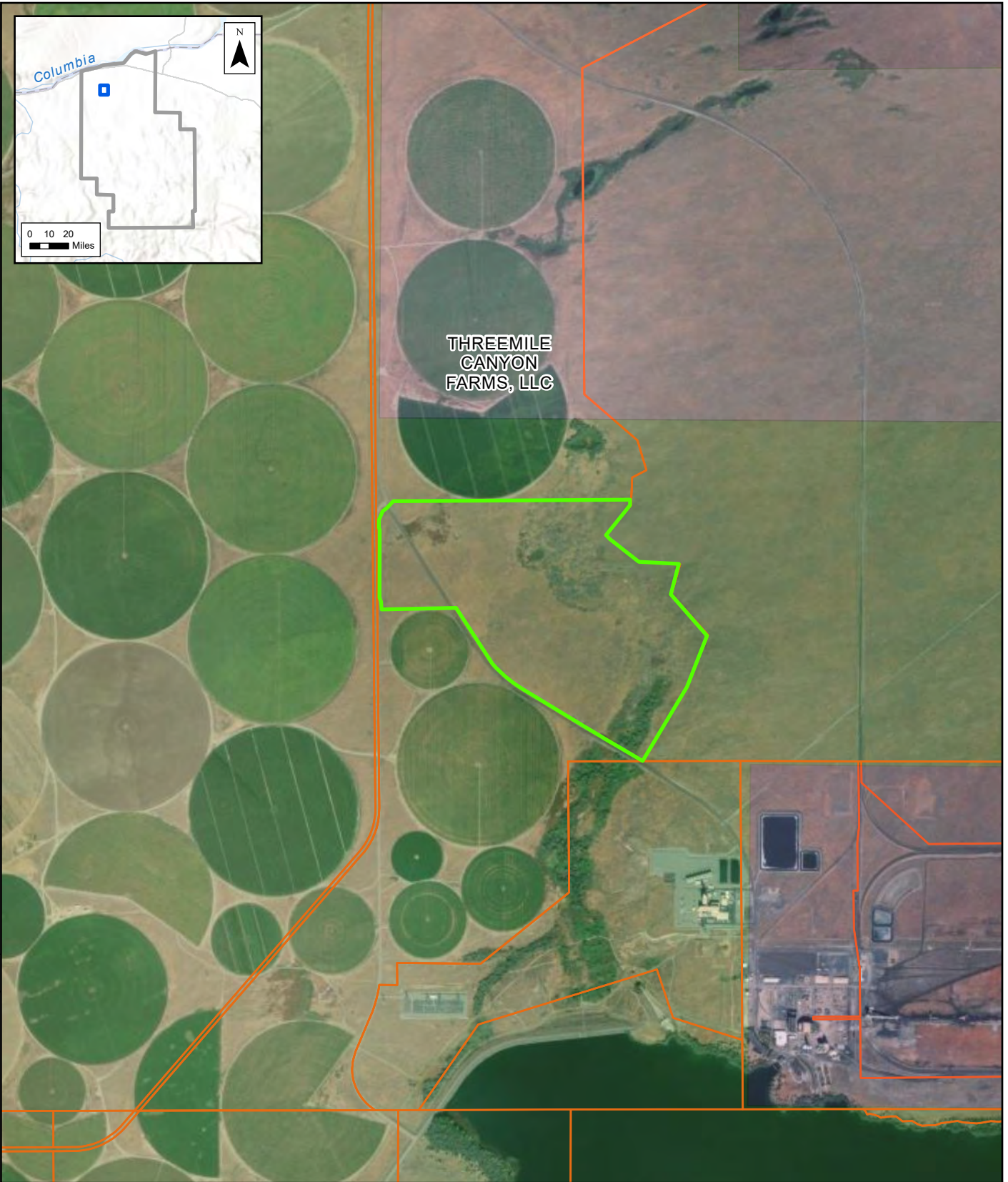
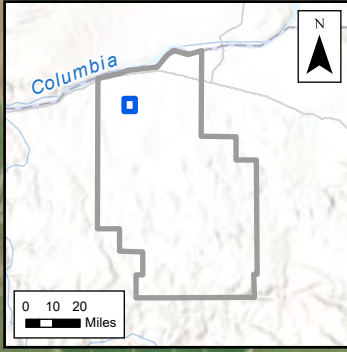
Figure 6e
Alternative Sites Considered
Alternative Site 4: JR Simplot Property
 Percheron Data Center
 Rowan Green Data, LLC
 Umatilla County, Oregon

Environmental Resources Management
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Source: Esri - World Topographic Map; WGS 1984 Web Mercator Auxiliary Sphere

Drawn By: matt.bowen

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- Project Site
 - Urban Growth Boundary (Nearest - 13.0 miles)
- Zoning**
- Exclusive Farm Use
 - General Industrial
 - Space Age Industrial

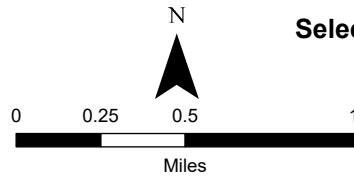


Figure 6g
Alternative Sites Considered
Selected Site: Threemile Canyon Farms
 Percheron Data Center
 Rowan Green Data, LLC
 Morrow County, Oregon

Environmental Resources Management
www.erm.com

Source: Esri - World Topographic Map; WGS 1984 Web Mercator Auxiliary Sphere

**Memo**

To	Rowan Percheron Team
From	ERM
Date	18 July 2023
Reference	Percheron Data Center Project, Morrow County, Oregon
Subject	Land Use and Zoning Addendum to Alternatives Analysis to Support Goal Exceptions Request

1. INTRODUCTION

Goal 2, Part II(c) requires that an applicant demonstrate that “areas that do not require a new exception cannot reasonably accommodate the use.” The elements of the required alternatives analysis are set out in Oregon Administrative Rules (OAR) 660-004-0020(2)(b)(A)1. Rowan Percheron, LLC (Applicant) performed an alternatives analysis with a study area that included the entire area of Umatilla and Morrow Counties, a region that has seen recent growth in significant cloud infrastructure presence. Applicant first identified siting criteria for the minimum requirements necessary for a site to reasonably accommodate the proposed Percheron Data Center (data center or Project). Applicant then applied the siting criteria to land within Umatilla and Morrow Counties to identify sites that could reasonably accommodate the proposed data center without requiring a new goal exception. The results of the analysis show that there are no available sites in Umatilla or Morrow Counties that meet the Project’s defined siting criteria and would not require a new goal exception.

In the Alternative’s Analysis (**Appendix D**, Application) the Applicant identified eight siting criteria for selecting a viable site for the proposed data center. Land Use and Zoning are an integral part of the Alternatives Analysis and should be described in sufficient detail to support the decisions and conclusions of the Applicant. ERM provides the below and attached in support of the Alternatives Analysis, specific to Land Use and Zoning.

1.1 Morrow County Zoning Districts

The Applicant evaluated the possibility of siting the Project outside the Urban Growth Boundary (UBG), but within zones where a data center may be allowed, such as industrial or commercial zones, specifically General Industrial (MG), Port Industrial Zone (PI) and Airport Light Industrial Zone (ALI) for Morrow County. A Data Center use is permitted outright in Morrow County’s General Industrial Zone (MG Zone) and Airport Light Industrial Zone (ALI) and permitted with a zoning permit in Port Industrial Zone (PI). Although data centers are listed as permitted uses, the County does not have specific siting criteria or development standards included in the Morrow County Zoning Ordinance (MCZO), only a definition of the term “data center” in MCZO

¹ Note that OAR 660-014-0040 also requires than an applicant consider alternatives to satisfy Goal 2, Part II(c), showing that “the proposed urban development cannot be reasonably accommodated in or through expansion of existing [UBG] boundaries or by intensification of development in existing rural communities.” Applicant maintains that alternatives analysis for purposes of OAR 660-014-0040(2)(a) requires the same analysis as OAR 660-004-0020(2)(b)(A)-(B). Therefore, for purposes of this application, Applicant relies on the proposed findings under OAR 660-004-0020(2)(b)(A)-(C) to meet both alternatives analysis requirement in Goal 2, Part II(c).

1.030. Data centers are listed as a conditional use only in the Umatilla Army Depot Military (UADM) Zone. Finally, the Space Age Industrial (SAI) zone allows many industrial, utility, and other emerging uses but does not allow for a data center use. All other Morrow County Zoning Districts and Overlay Zones do not provide for data centers as a permitted or conditional use.

Table 1 Morrow County Zoning Districts- Data Center Use Table

Use	Permitted Outright	Permitted with a Conditional Use Permit	Prohibited/ Not Allowed*
Data Center	<ul style="list-style-type: none"> ■ MG Zone ■ PI Zone ■ ALI Zone 	<ul style="list-style-type: none"> ■ UADM Zone 	<ul style="list-style-type: none"> ■ SAI Zone ■ AI Zone ■ AA Zone ■ AH Zone ■ EFU Zone ■ FR-2 Zone ■ FU Zone ■ CG Zone ■ RRI Zone ■ RLI Zone ■ RR-1 Zone ■ RSC Zone ■ SF-40 Zone ■ SR-2A Zone ■ SR Zone ■ TC Zone ■ UDWH Zone ■ UMCD PI Limited Use Overlay Zone

*Note: All other zoning districts data centers are not listed or the district or overlay zone is not applicable.

1.2 Port Industrial (PI)

A data center can be permitted in the Morrow County PI Zone with a zoning permit. Per section 3.073 of the MCZO the purpose of the PI Zone is:

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)

The Applicant evaluated the PI zoned areas of Morrow County during its siting and evaluation process as part of its Overarching Assessment of permitted zones, inclusive of the PI zoned parcel adjacent to the Morrow County UADM Zone (Umatilla Ordinance Depot; *UADM discussed separately in section 1.3 below*) and determined the parcel available would not meet the siting and development requirements. In addition to the description provided in **Appendix D** of the Application, the Applicant offers the below in additional support:

- The availability of power capacity and electrical service sufficient to meet the Project need was not and is not currently available;
- Clear title, required for the purchase of the property, was not available and was only recently acquired by the current landowner; and
- Number of buildable acres was not sufficient for the design parameters typical to data centers.

1.3 Umatilla Army Depot Military (UADM) Zone

As stated above, a data center can be permitted in the Morrow County UDAM Zone with a Conditional Use Permit (CUP). Per MCZO 3.074, the purpose of the UADM 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).” The Applicant evaluated both the Morrow County and Umatilla County portions of area zoned UADM in Morrow County and DI-U in Umatilla County, known as “Umatilla Ordinance Depot,” for feasibility and potential siting of a data center. The Applicant evaluated the Umatilla Ordinance Depot, Alternative 2 in Appendix D, area during its siting and evaluation process and determined the parcels available would not meet the siting and development requirements. In addition to the description provided in Appendix D of the Application, the Applicant offers the below in additional support:

- The availability of power capacity and electrical service sufficient to meet the Project need was not and is not currently available;
- Clear title, required for the purchase of the property, was not available and was only recently acquired by the current landowner;
- Number of buildable acres was not sufficient for the design parameters typical to data centers; and
- The “Umatilla Ordinance Depot” is a former EPA Superfund site (EPA ID: OR6213820917) (See Criteria 4 of Alternatives Analysis which discusses contamination). The development of previously contaminated properties is a complex and protracted process; the Applicant was unable to realistically explore development within the area known as “Umatilla Ordinance Depot” based also on timing and contractual requirements to deliver the Project, as well as the financial feasibility of securing financing and insuring a previously contaminated site.

1.4 Limited Use and Overlay Zones

The Applicant's application includes a request for a Limited Use Overlay. Morrow County appears to have adopted a total of six (6) overlay zones, two (2) overlay zones are "Limited Use" (LU) zones including the UMCD PI Limited Use Overlay Zone and the Speedway Limited Use Overlay Zone (SO). The UMCD PI limited use overlay zone was developed to provide guidance on the development of the nearly nine hundred fifty-nine (959) acres of PI zoned lands. The SO limited use overlay was intended to direct development and activities related to a "a speedway." Per MCZO 3.110, the purpose of the Limited Use (LU) zone is "to limit the list of permitted uses and activities allowed in the zone to only those uses and activities which are justified in the comprehensive plan 'reasons' exception statement under ORS 197.732(1)(c)." This LU zone is also intended to address the 'reasons' exceptions pursuant to OAR 660-14-018(3). A data center use is not a permitted or conditional use in either of the currently adopted Limited Use Overlay Zones.

Per section 3.110(A) of the MCZO, the Limited Use Overlay Zone "is to be applied through the plan amendment and rezoning process at the time the primary plan and zone designation is being changed." Included in the Applicant's Alternatives Analysis Siting Criteria No.7, Land Use and Zoning, (Appendix D) the Applicant also requires "that there be a viable pathway for rezoning a site" to advance as a feasible alternative. Based on the unique characteristics of the Project parcel, the Applicant understood that there was a pathway to rezoning the Project parcel as well as a method to limit the potential impacts of the data center with an LU Overlay Zone. The intention of the overlay request is to address concerns related to the data center use and limit the uses just to what is permissible for Applicant's requested 'reasons' exception. The data center use would be limited to the minimum acres necessary to develop and operate the Project and also subject to reasonable conditions when necessary to carry out the provisions of the Comprehensive Plan and the MCZO.

2. MORROW COUNTY AMENDMENTS

Exhibit J, of the record of the June 27, 2023 Morrow County Planning Commission Public Hearing on the Applicant's Applications, includes a list of the adopted amendments to the Morrow County Zoning Map and Comprehensive Plan from 1987-2016, as well as excerpts from the 2021-2021 DLCD Farm Forest Report, both related to EFU lands. Based on Exhibit J, Morrow County has only adopted fifteen (15) amendments in the last thirty-six (36) years related to EFU zoned lands most of which occurred between 1987 and 2009. Since 2011, Morrow County has approved and adopted three (3) amendments related to EFU acreage. The number of applications which were withdrawn, denied, or overturned/ remanded was not included in Exhibit J.

In addition to the above, Exhibit J also provides data from the DLCD Farm Forest Report, which provides state-level data on farmland zone changes from 1989-2021 and forest and mixed farm-forest zone changes as well as USDA National Agricultural Statistics Service (NASS) data for Acres in Farm Use by County from 1997-2017. The DLCD Farm Forest report does not include data specific to Morrow County but according to the USDA NASS data Morrow County is ranked thirteenth for loss of farmland in across all Oregon Counties in the last two decades. In 2017, according to USDA NASS data, Morrow County had over one million acres of land in farm use. The rezoning of approximately 274 acres (Project parcel) would represent a 0.02% loss of EFU designated land in Morrow County.

3. CONCLUSIONS

A Data Center use is permitted outright in Morrow County's MG and ALI zones and permitted with a zoning permit in PI zones. Data centers are listed as a conditional use only in the UADM Zone and not permitted elsewhere in the County by either zoning permit or conditional use. The Morrow County PI zones were reviewed and evaluated during the Applicant's Overarching Assessment of permitted zones and were unable to obtain power capacity, availability clear insurable title, and insufficient buildable acreage. The available UADM zones were evaluated by the Applicant in its Alternative 2 (Appendix D) and the results were the same as for the PI zone except, the "Umatilla Ordinance Depot" is an EPA Superfund site and is currently in the process of clean up and remediation and would not be available by the date needed to begin construction and operation of the data center. Additionally, the Applicant's applications include a request for a LU Overlay Zone like the ones adopted previously in the county to address and to limit the potential impacts of the data center rezoning with an LU Overlay Zone. The intention of the overlay request is to address concerns related to the data center use and limit the uses just to what is permissible for Applicant's requested 'reasons' exception. Based on materials submitted into the record, Morrow County has only approved and adopted three (3) amendments related to EFU acreage since 2011. Additionally, according to the USDA NASS data Morrow County is ranked thirteenth for loss of farmland in across all Oregon Counties in the last two decades. Finally, in 2017, according to USDA NASS data, Morrow County had over one million acres of land in farm use. The rezoning of approximately 274 acres (Project parcel) would represent a 0.02% loss of EFU designated land in Morrow County.

Memo

To	Rowan Percheron LLC (Applicant)
From	ERM
Date	18 July 2023
Reference	Percheron Data Center Project, Morrow County, Oregon
Subject	Supplemental Analysis for Goal 14 Exception Request

**1. INTRODUCTION**

ORAR 660-004-0020(2)(a) provides the first of four standards for goal exception requests. It requires an applicant to (1) demonstrate reasons justifying why the applicable goal policies should not apply, (2) describe the amount of land for the use, and (3) explain why the use requires a location on resource land. With respect to “reasons,” justifying why the applicable policies of Goals 3, 11, and 14 should not apply to the Project Parcel, the affected Goal 3 Policy would not apply as the policy preserves agricultural lands for farm use, the affected Goal 11 Policy would not apply as the policy prohibits extension of public services to serve industrial uses on rural lands, and the affected Goal 14 Policy would not apply as the policy prohibits urban-scale uses on 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. See ORAR 660-014-0040(2). The following supplements Applicant’s earlier goal exceptions analysis and further supports Applicant’s Goal 14 Exception Request.

2. SUPPLEMENTARY ANALYSIS

The Project involves an urban-scale data center development designed to accommodate the growing need for online and data storage. The record demonstrates that the Project Parcel is located between existing industrial and utility uses, where the ‘urbanization’ would not be out of place. The record also demonstrates that industrial and utility scale development, similar to the proposed data center development, can coexisting with existing agricultural operations, as demonstrated by the existence of the Carty operations and the adjacent Threemile Canyon Farm operations. Additionally, the Project Parcel is suitable for data center use given its proximity to other critical infrastructure such as the Carty site, adjacent to an existing 230 kV transmission line ROW, and the existing electric infrastructure nearby and renewable energy resources.

The data center is a necessary supplement to other critical infrastructure in Morrow County and the surrounding area. Data centers play a fundamental role in our society and digital economy today, everything that happens online, is retained in a data center. In order to meet the rising data center and cloud storage demand needs across all sectors, the Applicant entered into an agreement with the connecting utility to provide power and electrical infrastructure to the Project Parcel.

The four essential economic activities are resource management, the production of goods and services, the distribution of goods and services, and the consumption of goods and services¹. The economic activity for Project is “resource management” which would be the housing, hosting and providing security for the data that others use for economic activities such as: public and private data storage to individuals, corporate entities for business purposes, as well as some government or international purposes. In the same way that natural resources are managed, data and information storage, generate value from the resource itself (service, subscriptions, agreements) and indirectly generate sales for companies that supply goods and services that support resource management.

The data center economic activity, resource management, is dependent on power service and capacity adjacent to the Project Parcel. The existing 230-kV transmission line right of way offers ready access to renewable energy resources in the region, which will only be enhanced by the to-be-constructed Idaho Power Boardman to Hemingway that will run along Bombing Range Road to the Longhorn Substation. The Project Parcel is adjacent to the Carty site which hosts the Carty Generating Station, a 450-MW, combined-cycle natural gas-fuelled electric generating power plant, and includes a not-yet-constructed 50-MW solar PV electric power generating unit (Carty Solar Farm) on 315 acres (0.49 square mile). Renewable energy production, such as the planned Carty solar facility and other proposed solar facilities in the region, is energy derived from natural sources that are replenished at a higher rate than they are consumed. Sunlight and wind, for example, are such sources that are constantly being replenished and although widely available require the development of infrastructure such as solar facilities to capture, use, and conserve or store those resources. Access to and adjacency of the Project to renewable energy is crucial, the use of renewable energy resources for consistent and reliable supplemental power generation will limit the Project’s power demand on existing infrastructure and support any new required transmission or distribution line upgrades or substation development required. Further, diversity in electrical load, by utilizing renewable energy, also assists utilities and communities in maintaining a stable, reliable, and affordable energy supply.

¹ Microeconomics in Context (Goodwin, et al.), 4 th Edition. 2018. Chapter 1: Economic Activity in Context. Link: https://www.bu.edu/eci/files/2019/06/MIC_4e_SSG_Ch1.pdf

**Memo**

To	Rowan Percheron Team
From	ERM
Date	7 August 2023
Reference	Percheron Data Center Project, Morrow County, Oregon
Subject	Response to Comments on Applicant's Alternatives Analysis from Planning Commission Hearings

1. INTRODUCTION

Rowan Percheron, LLC (Applicant) performed an Alternatives Analysis with a study area that included the entire area of Umatilla and Morrow counties, a region that has seen recent growth in significant cloud infrastructure presence. See Appendix D in the. Following the June 27 Planning Commission hearing, Applicant prepared a technical memorandum to supplement the original Alternatives Analysis in response to comments and questions raised at the June 27 hearing ("Supplemental Tech Memo"). The Alternatives Analysis and Supplemental Tech Memo applied eight siting criteria for selecting a reasonable site and analysed potential sites against the eight siting criteria to identify reasonable alternative sites for the proposed data center. This memorandum further supplements Applicant's analysis and addresses options for rezoning and Urban Growth Boundary (UGB) expansion ("Amended Supplemental Tech Memo"). Together, the Appendix D Alternatives Analysis, the Supplemental Tech Memo, and the Amended Supplemental Tech Memo comprise Applicant's complete Alternatives Analysis ("Complete Alternatives Analysis") for the requested goal exceptions.

1.1 Land Use and Zoning Siting Criteria

When proposing to use resource lands for uses not otherwise allowed under the applicable Oregon Statewide Land Use Planning Goal, OAR 660-004-0020 requires an applicant to take an exception, which requires in part to analyse alternative areas and discuss why those other areas that do not require a new exception cannot "reasonably accommodate the proposed use." *1000 Friends of Oregon v. Morrow County*, LUBA 2020-029 at *7. This "alternative areas" standard may be met by a broad review of similar types of areas rather than a review of specific alternative sites, and only require a site specific comparisons if another party describes specific sites that can more reasonably accommodate the proposed use. OAR 660-004-0020(2)(b)(B)-(C).

Comments received on the record generally raised the possibility of using other land already zoned industrial, included in a UGB, or within a possible UGB expansion area. In addition, the U.S. Army Depot site was raised as was the Space Age Industrial (SAI) zoning of the Port of Morrow's Boardman Airport Industrial Park. Applicant already addressed the U.S. Army Depot site as Alternative #2 in the Supplemental Tech Memo and demonstrated why it was not a reasonable alternative under the Goal 2 test. Applicant provides additional analyses of rezoning

and UGB expansions in the following to also demonstrate why other potential alternatives were not reasonable under the Goal 2 test.

Whether a potential site was a reasonable alternative under Applicant's Alternatives Analysis depended on the balancing of eight siting criteria. This Amended Supplemental Tech Memo focusses on the application of Siting Criterion 7 Land Use and Zoning. Siting Criterion 7 depended on whether there was a "reasonable pathway" to establish the proposed data center campus on the site given its zoning. In other words, Applicant asked (1) was the site zoned to allow the proposed data center as a permitted or conditional use, or (2) was there be a viable pathway for rezoning a site to allow the proposed use.

1.2 Rezoning Industrial Land

The ability to rezone a potential site for the proposed data center not only involved the feasibility of doing so under the applicable zoning code provisions, it also involved the question of whether the site satisfied, on balance, the other Siting Criteria like the availability of the land (e.g., site control, Siting Criterion 3), buildable acreage and environmental constraints (Siting Criterion 3 and 4, as well as fiber (Siting Criterion 6), water (Siting Criterion 2), access (Siting Criterion 5), and electrical and transmission capacity (Siting Criterion 1). If the site could not, on balance, satisfy the other Siting Criteria, then it was disregarded as not "reasonable" and no rezoning was considered.

Applicant also evaluated lands zoned industrial that did not allow a data center as a permitted or conditional use. Even if a site could not meet Siting Criteria 7 because of its zoning, Applicant evaluated the ability to consider a text amendment to allow the proposed use but only if the site also satisfied, on balance, the other Siting Criteria. If the site could not satisfy other important siting criteria, then it was not a "reasonable" alternative because even if a zone amendment (like a text amendment) occurred, the site would not be suitable for the proposed use.

For example, comments raised the possibility of requesting a text amendment to allow data centers in the SAI zone. Even if the SAI zone authorized data centers, sites zoned SAI are not reasonable alternatives under the Siting Criteria because over 9,000 acres of the SAI zone in Morrow County appear to be in pivots and are considered highly productive agricultural lands and not available (Siting Criterion 3). See Figure 1a (see light purple with underlying pivots). Further, there are some areas zoned SAI that are not in pivots but are included in the Boardman Conservation Area and "no go" for development because of environmental constraints (Siting Criterion 4). See Figure 1a (see light purples with green dots overlay). Finally, lands adjacent to the SAI and MG zones and not in pivots, are zoned EFU and also constrained by the Boardman Conservation Area and "no go" for development because of environmental constraints (Siting Criterion 4). See Figure 1 a (light green with green dots overlay).

1.3 Urban Growth Boundary Expansion

Applicant first evaluated the possibility of siting the Project on non-resource lands within the Urban Growth Boundaries (UGBs) of Umatilla and Morrow Counties. Locating within a UGB or expanded UGB would allow for more robust levels of infrastructure to serve some of the Project's needs.

1.3.1 Land within UGB

Morrow County has 5 adopted Urban Growth Boundaries: Boardman, Irrigon, Lone, Lexington, and Heppner. Applicant reviewed sites in accordance with its Siting Criteria, inclusive of sites in UGBs. As shown on Figure 1a-1b, attached, UGBs to the north within Boardman and Irrigon

are already occupied. UGBs to the south, Lone, Lexington and Heppner do not meet siting criteria requirements related to available transmission capacity (Siting Criterion 1), fiber network (Siting Criterion 6), topography (Siting Criterion 3), and environmentally sensitive resources and protected areas (Siting Criterion 4). As shown on Figure 2a- 2b, attached, UGBs within Umatilla County are either already occupied by other uses or development, lack suitable electrical and fiber infrastructure (Siting Criterion 1 and 6), or are not suitable topographically (Siting Criterion 3). Specifically, Hermiston is already saturated with developments (Siting Criterion 3), whereas Stanfield lacks available transmission capacity (Siting Criterion 1), and Pendleton is too far to be a commercially viable (e.g., no market) and no fiber network (Siting Criterion 6).

1.3.2 Land in Proximity to UGB

Applicant's analysis of lands outside of Morrow County's UGBs revealed no reasonable alternatives. One site not previously addressed in Applicant's Alternatives analysis is a parcel zoned General Industrial outside of the Heppner UGB. See Figure 1b. This is the site of an old lumber mill/yard. The site is within a floodplain and not considered a reasonable alternative under Siting Criterion 4 as well as Siting Criterion 1 (transmission capacity).

In Umatilla County, as shown in Figure 2a-2b, there are limited areas that fall within the zones that allow data centers to be permitted, as all of these zoned areas are already occupied with existing infrastructure or development (Siting Criterion 3 and 7). Specifically, Hinkle is already saturated with development and did not meet the power and financial feasibility requirements (Siting Criterion 3, 1 and 8). In addition, other areas where a data center use would potentially be allowed were also analysed and the Applicant found that some sites were already developed or committed (Siting Criterion 3) and/or presented environmental constraints, including wetlands and floodplains (Siting Criterion 4).

1.3.3 Recap of Alternatives Evaluated

To summarize the steps of Applicant's Alternatives Analysis, Applicant first conducted an Overarching Assessment, looking at lands within city limits and UGBs in Morrow and Umatilla counties (see below **Table 1** for further discussion). Following that analysis and lack of suitable sites, Applicant then evaluated the possibility of siting the Project outside a UBG, but within zones where a data center may be allowed. Based on this review, no reasonable alternative sites were identified in either the UGB areas or zones allowing a data center. The identified sites did not meet the siting criteria with the main constraints being Siting Criterion 1, 3, and 4.

Specifically, Applicant evaluated the PI zoned areas of Morrow County during its siting and evaluation process as part of its Overarching Assessment of permitted zones, inclusive of the PI zoned parcel adjacent to the Morrow County UADM Zone (Umatilla Ordinance Depot; UADM) and determined the parcel available would not meet siting and development requirements (Siting Criterion 1, 3, and 4).

Applicant evaluated the Umatilla Ordinance Depot, Alternative 2 in **Appendix D**, area during its siting and evaluation process and determined the parcels available would not meet siting and development requirements (Siting Criterion 1, 3, and 4). Umatilla County also only allows data centers in subareas 2 and 3, additionally restricting the available area. Further, Applicant was unable to realistically explore development within the area known as "Umatilla Ordinance Depot" or Alternative 2 based also on timing and contractual requirements to deliver the Project, as well as the financial feasibility of securing financing and insuring a previously contaminated site (Siting Criterion 4 and 8).

During Applicant’s Overarching Assessment, Siting Criterion 7 (Land Use and Zoning) was not the only consideration, as shown in the Alternative Analysis Table 1 (**Appendix D**, Application), most of the sites evaluated in both Morrow and Umatilla Counties did not include other critical attributes such as availability, suitability of land for development, and power, water, electrical or transmission capacity. See above Section 1.3.3 discussion of PI and UADM zones. All of the Siting Criteria were weighted equally, however, key features like landowner willingness to transact, environmental suitability, and sufficient buildable acreage impacted development feasibility, and absent those key features, prevented Applicant from moving forward in evaluating sites that would require a zone change or text amendment to allow the proposed development.

It is important to note that Applicant’s temporal constraints are not included as a separate siting criterion, but some of the criteria such as electrical infrastructure and fiber network availability impose timing and process constraints and therefore the analysis is also informed by the timings and approvals necessary to develop the Project.

The table below provides additional context to the Alternatives Analysis provided in **Appendix D** and how the zoning and UGB expansion options informed the Applicant’s Overarching Assessment and overall site selection (See **Table 1.**)

Table 1 Alternatives Analysis Discussion- Overarching Assessment

Alternatives Sites Considered	Distance from Selected Site (miles)	Jurisdiction	Zoning	Within or Distance to UGB	Conclusion*
Overarching Assessment: Umatilla County UGBs	25-30	Umatilla County	Various	Within	Criteria 1, 3, and 6 not met
Discussion: Applicant evaluated the sites included in the Umatilla County UGBs and found in its Overarching Assessment that the available sites failed to provide adequate power (Siting Criterion 1), vacant or suitable land condition (Siting Criterion 3), and fiber network availability (Siting Criterion 6). Hermiston and Hinkle UGBs are already saturated with developments within and in surrounding potentially compatible surrounding parcels (Siting Criterion 3). The Stanfield UGB area lacks critical electrical capacity necessary to serve the Project (Siting Criterion 1). The Pendleton UGB, although less saturated is located too far away to be commercially viable fiber network (Siting Criterion 6).					
Overarching Assessment: Umatilla County RLIZ, LRLIZ, HI Zones	25	Umatilla County	RLIZ, LRLIZ, HI	0-1 miles	Criteria 3 not met
Discussion: As shown in Figures 2a-2b, attached, there are limited areas that fall within the zones that allow data centers to be permitted outright as all of these zoned areas are already occupied with existing infrastructure or development (Siting Criteria 3 and 7). In addition, other areas where a data center use would potentially be compatible were also analyzed and Applicant found that some sites were already developed or committed (Siting Criterion 3) and/or presented environmental constraints, including wetlands and floodplains (Siting Criterion 4).					
Overarching Assessment: Umatilla County Non- resource Lands	20+	Umatilla County	Various	Various	Criteria 1 and 3 not met

Discussion: Areas outside of the Hermiston, Hinkle, and Stanfield UGBs and permitted zones not requiring a goal exception were analyzed and deemed not to have available electrical infrastructure (Siting Criterion 1) or meet the landowner and land requirements (Siting Criterion 3 and 4). Particularly, environmental constraints such as sensitive biological, water, cultural resources or areas protected for conservation or potentially contaminated present a myriad of issues for Applicant, making sustainable development of those sites unachievable.

Overarching Assessment: Morrow County UGBs	12 -20+	Morrow County	Various	Within	Criteria 1 and 3 not met
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Discussion: As shown on Figure 1a, Morrow County UGBs to the north within Boardman and Irrigon, Oregon, are already occupied with development (Siting Criterion 3). The UGBs to the south, see attached Figure 2b, Lone, Lexington and Heppner do not meet requirements related to available transmission capacity (Siting Criterion 1) and topography (Siting Criterion 3). Additionally, adjacent land uses would not be compatible with a data center as areas along existing transmission line routes are not appropriately zoned and some appear to be in active agriculture use.

Overarching Assessment: Morrow County MG, PI, ALI Zones	0.27 - 20	Morrow County	MG, PI, ALI	0 – 20 miles	Criteria 3 not met
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Discussion: As shown on Figure 1a, attached, no undeveloped, vacant land available that meets the size requirements of Siting Criterion 3 was available for the Project. Existing MG, PI and ALI zones are all either occupied by existing development, planned for future development by the landowner, not available for sale or lease to the Applicant, or do not contain the amount of buildable land required (Siting Criterion 3).

Overarching Assessment: Morrow County Non- resource Lands	5+	Morrow County	Various	Various	Criteria 1 and 3 not met
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Discussion: Areas outside of the UGBs and permitted zones but not requiring a Goal 3 exception were analyzed and deemed not to have available electrical infrastructure (Siting Criterion 1) or meet the landowner and land requirements (Siting Criterion 3). Adjacent sites with zoning that could be compatible with the data center use, such as SAI zones, appear to be in active or historical agriculture production and irrigated (Siting Criterion 7).

* See Alternative Analysis, Table and Figures, in **Appendix D** for full details.

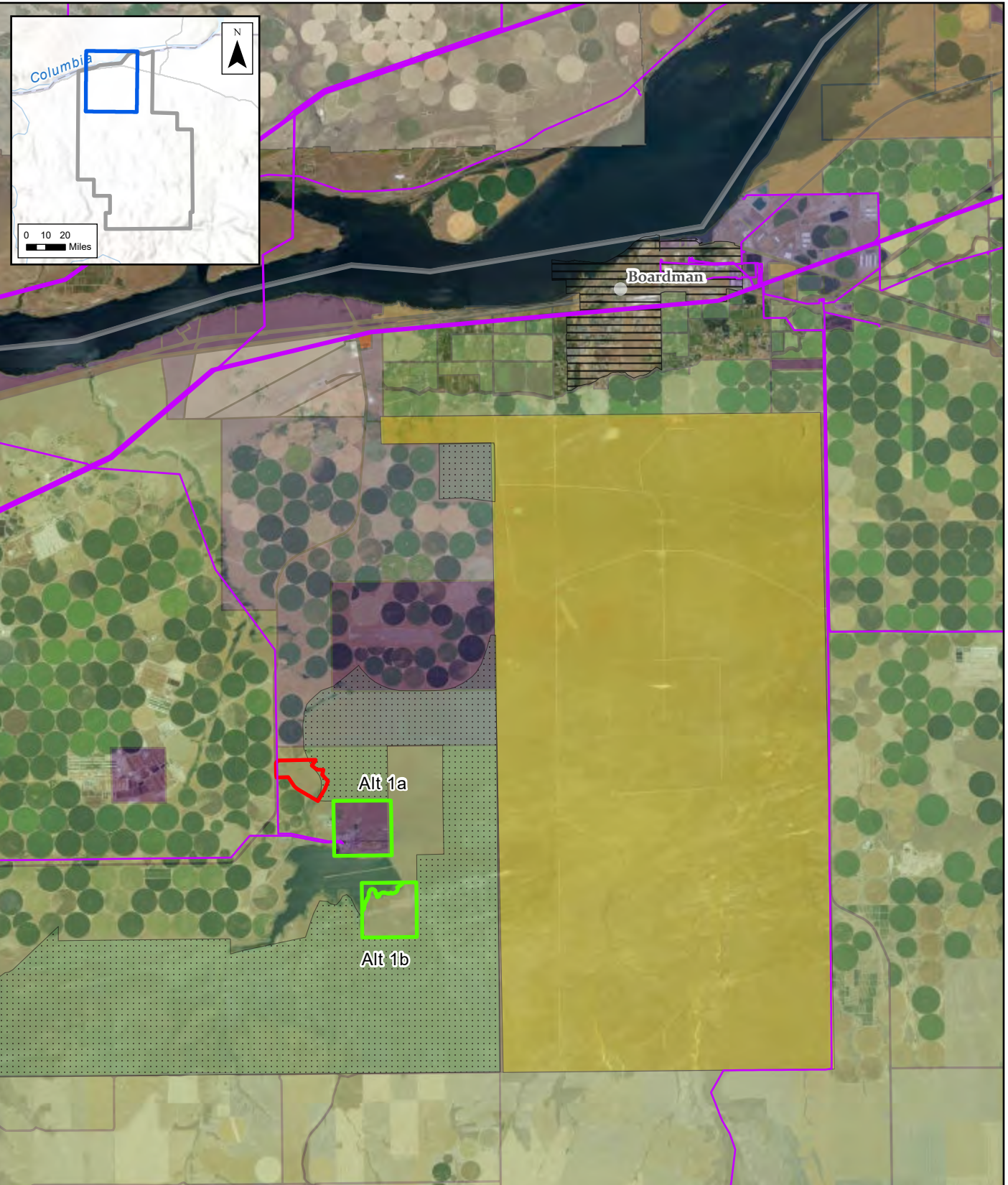
2. CONCLUSIONS

Table 1, Section 1.3.3. above, provides additional context to the Alternatives Analysis and how the zoning (or rezoning or zone text amendments) and UGB expansion options informed the Applicant’s Overarching Assessment and overall site selection process, but it is clear that identified areas within the Morrow and Umatilla UGBs, as well as sites adjacent to the UGBs were not available nor or would they be not suitable for the Project (e.g., would not satisfy, on balance, the Siting Criteria). Accordingly, these sites were not considered “reasonable alternatives.” Only one such site failed to meet Siting Criterion 7 while satisfying all the other Siting Criteria – the Project Parcel. It required a zone change and corresponding goal exceptions, but was available for the Project, had suitable topography, proximity to transmission with capacity, and avoidable environmental impacts among other things.

FIGURES

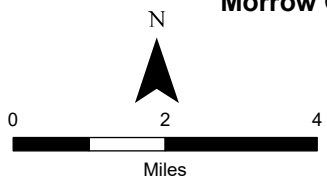
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Existing Transmission Infrastructure	Airport Industrial
Project Parcel	Airport Light Industrial
Alternative Site	Exclusive Farm Use
Morrow County Boundary	General Industrial
Urban Growth Boundary	Port Industrial
Boardman Conservation Area	Public
Boardman Bombing Range	Rural Service Center
	Space Age Industrial
	Tourist Commercial

Figure 1a
Morrow County UGB and Permittable Zones
 Percheron Data Center
 Rowan Green Data, LLC
 Morrow County, Oregon

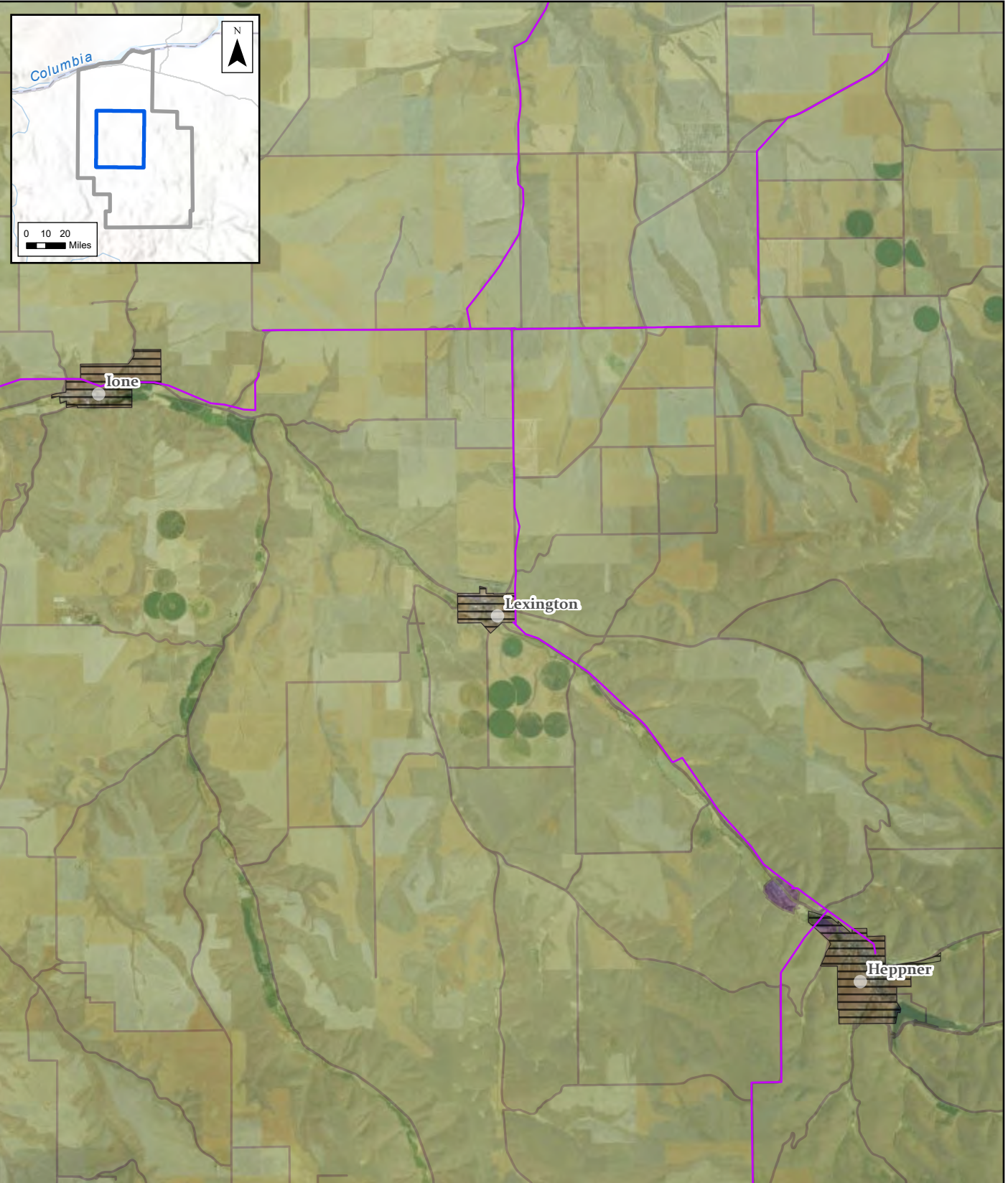


Environmental Resources Management
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Source: OR NAIP 2022; NAD 1983 2011 StatePlane Oregon North FIPS 3601 Ft Intl

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Drawn By: matt.bowen



-  Existing Transmission Infrastructure
-  Urban Growth Boundary
-  Exclusive Farm Use
-  General Industrial
-  Rural Light Industrial

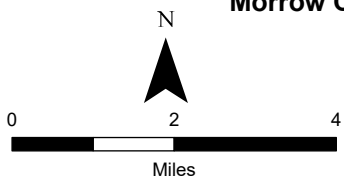


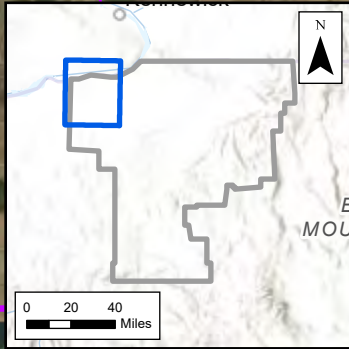
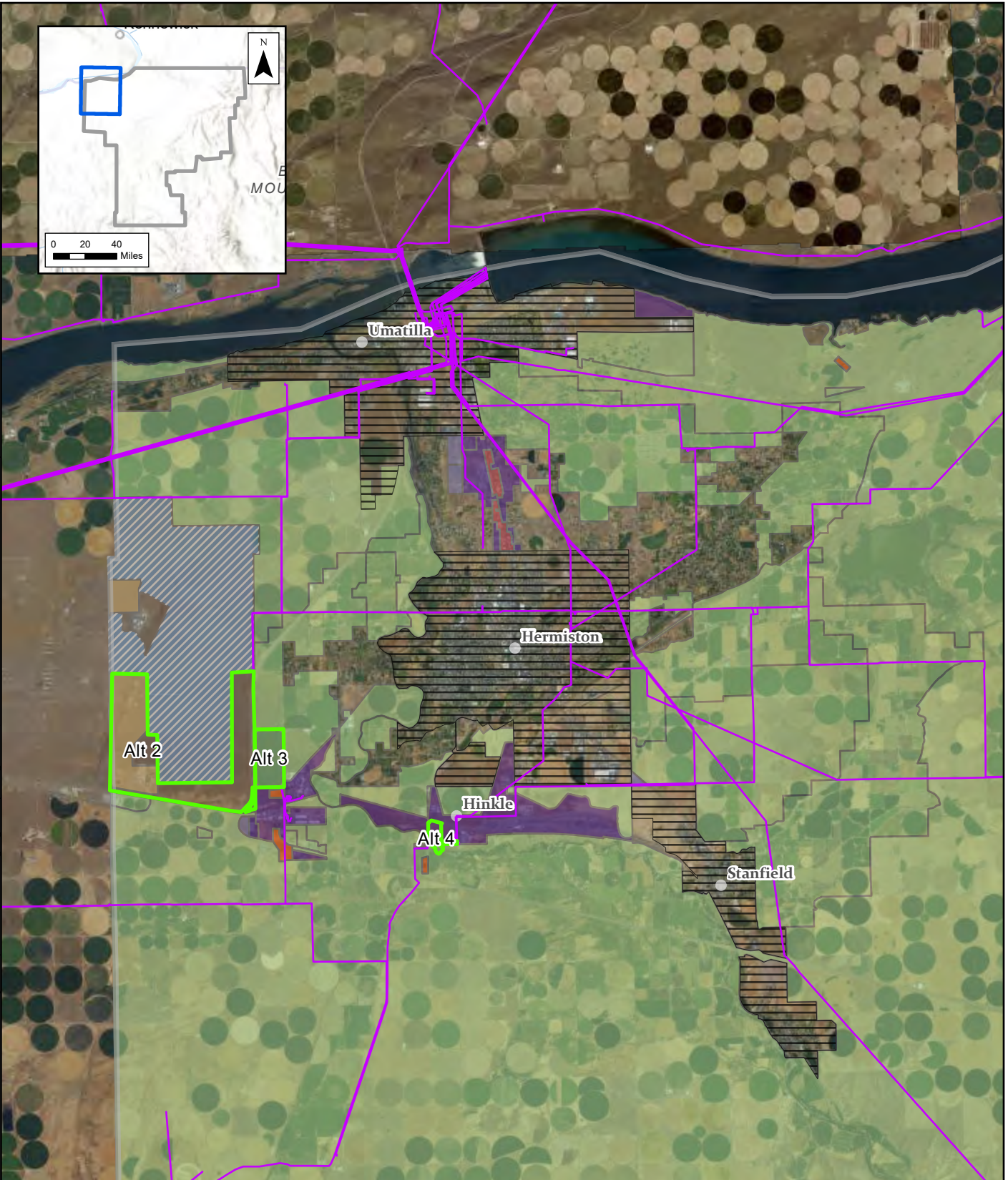
Figure 1b
Morrow County UGB and Permittable Zones
 Percheron Data Center
 Rowan Green Data, LLC
 Morrow County, Oregon



Source: OR NAIP 2022; NAD 1983 2011 StatePlane Oregon North FIPS 3601 Ft Intl

Drawn By: matt.bowen

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- Existing Transmission Infrastructure
- Alternative Site
- Urban Growth Boundary
- General Commercial
- Exclusive Farm Use
- General Industrial
- Rural Light Industrial
- Rural Service Center
- Tourist Commercial
- Umatilla Army Depot
- Umatilla Depot Wildlife Habitat

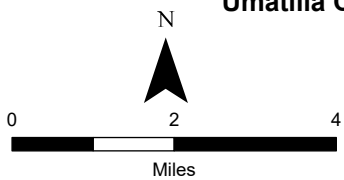
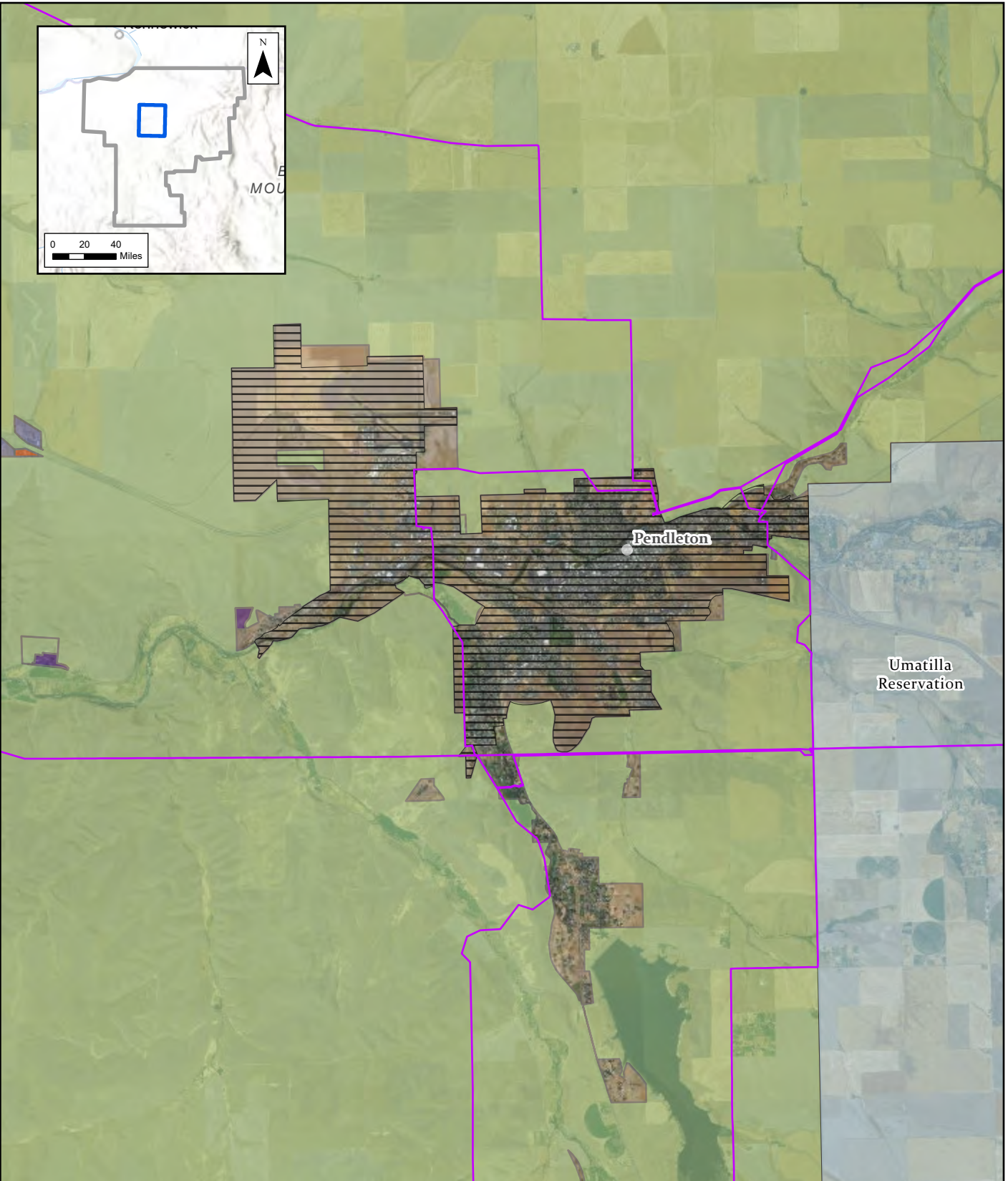


Figure 2a
Umatilla County UGB and Permittable Zones
 Percheron Data Center
 Rowan Green Data, LLC
 Umatilla County, Oregon

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Source: OR NAIP 2022; NAD 1983 2011 StatePlane Oregon North FIPS 3601 Ft Intl



- Existing Transmission Infrastructure
- Urban Growth Boundary
- Reservation
- Exclusive Farm Use
- General Industrial
- Rural Light Industrial
- Tourist Commercial

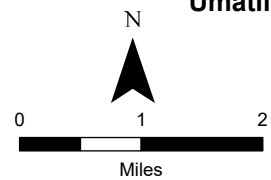


Figure 2b
Umatilla County UGB and Permittable Zones
 Percheron Data Center
 Rowan Green Data, LLC
 Umatilla County, Oregon

Source: OR NAIP 2022; NAD 1983 2011 StatePlane Oregon North FIPS 3601 Ft Intl

ENCLOSURE 1

**ERM Memo: Response to DLCD Board Comments on
Applicant's Alternatives Analysis**

**Memo**

To	Rowan Percheron Team
From	ERM
Date	30 August 2023
Reference	Percheron Data Center Project, Morrow County, Oregon
Subject	Response to DLCD Board Comments on Applicant's Alternatives Analysis

1. INTRODUCTION

Rowan Percheron, LLC (Applicant) provides this memorandum in response to comments received from the Oregon Department of Land Conservation and Development (DLCD), dated August 15, 2023, ahead of the August 16, 2023 hearing before the Board of County Commissioners (Board). This memorandum supplements Applicant's Complete Alternatives Analysis. Applicant's Complete Alternatives Analysis is comprised of the following documents:

- MC Rec Exhibit 6, Appendix D Alternatives Analysis in the Application;
- MC Rec Exhibit 48, Supplemental Figure 6g Project Parcel;
- MC Rec Exhibit 59, Supplemental Alternatives Analysis Tech Memo; and
- MC Rec Exhibit 82, Amended Supplemental Alternatives Analysis Tech Memo.

This memo further supplements the Complete Alternatives Analysis and should be considered a part of the Complete Alternatives Analysis once entered into the record by the Board.

In their comment letter, DLCD raised questions concerning Applicant's Complete Alternatives Analysis, essentially questioning whether Applicant had fully evaluated alternative sites that appeared to be readily available based on internet research. In particular, DLCD raised concerns about whether sites within or adjacent to existing urban growth boundaries (UGBs) could be accommodated instead of the proposed Project Parcel. In total, DLCD identified nine sites as potential alternative locations for the proposed data center development. Of those nine sites, Applicant had already evaluated the locations within Morrow and Umatilla counties and provided its evaluation in the Complete Alternatives Analysis, a fact that DLCD does not account for in its comments. DLCD's list of alternative sites is based on an internet search only and does not take into account any of the siting criteria developed by Applicant or overall considers the needs of Applicant's project.

1.1 Summary of Applicant's Siting Criteria

The Complete Alternatives Analysis provides a full discussion of Applicant's eight siting criteria that Applicant applied to determine whether a particular site may be a reasonable alternative under the required goal exception rules. DLCD does not appear to be questioning the reasonableness of Applicant's eight siting criteria, only that the application of the siting criteria did not result in an alternative site within an urban or industrial zone.

As explained more fully in the Complete Alternatives Analysis, no one siting criterion was determinative in site selection; each factored into whether a potential site was “reasonable” to accommodate the proposed data center development. The eight siting criteria are listed below:

1. Access to Electrical Infrastructure and Power Availability
2. Water Supply and Discharge
3. Land Characteristics
4. Environmentally Sensitive Resources and Protected Areas
5. Road Access
6. Fiber Network Connectivity
7. Land Use and Zoning
8. Financial Feasibility

2. DLCD’S NINE ALTERNATIVE SITES

Applicant reviewed the nine alternative sites provided in DLCD’s August 15th comment letter. DLCD identified alternative sites in figures attached to its comment letter. Applicant numbered the sites for ease of the following analysis. Below is a discussion of each site and a summary is attached as **Table 1**.

2.1 Umatilla County

2.1.1 DLCD Site 1 - Columbia Development Authority Lands

DLCD identified land owned by the Columbia Development Authority in Umatilla County as a potential alternative. See **Figure 1 and 1b**. This site was addressed and discussed in the Complete Alternatives Analysis as Alternative Site 2 (Army Depot). Applicant considered portions of Alternative Site 2 (Army Depot) and evaluated the site for suitability and feasibility against the eight siting criteria. Applicant found that the site was not reasonable to accommodate the proposed data center because there was no available power capacity within acceptable distance (Criterion 1) and prior uses raised serious concerns related to potential contamination and development in proximity to contamination (Criterion 3). Also, at the time Applicant evaluated Alternative Site 2, there was uncertainty around the title and availability of the site (Criterion 3). See MC Rec Exhibit 6 and Exhibit 82.

2.1.2 DLCD Site 2 - West Umatilla County – UGB and Industrial Zoned Lands

DLCD identified land zoned industrial in west Umatilla County as potential alternatives. See **Figure 2 and 2b**. Figure 2 identifies large swaths of land located in the cities of Umatilla, Hermiston, Stanfield, and Echo as well as lands within existing UGBs and industrial lands outside of the urban areas. Some of these lands were addressed and discussed in the Complete Alternatives Analysis, including specifically Alternative Sites 3 (Pedro Land Company) and 4 (JR Simplot). See MC Rec Exhibit 6. In addition, Applicant considered portions of these lands and previously discussed and addressed its reasoning in the

Applicant's Overarching Assessment: Umatilla County RLIZ, LRLIZ, and HI zones as well as possible sites within and proximate to UGBs. See Applicant's Supplemental Amended Alternatives Analysis Technical Memo (MC Rec Exhibit 82), Sections 1.2 and 1.3. Applicant reviewed and analysed the Umatilla County UGBs and found that these areas, overall, were already occupied with development or did not meet other siting criteria requirements such as available transmission capacity (Criterion 1), fiber network (Criterion 6), topography (Criterion 3), and environmentally sensitive resources and protected areas (Criterion 4). Areas outside of the Umatilla County UGBs allowing data centers to be permitted outright are already committed to other uses and infrastructure and not available (Criterion 3).

With respect to the ability to site within an existing UGB, Applicant could not find a reasonable alternative within a UGB that, on balance, met the eight siting criteria. DLCD has not identified such a site with any specificity that warrants further evaluation. Applicant was also unable to fully explore an UGB Expansion as a reasonable alternative based on the temporal and cost constraints included in its siting criteria, such as power delivery within 24-36 months of initial load interconnection application, ability to permit a site within 1 year of less to meet the Applicant's commercial operation date, fiber network providers' willingness and ability to meet the proposed development's needs within 12 months, and Applicant's need that costs for land, energy, water, fiber easements, grading, and environmental mitigation be aligned with the financial feasibility goals for the proposed development. Applicant nevertheless engaged with cities in the area, particularly city of Hermiston, but timing of achieving a UGB expansion, a process that typically takes multiple years, was an insurmountable constraint.

2.2 Port of Morrow

2.2.1 DLCD Site 3 - Port of Morrow – Airport Industrial Park

DLCD identified land within the Port of Morrow's Airport Industrial Park (POM Airport Park) as potential alternatives. See **Figure 3, 3b and 3c**. These lands were addressed previously when Applicant evaluated the possibility of siting on Morrow County MG, PI, and ALI zones as well as the SAI zone in the Complete Alternatives Analysis. See MC Exhibit 59 and Exhibit 82. The POM Airport Park was raised by the Planning Commission as a potential alternative and Applicant addressed the reasonableness of it in both the Supplemental Alternatives Analysis Tech Memo (Exhibit 59) and the Amended Supplemental Alternatives Analysis Tech Memo (Exhibit 82).

On balance, these lands did not satisfy Applicant's siting criteria, primarily Criterion 1, power availability. The land was in an area with previously queued load requests and severe transmission congestion. In addition, other industrially zoned land in the POM Airport Park was otherwise secured by third parties or in active cultivation for pivot crops and therefore not available for sale or lease. Consequently, lands within those areas also did not meet Criterion 3, land characteristics size and availability. See Threemile Canyon Farm testimony before the Planning Commission and attached **Appendix A** for letter from Port of Morrow regarding the availability of these sites.

2.2.2 DLCD Site 4 - Port of Morrow – East Beach Industrial Park

DLCD identified land within the Port of Morrow's East Beach Industrial Park (POM East Beach) as potential alternatives. See **Figure 3**. These lands are not available (Criterion 3) (see **Appendix A** from the port of Morrow regarding the availability of sites in POM East Beach). Further, this area faces similar issues to the POM Airport Park with respect to severe transmission congestion (Criterion 1).

2.2.3 DLCD Site 5 - Port of Morrow – Boardman Industrial Park

DLCD identified land within the Port of Morrow's Boardman Industrial Park (POM Boardman Park) as potential alternatives. See **Figure 4**. Applicant studied the area and found that the site was not reasonable due to previously queued load requests and severe transmission congestion (Criterion 1), making the site unsuitable for the proposed development. In addition, sites within that area were not available for sale or lease (Criterion 3).

2.2.4 DLCD Site 6 - Port of Morrow – South Morrow Industrial Park

DLCD identified the Port of Morrow's South Morrow Industrial Park as a potential alternative. See **Figure 5**. This site is an old mill site located outside of the city of Heppner. Applicant previously evaluated this site in Sections 1.3.2 and Figure 1 b of the Supplemental Amended Alternatives Analysis Tech Memo (Exhibit 82). While the site is zoned general industrial, it is in a floodplain and was not considered a reasonable alternative under Criterion 4 as well as Criterion 1.

2.2.5 DLCD Site 7 - Port of Morrow – Industrial Sites for lease/sale

DLCD identified other industrial sites for sale or lease on the Port of Morrow's website. See **Figure 6**. However, it appears that this listing references back to other POM sites, like POM Airport Park, POM East Beach, and POM Boardman Park. Applicant could not identify which sites DLCD may be implying could be alternatives based on the information provided. Applicant considered sites for sale or lease from the Port of Morrow in its Complete Alternatives Analysis, in particular POM Airport Park and POM East Beach but none of those sites were reasonable based on Applicant's eight siting criteria.

2.3 Gilliam County - Port of Arlington

2.3.1 DLCD Site 8 - Port of Arlington- Mesa Airport and Industrial Park

DLCD identified the Port of Arlington's Mesa Airport and Industrial Park as potential alternatives in Gilliam County, Oregon. See **Figure 7**. These sites have constrained parcel size, topography and availability (Criterion 3), and face congested transmission (Criterion 1).

2.3.2 DLCD Site 9 - Port of Arlington- Shuttler Station

DLCD identified the Port of Arlington's Shuttler Station located in Gilliam County, Oregon. This location could not meet Criterion 3 (constrained land availability) and was located in portions of the flood zone (Criterion 4). See **Figure 8**.

3. ACCESS TO ELECTRICAL INFRASTRUCTURE AND POWER AVAILABILITY

DLCD provided a figure on page 8 of their August 15 comment letter identifying transmission and substations within the region of Morrow and Umatilla counties. The figure and DLCD's comments, however, do not expand on the purpose of the figure or how it relates to DLCD's questions concerning Applicant's alternatives analysis. It shows the location of existing transmission and electrical infrastructure without expanding on availability of transmission capacity or queue availability. The figure also shows electrical and transmission infrastructure of all scale (including taps that are not viable for interconnection for a data center project). Rowan required a 115 kV line or substation at a minimum and preferred 230 kV or greater. DLCD's comments fail to take into consideration the availability of interconnection or the capacity of available existing or planned infrastructure. Applicant recognizes that one of the common

themes throughout the Applicant's site selection process is power and infrastructure availability and feasibility, Siting Criterion 1. Applicant has conducted a review of the BPA queue positions and information regarding energy capacity available in the region when siting the proposed data center development. See **Appendix B**. Appendix B is provided to help explain the complexity of evaluating transmission capacity and timing, elements critical for a data center development that requires considerable power supply.

4. GOAL 14, OAR 660-014-0040(3)(A)

DLCD questioned whether Applicant has sufficiently addressed OAR 660-014-0040(3)(a) in its goal exceptions analysis, which provides:

“(3) 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.”

Within Umatilla and Morrow counties, there are cities within existing UGBs, although DLCD identified none with specificity. Applicant previously engaged with Boardman, Heppner, Irrigon, Hermiston, Lone, and Lexington to discuss the proposed project. Further, Applicant inquired with City of Hermiston about the timeline and possibility for a UGB expansion to accommodate the project. See City of Hermiston email to Planning Department, dated June 24, 2023, included as **Appendix C**. Finally, Applicant addressed land within existing UGBs and near UGBs in Section 1.3 of the Supplemental Amended Alternatives Analysis Tech Memo (Exhibit 82). See **Figure 9**.

In Applicant's selection process and alternatives methodology, Applicant reviewed the Morrow and Umatilla UGBs and found that these areas, overall, were already occupied with development or did not meet other siting criteria requirements such as available transmission capacity (Siting Criterion 1), fiber network (Siting Criterion 6), topography (Siting Criterion 3), and environmentally sensitive resources and protected areas (Siting Criterion 4). The Applicant's analysis of lands outside of Morrow County's UGBs revealed no reasonable alternatives. Umatilla County's UGBs include limited areas that fall within the zones that allow data centers to be permitted, as all of these zoned areas are already occupied with existing infrastructure or development (Siting Criterion 3 and 7). Other areas of Umatilla also yield no reasonable alternatives as areas are already occupied with existing development or did not meet the power and financial feasibility requirements (Siting Criterion 3, 1 and 8) or those areas presented environmental constraints, including wetlands and floodplains (Siting Criterion 4).

Applicant was also unable to fully explore an UGB Expansion as a reasonable alternative based on the temporal and cost constraints included in its siting criteria, such as power delivery within 24-36 months of initial load interconnection application(Criterion 1), a site must be permissible within 1 year of less to meet Applicant's commercial operation date (Criterion 4), fiber network providers must be willing and able to meet the Projects needs within 12 months (Criterion 6), and Applicant requires that costs for land, energy, water, fiber easements, grading, and environmental mitigation be aligned with the financial feasibility goals for the Project (Criterion 8.)

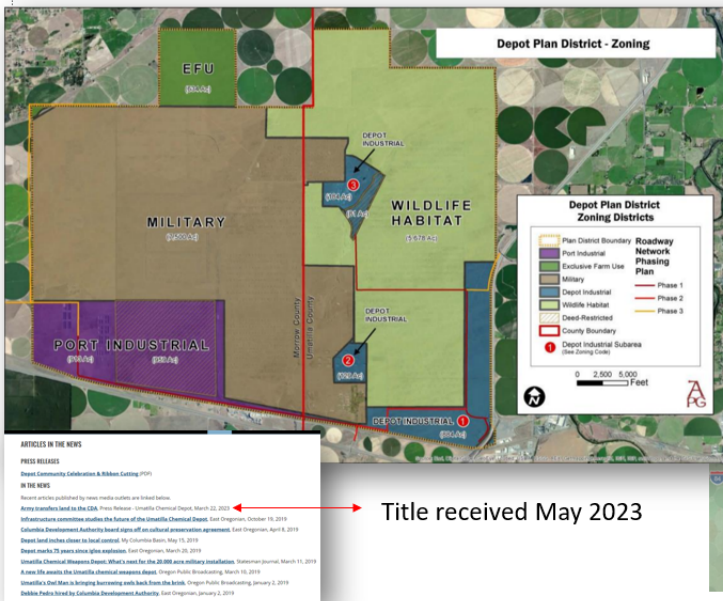
Therefore, based on Applicant's inquiries and analysis, a UGB expansion was not an option to accommodate the project at the time of Applicant was identifying potential sites. The proposed data center development could not be reasonably accommodated within an existing UGB or rural community given the time it would take to expand an existing UGB, or for the lack of land satisfying, on balance, Applicant's eight siting criteria.

FIGURE 1 and 1b – DLCD SITE 1



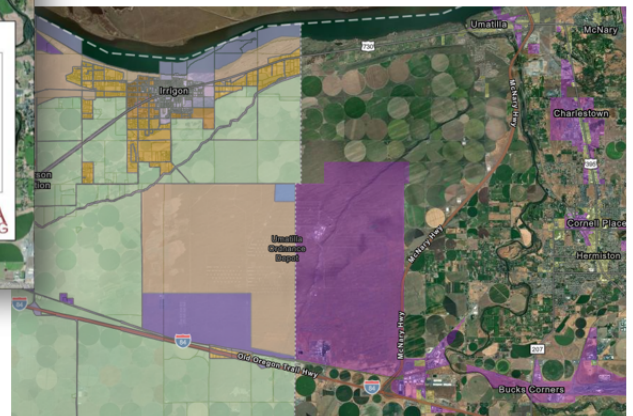
Figure 1b - Columbia River Development Authority- “At Time of Investigation”

Subtitle if Applicable



Adverse Siting Criteria

- Title uncertainty at the time of investigation Spring 2021
- Lack of Transmission Infrastructure
- Congested transmission network
- Proximity to Super fund site



Title received May 2023

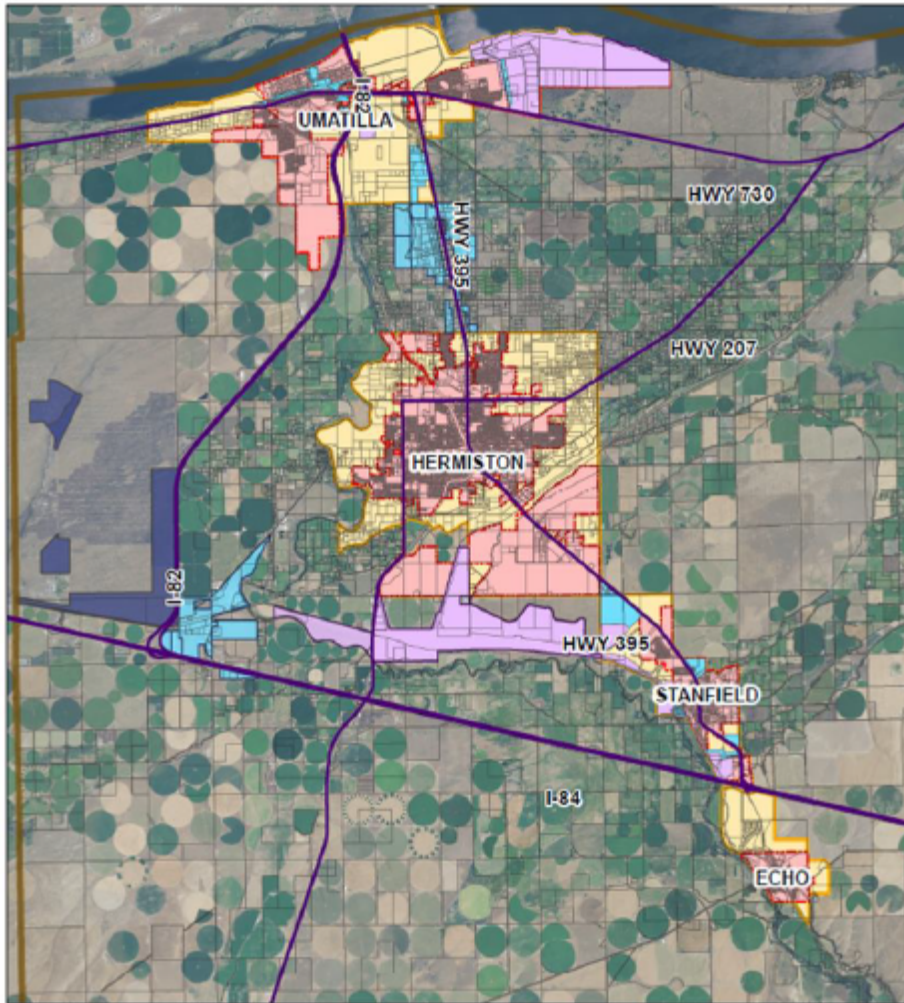
ARTICLES IN THE NEWS

PRESS RELEASES
 Depot Community Collaboration & Ribbon Cutting PDF

IN THE NEWS
 Recent articles published by news media outlets are listed below:
 Army awarded land to the CIA - Press Release - Umatilla Chemical Depot, March 22, 2020
 Infrastructure commission studies the future of the Umatilla Chemical Depot, East Oregonian, October 18, 2019
 Columbia Development Authority board signs off on initial agreement, East Oregonian, April 8, 2019
 Depot land under offer to local owners, My Columbia River, May 19, 2018
 Depot marks 25 years since 1993 evacuation, East Oregonian, March 20, 2018
 Umatilla Chemical Weapons Depot, What's next for the 20,000-acre military installation, Southern Journal, March 11, 2018
 A look at the Umatilla Chemical Weapons Depot, Oregon News Broadcasting, March 10, 2018
 Umatilla's Deal May be bringing borrowing ends back from the brink, Oregon Public Broadcasting, January 2, 2019
 Umatilla Public Trust by Columbia Development Authority, East Oregonian, January 2, 2019

FIGURE 2 and 2b – DLCD SITE 2

West Umatilla County – Industrial Zoned Lands
Source: Umatilla County Planning (Copied map NTS)



West Umatilla County Industrial Zoned Areas
Legend

- | | |
|---|---|
|  Depot Industrial Zone |  City Limits |
|  Light Industrial Zone |  Urban Growth Boundary |
|  Heavy & General Industrial Zone | |

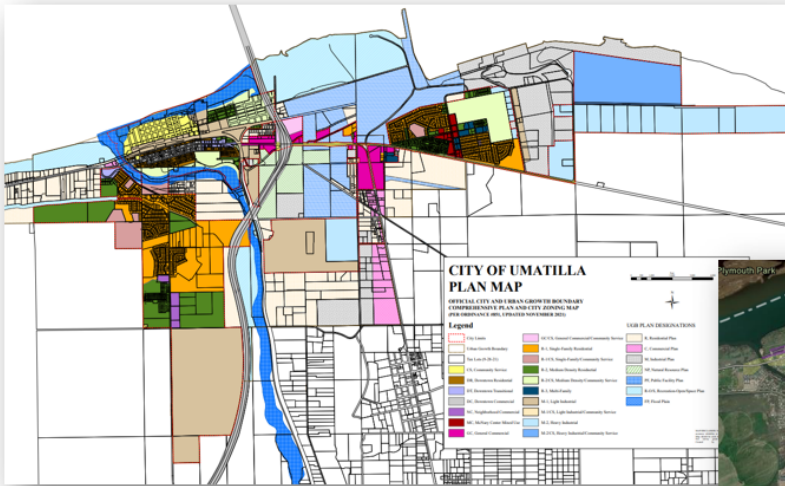
0 1 2 4 Miles



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Green, Umatilla County Planning Department Date: 2/6/2020

Figure 2b - West Umatilla Industrial Area – “At the Time of Investigation”

Subtitle if Applicable



Adverse Siting Criteria

- Heavily congested Transmission Grid
- Lack of available Capacity
- Appropriately zoned lands not available
 - AWS had secured the bulk of the lands
 - Sabey had also secured much of the lands
 - Logistics Companies had secured the lands near I-84

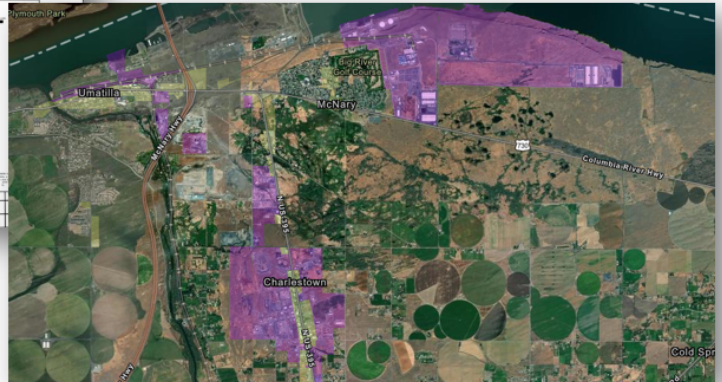


FIGURE 3, 3b and 3c – DLCD SITE 3 and Site 4

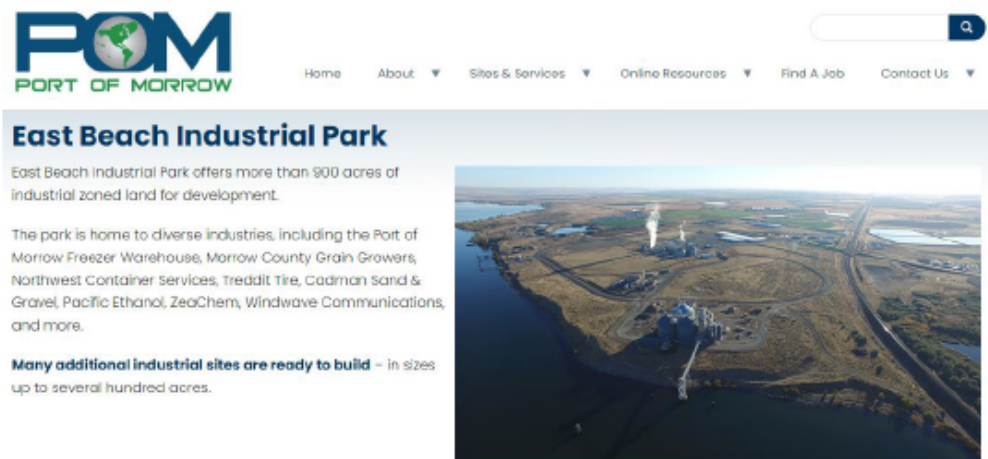
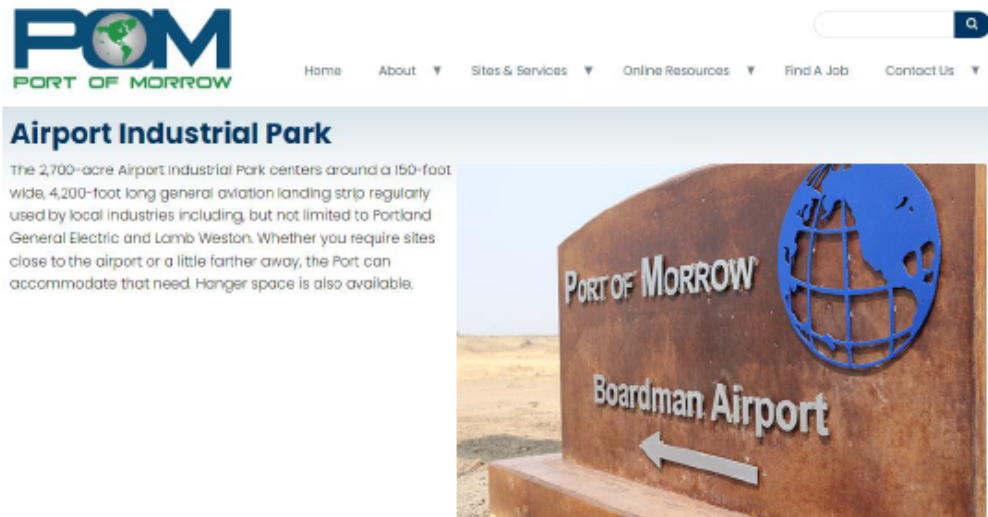
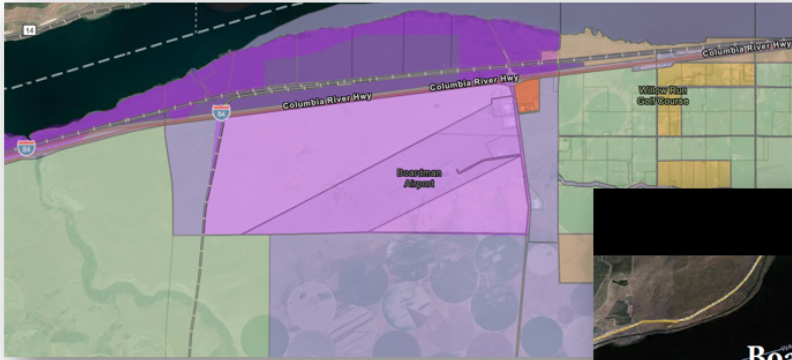




Figure 3b Port of Morrow Airport Industrial area - "At the Time of Investigation"

Subtitle if Applicable



Port of Morrow Land availability or lack thereof.

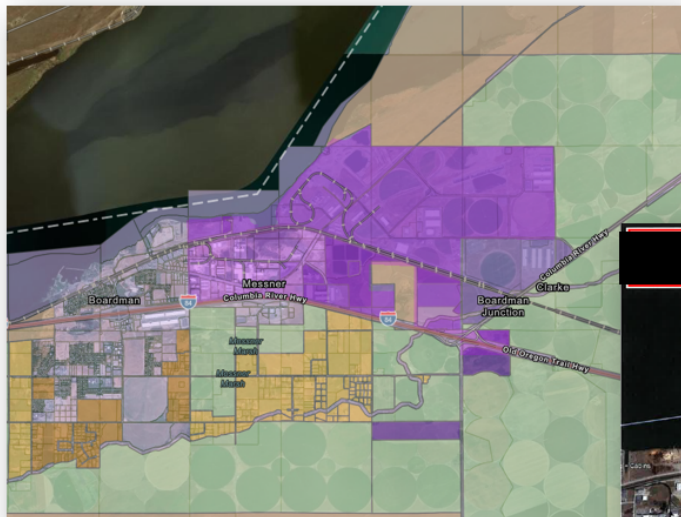
- Congested Transmission
- Lack of available lands



Port of Morrow provided map

Figure 3c Port of Morrow EAST BEACH Area – "At the Time of Investigation"

Subtitle if Applicable



Port of Morrow Land availability or lack thereof.

- Transmission Congestion
- Lack of Capacity
- Lack of available lands



Port of Morrow provided map

FIGURE 4 – DLCD Site 5

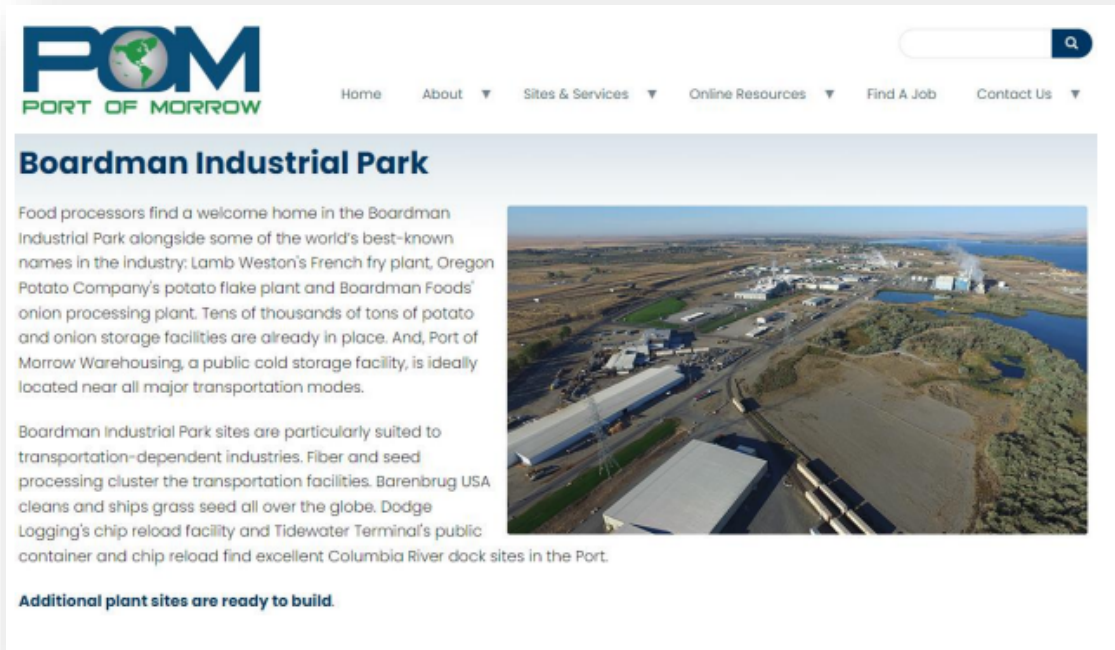


Figure 4 - Boardman Industrial Park

Subtitle if Applicable



Adverse Siting Criteria-

- *Transmission Congestions*
- *Lack of Capacity*
- *Lack of significant acreage.*
- *Occupied parcels*

Example of Data Center acreage needs

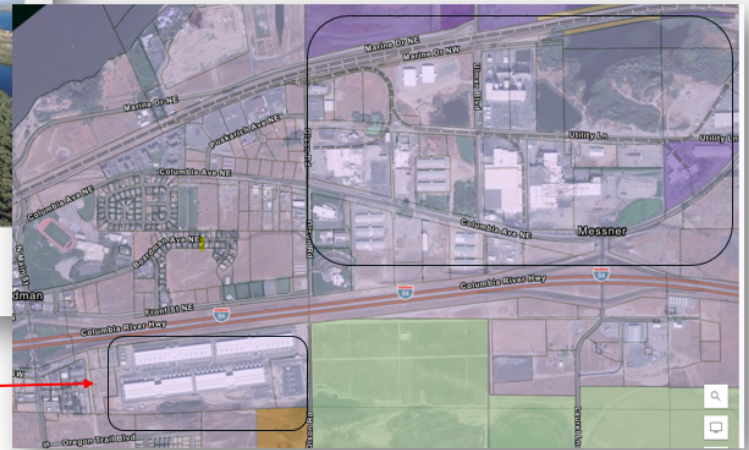


FIGURE 5 – DLCD Site 6

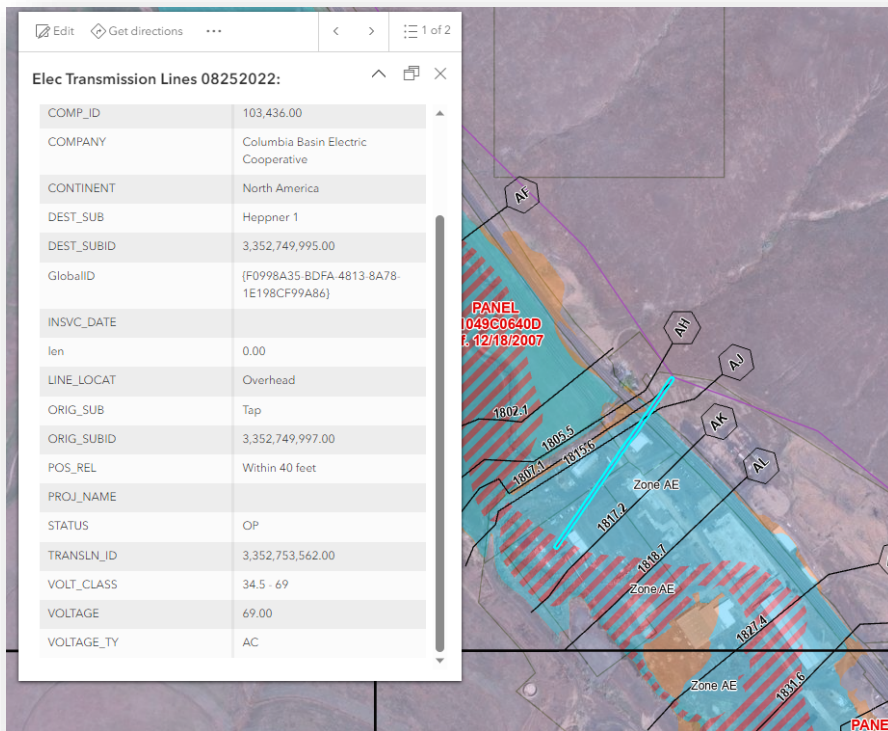


Figure 5 - Port of Morrow's South Morrow County Industrial Park - "At the Time of Investigation"

Subtitle if Applicable



The South Morrow County Industrial park is located in FEMA Regulatory Floodway. The Port of Morrow did not provide this parcel in their maps due to the Floodplain issue.



Electrical transmission service is single feed at 69KV. Not sufficient for Data Center needs.



FIGURE 6 – DLCD Site 7

Figure 6 - Industrial Sites for Sale or Lease - “ At the Time of Investigation”

Subtitle if Applicable



Attachment to DLCD Letter
August 15, 2023
Percheron Application AC-145-23; ACM-146-23; AZM-147-23



Home About Sites & Services Online Resources Find A Job Contact Us

Industrial Sites for Lease/Sale

The Port of Morrow offers industrial building sites from 1 to 2,000 acres in size as an economical alternative to metropolitan areas.

Four industrial parks, served by efficient transportation modes, and dependable and modern utilities, make the Port a sensible choice for many industries.

Contact us for more information. Phone: 541-481-7678

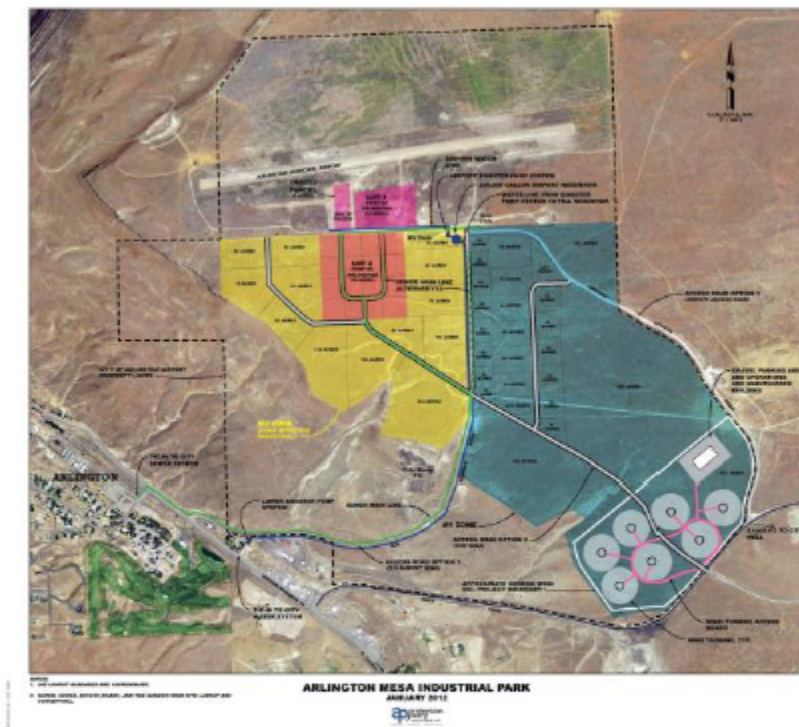


As this appears to be a screen shot from the Port of Morrow’s Website, We feel we have addressed all the Port of Morrow’s land in the previous 2 slides

Figure 7 – DLCD Site 8

Port of Arlington – Mesa Airport and Industrial Park
Source: <https://www.portofarlington.com/arlington-mesa.html>

Arlington Mesa Airport and Industrial Park For Sale or Lease/ Build to Suit



Airport Development sites, up to 8 acres remaining
Industrial Development Sites, up to 364 acres remaining
Arlington, Oregon
January 2018

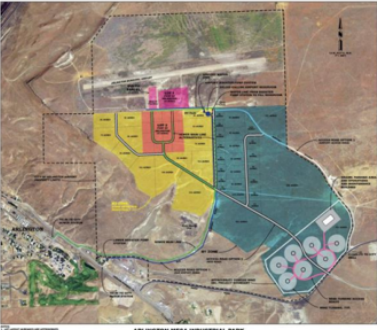
Figure 7 - Port of Arlington MESA Industrial site - "At the Time of Investigation"



Ruled out by Topography

Port of Arlington – Mesa Airport and Industrial Park
 Source: <https://www.portofarlington.com/arlington-mesa.html>

Arlington Mesa Airport and Industrial Park
 For Sale or Lease/ Build to Suit



Airport Development sites, up to 8 acres remaining
 Industrial Development Sites, up to 364 acres remaining

Arlington, Oregon
 January 2018

Adverse Siting Requirements

- *Topography*
- *Constrained Lot size and availability*
- *Congested Transmission*

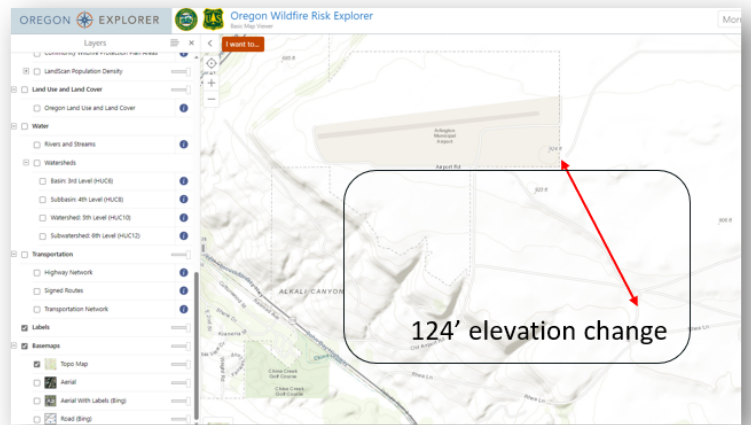


FIGURE 8 – DLCD SITE 9

Shutler Station Industrial Park	2018
---------------------------------	------

Shutler Station Industrial Park
For Lease/ Build to Suit



Industrial Development Sites, up to 90- 65 acres remaining
200 acres undeveloped private Industrial land also available
Arlington, Oregon
August 2018



Figure 8 - Port of Arlington – Shuttler Station – “ At the Time of Investigation”



Subtitle if Applicable



Industrial Development Sites, up to ~~90~~ 65 acres remaining
200 acres undeveloped private Industrial land also available
Arlington, Oregon
August 2018

Adverse Site Criteria

- *Constrained land availability*
- *Flood Zone*

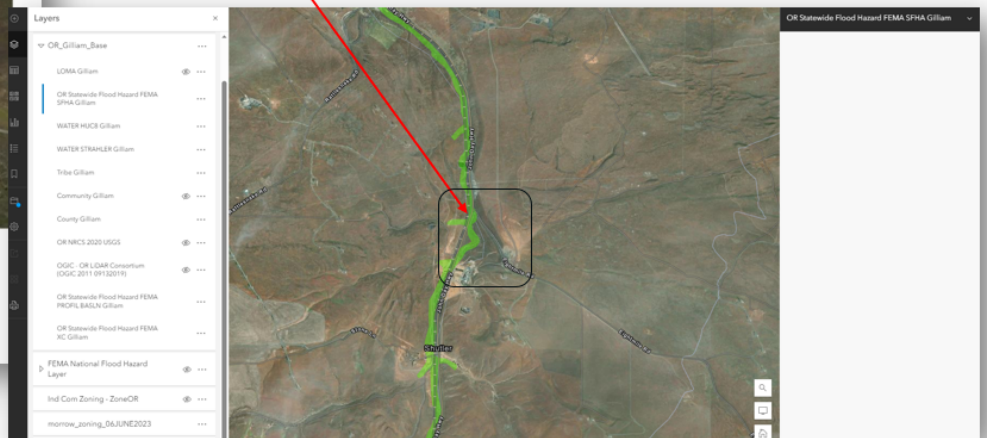
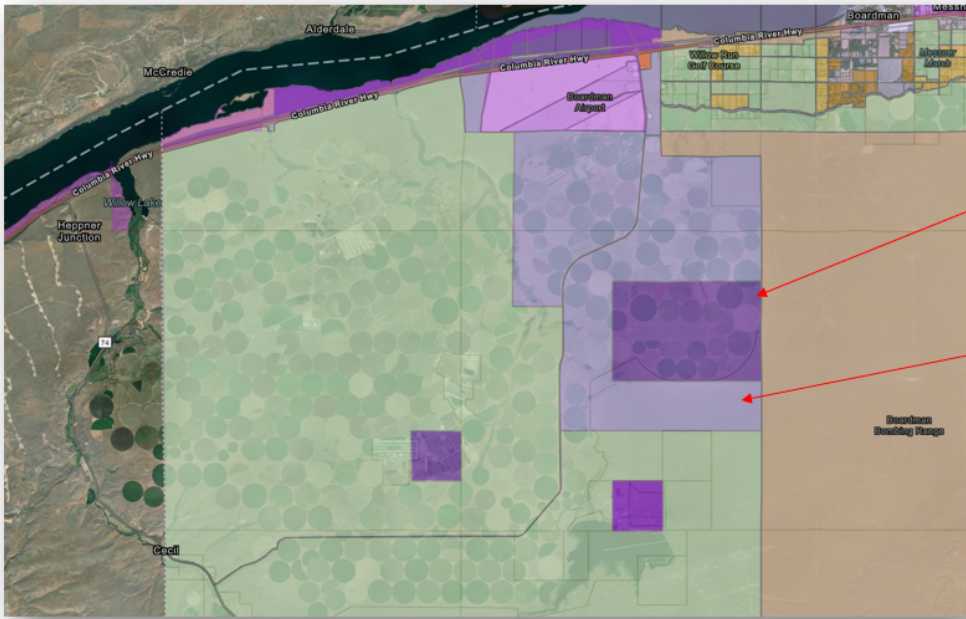


FIGURE 9 – Morrow County Adjacent Lands

Figure 9 - Morrow County Adjacent Lands – “At the Time of Investigation”

Subtitle if Applicable



DLCD’s suggestion of adjacent lands.

Adverse Siting Criteria- At the time of Investigation.

- Unwilling Landowner
- Prime farmland
- Lack of transmission

3Mile Canyon farms will not sell any lands with irrigation.

Data Centers are not an allowed use in Space Age Industrial, either by “Use by Right or Conditional” and still require zone amendment.

TABLE

Alternatives Sites Considered	Distance from Selected Site (miles)	Jurisdiction	Zoning	Within or Distance to UGB	Zoning of Adjacent Lands	Criteria Assessment	Conclusion
Columbia Development Authority – Umatilla County	20	Umatilla County	Various	3 miles	UDM, DI-U	Discussed in Alternatives Analysis as Alternative 2. The availability of power capacity and electrical service sufficient to meet the Project need was not and is not currently available. Clear title, required for the purchase of the property, was not available and was only recently acquired by the current landowner. Finally, the development of previously contaminated properties is a complex and protracted process; the Applicant was unable to realistically explore development within the area known as “Umatilla Ordinance Depot” based also on timing and contractual requirements to deliver the Project, as well as the financial feasibility of securing financing and insuring a previously contaminated site.	Criteria 1, 3, 4 not met.
West Umatilla County – Industrial Zoned Lands	25	Umatilla County	RLIZ, LRLIZ, HI	0-1 miles	Various	Discussed in Overarching Assessment: Umatilla County RLIZ, LRLIZ, HI Zones as well as Alternatives 3 and 4, addressed in Appendix D. There are limited areas that fall within the zones that allow data centers to be permitted outright as all these zoned areas are already occupied with existing infrastructure or development. In addition, other areas where a data center use would potentially be compatible were also analyzed and Applicant found that some sites were already developed or committed and/or presented environmental constraints, including wetlands and floodplains. The Applicant found that power availability, timing and cost to deliver power, and landowner and land characteristics (availability and buildable acreage) would not be met by these sites.	Criteria 1, 3, 4, 7 and 8 not met.
Port of Morrow – Airport Industrial Park	20	Morrow County	AI, ALI	3-4 miles	Various	Discussed in Overarching Assessment: Morrow County MG, PI, ALI Zones. No undeveloped, vacant land available that meets the size requirements of Criteria 3. The Applicant also found the site did not meet the siting requirements for power availability.	Criteria 1 and 3 not met.
Port of Morrow – East Beach Industrial Park	20	Morrow County	PI	1-2 miles	PI, MG, PUB	Discussed and addressed in the Applicant’s Overarching Assessment: Morrow County MG, PI, ALI Zones. The Applicant found that the Alternative Site presented did not meet the siting requirements of Criterion 3, land characteristics and availability. The Applicant also found the site did not meet the siting requirements for power availability.	Criteria 1 and 3 not met.
Port of Morrow – Boardman Industrial Park	20	Morrow County	GI	City of Boardman/ Port of Morrow	PI, MG, PUB	Applicant found that the Alternative Site presented did not meet the siting requirements of Criterion 3, land characteristics size and availability. The Applicant also found the site also did not meet the siting requirements for power availability.	Criteria 1 and 3 not met.
Port of Morrow – South Morrow Industrial Park	25+	Morrow County	MG	1-2 miles	EFU	The Applicant found that the Alternative Site presented did not meet the siting requirements of Criterion 1, power availability. The Applicant found that the Alternative Site contains areas including environmentally sensitive resources, Criterion 4 (constrained by floodplain).	Criteria 1 and 4 not met.
Port of Morrow – Industrial Sites for lease/sale	20	Morrow County	Various	Various	Various	Applicant could not identify which sites DLCD may be implying could be alternatives based on the information provided. Applicant considered sites for sale or lease from the Port of Morrow in its Complete Alternatives Analysis, in particular POM Airport Park and POM East Beach but none of those sites were reasonable based on Applicant’s eight siting criteria.	Criteria 1 and 3 not met.
Port of Arlington- Mesa Airport and Industrial Park	20	Gilliam County	M-L, M1, M2	Within	EFU	The Applicant considered the Alternative Site and found that it did not meet the siting requirements of Criterion 3, land characteristics for topography. The Alternative Site presented also does not meet the power availability requirements.	Criteria 1 and 3 not met.
Port of Arlington- Shuttler Station	20	Gilliam County	II	4-5 miles	EFU	The Applicant considered the Alternative Site and found that it did not meet the siting requirements of Criterion 3, land availability. The Alternative Site presented also does not meet the environmentally sensitive resources and protected areas requirements for floodplains.	Criteria 3 and 4 not met.

ERM

1050 SW 6th Avenue
Suite 1650
Portland, OR 97204

Telephone: +1 503 488 5282

www.erm.com

APPENDIX A



From: Mark Patton <MarkP@portofmorrow.com>
Sent: Friday, August 25, 2023 2:11 PM
To: David Shiflett
Cc: Albrich, Elaine; Bobby Hollis; Tess MacMorris; Xiomara Gerlach; Martin Romo
Subject: RE: Port of Morrow Industrial sites-Availability vs. Occupied
Attachments: 0829_001.pdf

[EXTERNAL]

David, see attached. I didn't provide any map for the Heppner site due to it be in the floodplain.

Have a great weekend.



Mark Patton
Chief Operations Officer

541.481.7678 | 541.571.1311
PO Box 200 | 2 E Marine Drive | Boardman, OR 97818
markp@portofmorrow.com | www.portofmorrow.com

From: David Shiflett <dshiflett@rowan.digital>
Sent: Monday, August 21, 2023 11:44 AM
To: Mark Patton <MarkP@portofmorrow.com>
Cc: Elaine Albrich <ElaineAlbrich@dwt.com>; Bobby Hollis <bhollis@rowan.digital>; Tess MacMorris <Tess.MacMorris@erm.com>; Xiomara Gerlach <xgerlach@rowan.digital>; Martin Romo <mromo@rowan.digital>
Subject: [EXTERNAL] Port of Morrow Industrial sites-Availability vs. Occupied

This Message originated outside your organization.

Hi Mark,

As a follow up to our conversation from last Wednesday, would you be able to provide a map/list of parcels owned by POM. As discussed, part of our Alternative Analysis needs to demonstrate what lands are available, what are not and what would never be available.

Kindly

David Shiflett
Director, Development
(m) 231-218-6278

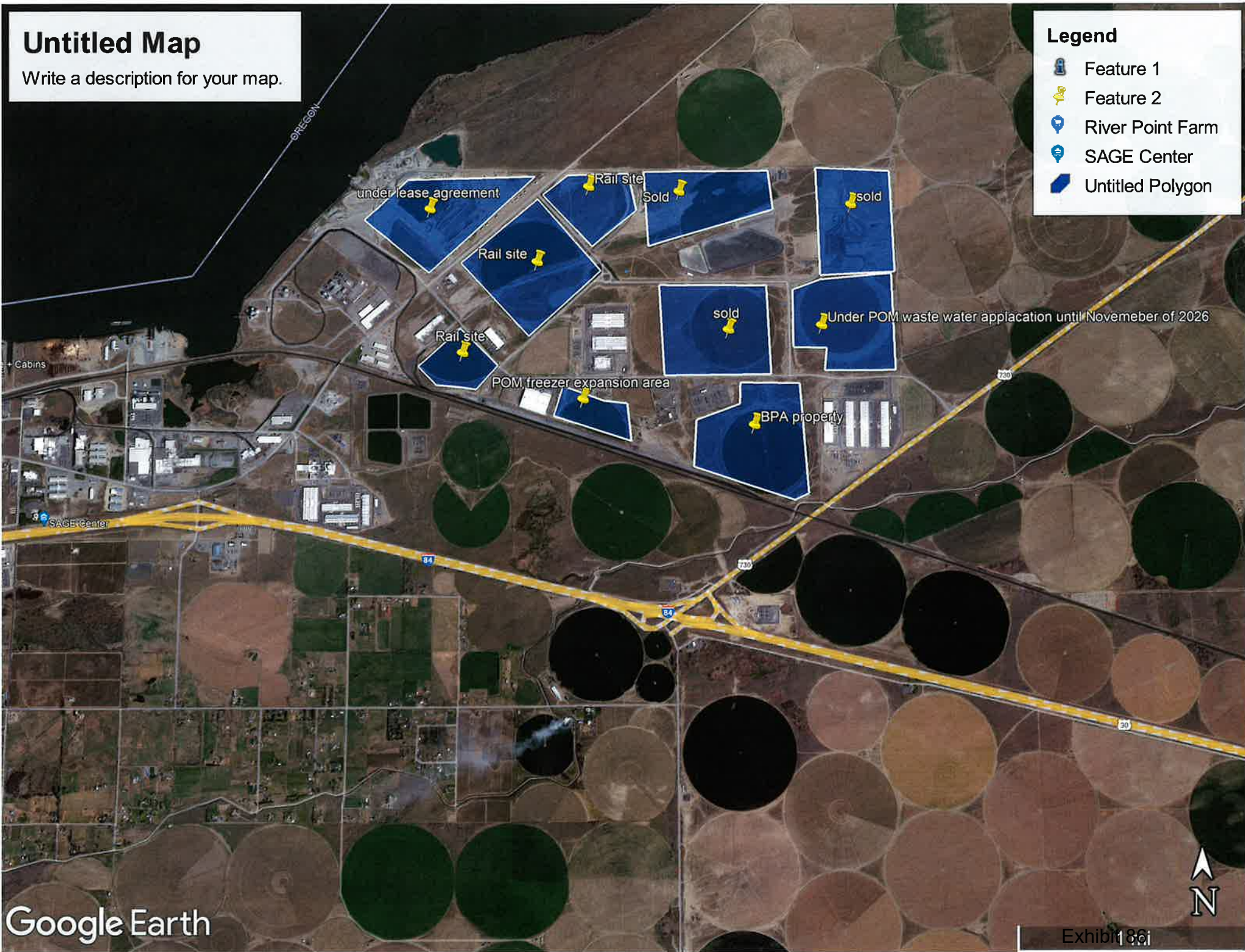


Untitled Map

Write a description for your map.

Legend

-  Feature 1
-  Feature 2
-  River Point Farm
-  SAGE Center
-  Untitled Polygon

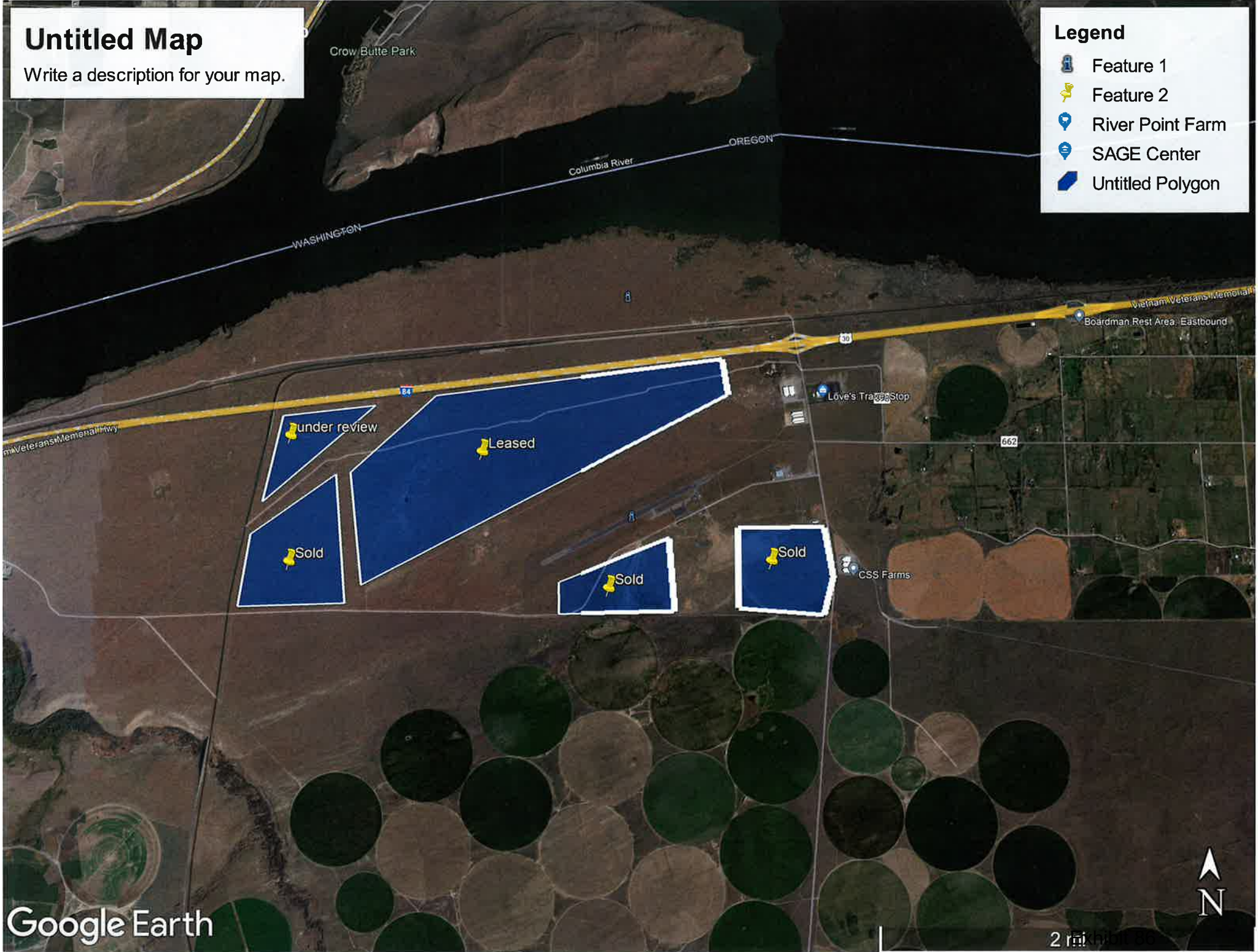


Untitled Map

Write a description for your map.

Legend

-  Feature 1
-  Feature 2
-  River Point Farm
-  SAGE Center
-  Untitled Polygon



APPENDIX B



Alternative Analysis – Rowan’s Decision timeline and “AT THE TIME” investigation

December of 2020

Rowan begins investigation into Morrow and Umatilla Counties late 2020 and early 2021. Review of the Bonneville Power Administration Load Queue reveals serious congestion near along I-84 Corridor. Rowan requires 115KV Line or substation, preferably 230KV or greater

Rowan requests Feasibility from Pacific Power in early 2021

Sites ruled out based on previous queue load requests and lack of capacity.

Based on Feasibility results and Power flow analysis, Rowan enters into Purchase Option agreement with 3mile Canyon Farms

Initial System impact Study was kicked off 2/14/2021

Financial Security deposited

Electrical Service Study Agreement executed with Pacific Power 11/15/2021

Financial security deposited

Engineering & Material procurement agreement executed 12/15/2022

Additional financial Security deposited

8.0 Transmission Study Results and Facility Requirements/Costs (Preliminary Scope Estimate)

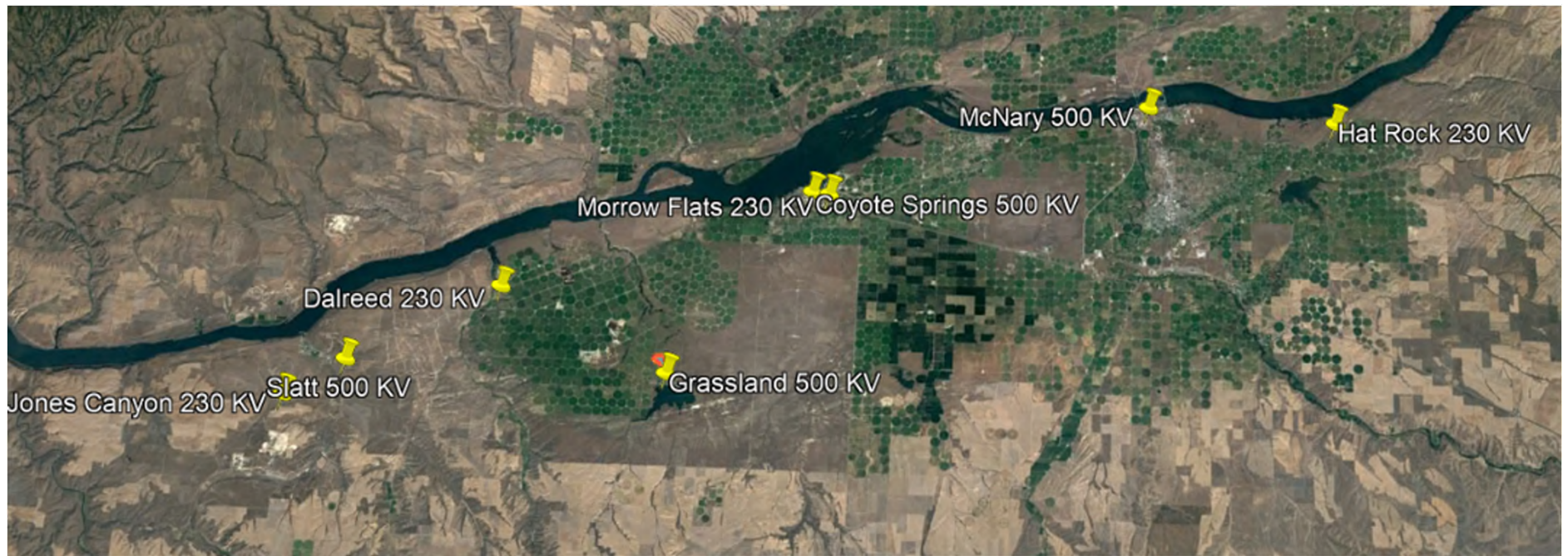
The Boardman area is heavily congested with limited transmission capacity. Multiple service plans were investigated and studied, each carries its own risks, uncertainties, and challenges to meet Customer’s timeline. This study proposes the initial service plan and following with three alternatives of full buildout options that are the most viable.

Excerpt from Pacific Power describing congestion in transmission.

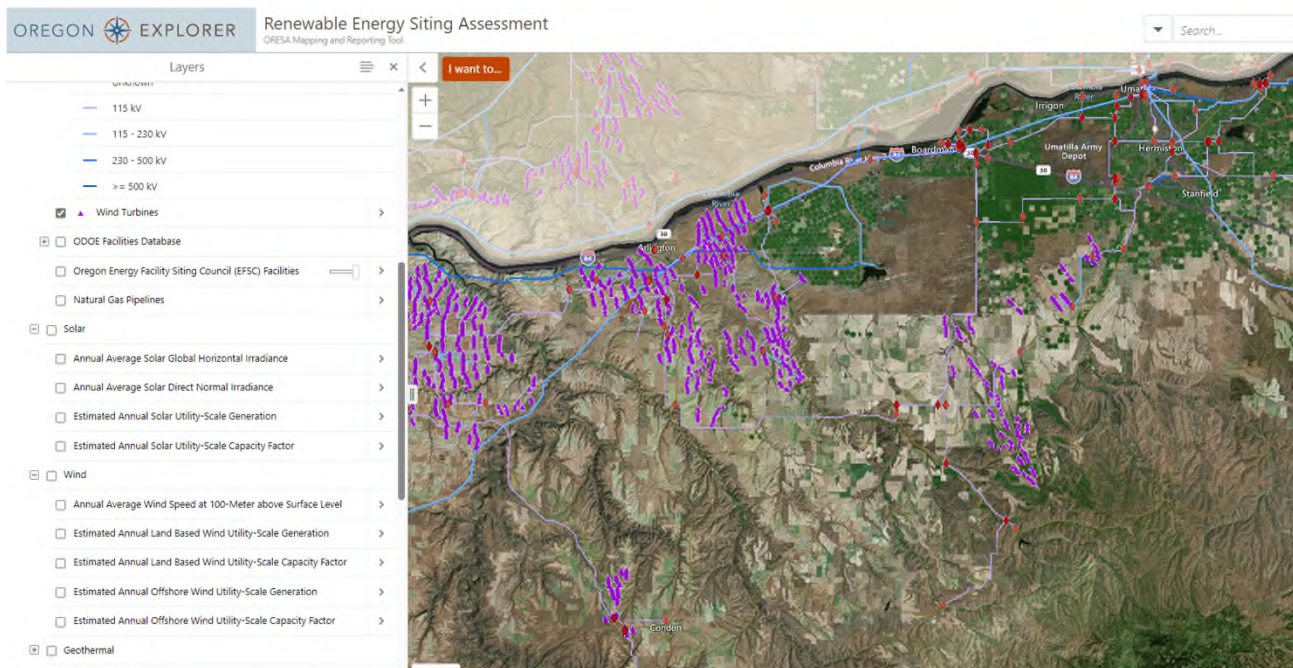
Area of Investigation – Requirements for consideration (>115 kV, preferably > 230 kV)



Rowan's search area in late 2020 and 2021



Power Flow Congestion - “At the Time of Investigation”



This map demonstrates the power flow constraints from Wind generation flowing onto the transmission grid.



Bonneville Power Administration Load Queue & Capacity requests

Current BPA Queue- Publicly available

	A	B	C	D	F	G	J	K	L	M	N
1	Bonneville Power Administration Interconnection Request Queue										
2	Note: Requests with queue positions lower than 200 were submitted prior to adoption of LGIP/SGIP.										
3	Please see the Comments for additional details.										
4	Generator Interconnection technical study reports are available upon request to studyrequest@bpa.gov .										
5	Request Number	Request Date	Project Name	Requestor	Point Of Interconnection	Status	Connection Type	Requested In-Service Date	Agreed To: (Blank=TBD)	Max Summer MW	Max Winter MW
240	L0521	3/18/2022 11:10 AM	West of Boardman	PacifiCorp	BPA's proposed Longhorn Substation	RECEIVED	LL	1/2/2026	1/2/2026	1100	1100
	L0520	3/18/2022 10:55 AM	Dalreed Substation	PacifiCorp	the BPA Morrow Flat - Jones Canyon #1 230 kV line.	RECEIVED	LL	1/2/2024	1/2/2024	72	72
241	L0516	3/01/2022 8:13 AM	Boardman-Ion 69kV Line Relocation & New 230kV Step Down Sub	Idaho Power Company	BPA's Planned Longhorn Substation	E&P EXECUTED	LL	2/19/2025	7/19/2025	0	0
248	L0515	2/23/2022 7:57 AM	Boardman to Hemingway Project	Idaho Power Company	BPA's Planned Longhorn Substation	RECEIVED	LL	5/29/2026	2/19/2025	0	0
249	L0510	12/02/2021 6:35 AM	West of Boardman	Umatilla Electric Cooperative	BPA's Ashe - Slatt No.1 500 kV line	STUDY	LL	12/7/2024	12/1/2025	1000	1000
272	L0499	8/13/2021 12:39 PM	Project Pivot and Specialized	PacifiCorp	McNary Substation	STUDY	LL	8/9/2024	8/9/2024	484	484
309	L0498	8/13/2021 9:47 AM	Project Litespeed	PacifiCorp	BPA's Boardman - Alkali No.1 115 kV line	STUDY	LL	1/1/2024	1/1/2024	185	185
311	L0482	9/22/2020 10:13 AM	Morrow Flat_Longhorn	Umatilla Electric Cooperative	Morrow Flat 230kV Substation	CONST AGRMT EXE	LL	8/31/2022	12/30/2024	500	500
353	L0481	9/22/2020 10:07 AM	McNary 230kV	Umatilla Electric Cooperative	McNary 230kV, Bay 28	CONST AGRMT EXE	LL	8/31/2022	11/30/2024	450	450
354	L0454	11/20/2018 8:40 AM	Morrow Flat	Umatilla Electric Cooperative	BPA Morrow Flat Substation	STUDY	LL	12/31/2019	4/29/2022	120	120

Rowan examines the BPA Queue to assess areas to look for capacity as well as areas that are constrained, such as McNary, Morrow Flat, Dalreed, etc.

APPENDIX C

From: Byron Smith <bsmith@hermiston.or.us>

Sent: Saturday, June 24, 2023 5:17 PM

To: tmabbot@co.morrow.or.us

Cc: Kirstin Gunderson <kgunderson@rowan.digital>; David Drotzmann <drdave@lvseyedoc.com>; David Shiflett <dshiflett@rowan.digital>; Martin Romo <mromo@rowan.digital>; Albrich, Elaine <ElaineAlbrich@dwt.com>; Mark Morgan <mmorgan@hermiston.or.us>; Nathaniel Brown <Nathaniel@thinkhubbell.com>

Subject: RE: Help w/ Email to Morrow County

[EXTERNAL]

Hey Tamara,

A group from the City of Hermiston, including Mark and I, met with the Rowan Digital Infrastructure team on May 31. Even though the Percheron data center project is not in Umatilla County or even the City of Hermiston, we appreciated the conversation and outreach and the information they provided.

It's come to our attention that a question has been raised about the alternative site analysis conducted by the Rowan team. I want to state for the record that the City of Hermiston fully welcomes Rowan's project to the region. The City also understands the Rowan team selected the site in Morrow County based on the timing of approval processes in other locations including in and around Hermiston.

Let me know if you have any questions.

Byron



Where Life is Sweet

Byron D. Smith

City Manager

bsmith@hermiston.or.us

541-567-5521

From: Tamra Mabbott <tmabbott@co.morrow.or.us>
Sent: Tuesday, August 29, 2023 1:29 PM
To: Michaela Ramirez; Bainter, Allison
Cc: Albrich, Elaine
Subject: RE: Help w/ Email to Morrow County

Categories: Filed to ND
FilingIndicator: -1

[EXTERNAL]

Michaela - Thanks for forwarding.

Allison - It looks like my name is mis-spelled in the email from Byron Smith, Hermiston City Manager. I believe you can still submit this for the written record.

Tamra

From: Michaela Ramirez <mramirez@co.morrow.or.us>
Sent: Tuesday, August 29, 2023 1:16 PM
To: Tamra Mabbott <tmabbott@co.morrow.or.us>
Subject: FW: Help w/ Email to Morrow County

I just wanted you to be aware of this email. I don't recall this name ever coming up in any of our emails or paperwork. How about you?

Morrow County Planning Department
Administrative Assistant Michaela Ramirez
mramirez@co.morrow.or.us
PO Box 40, Irrigon, OR 97844
541-922-4624 Ext 5508

From: Bainter, Allison <AllisonBainter@dwt.com>
Sent: Tuesday, August 29, 2023 12:23 PM
To: Michaela Ramirez <mramirez@co.morrow.or.us>
Cc: Albrich, Elaine <ElaineAlbrich@dwt.com>; Jamin, Olivier <OlivierJamin@dwt.com>
Subject: RE: Help w/ Email to Morrow County

[EXTERNAL EMAIL] - STOP and VERIFY - This message came from outside of Morrow County Gov

Hi Michaela,

Can you confirm that the email below from the City of Hermiston is in the Rowan record, and where in the record it is located? Thanks!

Allie Bainter

Legal Assistant, Davis Wright Tremaine LLP

P 503.778.5424 E allisonbainter@dwt.com

A 1300 SW Fifth Avenue, Suite 2400, Portland, OR 97201-5610

DWT.COM

From: Byron Smith <bsmith@hermiston.or.us>

Sent: Saturday, June 24, 2023 5:17 PM

To: tmabbot@co.morrow.or.us

Cc: Kirstin Gunderson <kgunderson@rowan.digital>; David Drotzmann <drdave@lvseyedoc.com>; David Shiflett <dshiflett@rowan.digital>; Martin Romo <mromo@rowan.digital>; Albrich, Elaine <ElaineAlbrich@dwt.com>; Mark Morgan <mmorgan@hermiston.or.us>; Nathaniel Brown <Nathaniel@thinkhubbell.com>

Subject: RE: Help w/ Email to Morrow County

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Byron



Byron D. Smith
City Manager
bsmith@hermiston.or.us
541-567-5521