



LAND USE APPLICATION

FILE NUMBER _____

Fee _____

Date Received _____

Date Deemed Complete _____

Type of Application (check one):

Non-Farm Use

Temporary Use

Dwelling Authorization

Agri-tourism

Event(s)

Other _____

Applicant:

Name(s) Rowan Percheron, LLC

Address 1330 Post Oak Boulevard, Suite 1350, Houston, TX 77056

Phone 231-218-6278 E-mail address dshifflet@rowan.digital

Legal Owner (if different from the applicant):

Name(s) Rowan Percheron, LLC AGENT

Address 1330 Post Oak Boulevard, Suite 1350, Houston, TX 77056

Legal owner: Threemile Canyon Farms

Legal and Physical Description:

Township 3N Range 24E Section 28 and 29 Tax Lot(s) 100

Physical Address Rowan Percheron LLC, see above

General Location The Project site is located approximately 10 miles southwest of Boardman on Tower Road.

PROPOSAL (Identify what you are proposing): _____

The Project is proposing a change in the current land use from Exclusive Farm Use (EFU) to General Industrial (MG), adoption of limited use overlay, and Statewide Goal 3 and 14 exception requests to support a data center facility and related infrastructure.

APPROVAL CRITERIA:

Zoning Designation MG Acreage 274.091 (~275)

List the applicable Article, Section(s), and Subsection(s): Morrow County Zoning Ordinance Sections 3.070 and 3.110 and Article 8 Zone Change Criteria; Oregon Administrative Rules 660, Division 4 and Division 14

A Planner can assist you in identifying the review criteria that apply to your request. The review criteria are used to determine whether your application will be approved or denied. It is your responsibility to provide adequate written justification and any other evidence you feel is relevant to explain how your request complies with the review criteria. Failure to provide adequate justification may result in your application being denied, or deemed incomplete until additional information is provided. For additional space on any questions, please attach a separate sheet of paper.

PHYSICAL FEATURES (Describe the site):

Vegetation on the property: See Attached

Topography of the property (i.e. rocky, hilly, forested): See Attached

Any significant features of the property (i.e. steep slopes, water bodies, etc.): See Attached

Soil type(s): See Attached

Is the land or any portion of it subject to flooding? See Attached

Most current use of the property: See Attached

Has the location been utilized as an integral part of the farming operation on the property? See Attached

Does the location have water rights for irrigation? See Attached

What are the predominant farming types in the area? See Attached

Is the property currently under special assessment by the County Assessor's Office? See Attached

EXISTING IMPROVEMENTS:

What structures or development does the property contain? Will any structure be removed or demolished? The Project site is vacant, undeveloped land. No structure will be removed or demolished.

DESCRIBE THE ACCESS TO THE PROPERTY (check one):

State Highway County Road Public Road USFS Private Easement

Road Name: Tower Road

Improvement type and condition of road: developed, two way road

Will any new access be required? No

EXISTING SERVICES:

Fire protection district or method: Boardman Rural Fire Protection District (RFPD)

Solid waste disposal method: Same method as used by other industrial development in County

Utilities and other public services provided: Electricity, Domestic and Industrial Water through Port of Morrow

Please include a map or plot plan with the following information:

- Existing and proposed water supply;
- Existing and proposed sewage disposal method;
- Location of existing and proposed structures; and
- Existing and proposed roads and accesses.

With the map please provide a description of:

How the proposal will be compatible with surrounding land uses: See Attached

How the proposal will protect and preserve existing natural resources such as trees, vegetation, water resources and wildlife habitat: See Attached

Whether you believe diking, screening or other landscaping will be required to protect nearby properties and habitats: See Attached

The applicant is responsible for providing all of the information to show compliance with the standards for approval. If you are unsure of the standards required by the code, the Planning Department will work with you to identify them. It is the applicant's duty to prove the proposal meets all of the given code requirements. Your plot plan and narrative should show or answer the above questions as well as address specific issues about your particular application.

Through applying for this application I authorize the Morrow County Planning Director or designee to enter upon the property subject of the application to conduct a site visit necessary for processing the requested application. Morrow County shall contact the Land Owner prior to the site visit to arrange an appropriate time for the site visit.

Signatures:

I(we), the undersigned, acknowledge that I am familiar with the standards and limitations set forth by the Morrow County Zoning Ordinance and that additional information and materials may be required, as provided by the Zoning Ordinance and Comprehensive Plan. I propose to meet all standards set forth by the County's Zoning Ordinance and any applicable State and Federal regulations. I(we) certify that the statements and information provided with this application are true and correct to the best of my(our) knowledge.

Signed:	<small>DocuSigned by</small> <i>Bobby Bellis</i>	_____	_____
		(Applicant)	(Applicant)
	<i>B. Anitella</i>	_____	_____
		(Legal Owner)	(Legal Owner)
	<i>Threemile Canyon Farms</i>		

If this application is not signed by the property owner a letter authorizing signature by the applicant must be attached.

Morrow County Planning Department
P.O. Box 40, Irrigon Oregon 97844
(541) 922-4624 FAX: (541) 922-3472



Percheron Data Center

Rowan Percheron, LLC

Morrow County Post-Acknowledgement
Plan Amendment and Zone Map
Amendment Application

May 19, 2023

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1. OVERVIEW

Table 1 Project Overview

Project Detail	
Applicant	Rowan Percheron, LLC 1330 Post Oak Boulevard, Suite 1350, Houston, TX 77056
Applicant Contact	David Shiflett, Rowan Percheron, LLC; dshiflett@rowan.digital ; 231-218-6278 Elaine Albrich, Davis Wright Tremaine, LLP; elainealbrich@dwt.com
Property Owner	Threemile Canyon Farms 75906 Threemile Road, Boardman, OR 97818
Proposed Action	Amend Morrow County’s Comprehensive Plan to allow for rezoning of approximately 274 acres from EFU to General Industrial (MG) and adopt a Limited Use Overlay to limit MG allowed uses to a data center only, under Morrow County Oregon Zoning Ordinance (MCZO) 3.070(16). This application requires an exception to Statewide Planning Goal 3, Goal 11, and Goal 14 to allow for the Percheron Data Center use. Applicant is seeking a zoning permit concurrently upon approval of this application.
Project Parcel	<p>This application involves an approximately 274-acre partitioned parcel of land located in Section 28 and the East Half of Section 29 of Tax Lot 100 in Morrow County, Oregon (Project Parcel). See Figure 2 (Project Parcel Map) and Appendix A (Recorded Plat). The Project Parcel is zoned EFU and located about 10 miles southwest of Boardman, OR, on Tower Road. The Project Parcel is vacant, non-irrigated, undeveloped land. Along the western boundary of the Project Parcel is an existing 230-kilovolt (kV) transmission line right of way (ROW) that runs south about 1.6 miles to the existing transmission infrastructure at the Portland General Electric (PGE) Carty Generating Station and Reservoir (“Carty site”). The Project Parcel is adjacent to (north, west, and south) land owned by Threemile Canyon Farms, the current property owner of the Project Parcel. To the east is the Boardman Conservation Area (BCA) and to the southeast is the existing Carty site. From the Project Parcel, there is General Industrial (MG) zoning about 5,000 feet away at the Carty site and about 0.95 mile away to areas zoned Space Age Industrial (SAI) and MG within the Port of Morrow’s Airport Industrial Park. The Boardman Naval Weapons System Training Facility is located about 5 miles to the east of Project Parcel.</p> <p>See Figure 2 (Project Parcel Map) and Figure 3 (Adjacent Land Use and Zoning).</p>
Project Footprint	The proposed development is anticipated to occur on approximately 190 acres of the Project Parcel (Project Footprint). The Project Footprint avoids existing wetlands drainage areas and the 250-foot BCA buffer that extends along the eastern side of the Project Parcel. See Figure 2 (Project Parcel Map). The final location of the Project Footprint will be determined prior to construction, after the design is complete.
Project Parcel Characteristics	<p>The Project Parcel is vacant, non-irrigated, and uncultivated land. The property owner, Threemile Canyon Farms, considers the Project Parcel unsuitable for farming or grazing due to poor soil conditions and provided an affidavit stating the same. See Appendix B (Landowner Affidavit).</p> <p>Since at least 1952 (earliest aerial imagery available), the available imagery shows no evidence of active farming, irrigation, or grazing on the Project Parcel. The Project</p>

Parcel is located within the Umatilla Plateau ecoregion and the Columbia/Snake River Plateau Region. The existing vegetation within the Project Footprint consists of big sagebrush, yellow rabbitbrush, and prickly Russian thistle, with patches of cheatgrass and bare ground. Vegetation outside of the Project Footprint includes wetland vegetation (Russian olive tree, twoscale saltbrush, alkali swainsonia, bigbract verbena, common reed, and hardstem bulrush).

The Project Parcel is approximately 570 to 610 feet above mean sea level and slopes towards the center of the parcel from the east and west. The Project Parcel is comprised predominately of nonarable soils, as described further in **Appendix C** (Soils Analysis Memo).

As provided in Table 1 of **Appendix C** (Soils Analysis Memo), soil 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 Project Parcel. Subclass e indicates that susceptibility to erosion is the dominant problem affecting use.

2. PROJECT DESCRIPTION

Rowan Percheron, LLC (Applicant) is the contract purchaser of approximately 274 acres of vacant, uncultivated land located on Tax lot 100 in Morrow County (Project Parcel), on which it proposes to develop a data center campus. The Applicant's proposed data center campus is consistent with Morrow County's (County) efforts to enhance/diversify the local economy, while also minimizing impacts to traffic, schools, and productive agricultural land.

The Project Parcel is currently zoned Agricultural (Exclusive Farm Use [EFU]) and has been zoned EFU since the adoption of the County's zoning ordinance. Per MCZO 3.010, 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." The Morrow County Comprehensive Plan (MCCP), Goal 3 (Agricultural Lands Element): Oregon Administrative Rules (OAR) 660-033-0020(1)(a). However, the Project Parcel has not been put into productive use, as it 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. See **Appendix B** (Landowner Affidavit). As such, the Project Parcel arguably is not contributing to the County's agricultural economy or land supply and based on the available information, it is questionable whether the Project Parcel constitutes "agricultural land" in the true intent of the County's comprehensive plan.

Moreover, the Project Parcel is suitable for data center use given its proximity to critical infrastructure. The Project Parcel is located about 5,000 feet from the Carty site and adjacent to an existing 230 kV transmission line ROW. The existing 230-kV transmission runs about 1.6 miles along the western boundary of the Project Parcel and Tower Road to the existing transmission infrastructure at the Carty site. The Carty site hosts a 450-megawatt (MW), combined-cycle natural gas-fuelled electric generating power plant, the Grassland Switchyard, the Carty Substation, 500-kV transmission lines, water and wastewater treatment facilities, and the Carty Reservoir. In total, the Carty site encompasses an approximately 4,997-acre site boundary.¹ The data center anticipates receiving power from Pacific Power via the existing and planned electrical infrastructure at the Carty site and via the existing transmission ROW along Tower Road. The land to the north and west of the Carty site leading up to the Project Parcel is currently vacant.

Additionally, the Project Parcel meets important siting criteria including having appropriate topography (less than 15 percent) and the ability to avoid adverse environmental impacts including to water availability, wetlands, habitat, and sensitive species. In defining the Project Footprint, the Applicant anticipates avoiding the adjacent floodplain and existing jurisdictional water features, and incorporating a 250-foot BCA buffer.

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. The 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 of the Project Parcel. See **Figure 5** (Project Area Components). The primary and accessory components of the proposed development may include:

¹ See Carty Generating Station – Final Order for Amendment 3, July 22, 2022 available at <https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2022-07-22-CGS-AMD3-Final-Order-on-Amendment-3.pdf>.

- 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 the Applicant's conceptual design. These represent the likely facility components of the final design, although the specific number and size of the particular facility components may vary from this application. The Applicant maintains 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.

The 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 will maintain a buffer (250-feet) of the Project Footprint from the adjacent BCA that runs along the eastern edge of the Project Parcel. 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.

2.1 Transmission, Power Supply, and Back-Up Generation

Applicant selected the Project Parcel because it met all of the Applicant's siting criteria, including proximity to existing and planned transmission infrastructure with capacity. See **Appendix D** (Alternatives Analysis). 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 Applicant understands the Carty site to be in close proximity to existing and planned Pacific Power transmission infrastructure. The Project will receive power from Pacific Power, who anticipates providing service via a new 230-kV transmission line utilizing existing ROW along Tower Rd, and 34.5kV distribution facilities. The data center campus project will also include the installation of onsite back-up power supply systems, such as generators, within the Project Footprint and that are sufficient to ensure site reliability.

2.2 Onsite Stormwater and Industrial Process Water Management

In order to minimize impact to local wastewater infrastructure, the Applicant proposes to manage stormwater and industrial wastewater onsite. It's anticipated that stormwater will be collected and be directed to one or more onsite evaporation pond(s), which may be positioned onsite in a way to help ensure adequate buffer between building areas and the adjacent wetlands, floodplain, and BCA. Applicant designed the on-site retention pond with a design infiltration rate of 2 inches/hour with a 6-foot pond depth and up to 2 feet of freeboard. Applicant assumes that a state 1200-Z Permit will not be needed, as there is no anticipated direct discharge of stormwater.

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). The data center campus will comply with zoning and permit requirements, and seek to minimize stormwater runoff to the extent possible. Applicant expects to discharge to an onsite septic system appropriately sized and licensed. For industrial wastewater (process and blowdown water), the Applicant anticipates recycling the water using an onsite wastewater treatment system, with technology to be determined based on existing water quality. Once the water is no longer capable of being recycled, wastewater will be treated, managed onsite in a retention pond, or treated using other appropriate water recycling technologies. If needed, the wastewater treatment systems are expected to be designed and engineered for the appropriate quantities of produced industrial waste water.

2.3 Water Supply

The Project will require potable water for employees and industrial water for processing and cooling. For industrial process water, the Applicant anticipates about 20 to 60 million gallons of annual total water use for the data center campus. Applicant is evaluating options for sourcing the needed water. Currently, potential water supply sources for domestic and industrial water include, but are not limited to (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. See **Appendix E** (Port of Morrow Water Supply Memorandum of Understanding [MOU]). Working with the Port of Morrow has several benefits. 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 the flexibility to select a water supply source that may involve extension of public services from the Port of Morrow.²

2.4 Hours of Operation/Number of Employees

Because data centers are working to support the needs of data users around the clock, the data center will operate 24-hours per day in shifts. On average, the Applicant anticipates the 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.

² Note, as Applicant discusses more fully below, Applicant is requesting a Goal 11 exception for the extension of public water services despite the plain language of the goal and the implementing administrative rules because of the court's 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).

3. REQUEST

The Applicant requests the following land use approvals from the County for the proposed data center campus on the Project Parcel:

- Approval of a Comprehensive Plan Amendment to authorize exceptions to Statewide Planning Goal 3 (Agriculture), Goal 11 (Public Utilities), and Goal 14 (Urbanization)
- Approval of a Comprehensive Plan Amendment from Agriculture to Industrial
- Approval of a Zone Map Amendment from EFU to MG
- Approval of a Limited Use Overlay to Limit MG Uses to a data center use as proposed
- Approval of a Zoning Permit

4. STUDIES, CONSULTATIONS AND ANTICIPATED PERMITS

4.1 Studies

The Applicant performed the following desktop and field surveys to study the Project Parcel and evaluate potential adverse impacts. These studies helped to inform the avoidance and minimization measures implemented to reduce adverse environmental impacts and limit development to the Project Footprint.

- Soils Analysis Memorandum, ERM, dated January 2023. The Soils Analysis demonstrates that the Project Parcel is predominately comprised of low productivity soils, with the lowest productivity soils located in the Project Footprint.
- Alternatives Analysis, ERM, dated April 2023. The Alternatives Analysis evaluated a significant number of sites across Umatilla and Morrow Counties, applying 8 siting criteria to identify a project location. The Project Parcel meets all siting criteria except Criteria 7, Land Use and Zoning.
- Historic Aerial Imagery. The survey shows the lack of agricultural operations on the Project Parcel over time.
- Economic Analysis Summary Memorandum, Johnson Economics, dated February 2023.
- Washington Ground Squirrel (WGS) Protocol Survey Results, ERM, dated May 2023. No WGS were observed during the survey.
- Traffic Impact Analysis, Kittelson & Associates, dated February 1, 2023. The Project Parcel would not significantly impact the County's transportation systems and would comply with Goal 12.
- Threatened and Endangered Species Habitat Assessment, AKS Engineering and Forestry (AKS), dated November 18, 2021. Surveys were recommended to confirm whether the state listed WGS and migratory birds as present in the study area. Follow up surveys were conducted and no WGS or other special-status species were observed onsite.
- Wetlands Delineation Report and Oregon Department of State Lands (DSL) Concurrence, dated April 18, 2023. Wetland confirmed in field with DSL and avoided by Project Footprint.
- Cultural Resources Desktop Report, Terracon, dated October 26, 2021. Desktop report did not indicate the presence of any cultural resources within or adjacent to the Project Parcel. As such, a Cultural Resources Survey was not conducted. No survey was submitted to the State Historic Preservation Offices (SHPO).
- Geotechnical Investigation Report (Appendix O), Terracon, dated May 2, 2023. The Geotechnical Investigation Report contains recommendations to mitigate loess soils collapse risk and soil shrinkage onsite.

4.2 Consultations

In addition to the studies, the Applicant consulted with the following agencies and stakeholders in preparing this application:

- Confederated Tribes of Umatilla Indian Reservation (CTUIR). Rowan has had multiple calls and contact with Teara Farrow Ferman, Jennifer Karson Engum of CTUIR over the last couple of months discussing the Project Parcel. Field studies are scheduled for Q2, 2023.
- Navy, Northwest Region. No concerns, as long as building height remains below 100 feet and downward facing lighting is deployed across the Project Parcel, as discussed in email correspondence dated November 3, 2022.

- Oregon Department of Fish and Wildlife (ODFW). ERM consulted with and received approval from Steve Cherry, ODFW, regarding investigation protocols for WGS. Email correspondence dated January 3, 2023.
- Oregon Department of State Lands (DSL). DSL visited the site for Wetland Delineation consultation and concurred with AKS boundaries, expanding one small area. Updated shapefiles were developed accordingly and sent to DSL. Concurrence letter received on April 18, 2023.
- Morrow County Planning Department. Applicant's staff met with planning staff on multiple occasions both in person and via teleconference starting on June 10, 2021, and as recently as April 27, 2023. Applicant has been working closely with Threemile Canyon Farms to complete the partition of the proposed 274 acres starting in February 2022. Partition was recorded on April 27, 2023.
- Portland General Electric (PGE). Applicant's staff have been in communication with PGE staff, more specifically Scott Russell, since early 2021 and as late as May 1, 2023. Discussions revolved around the possibility of securing water rights, ROW access, and other real estate related items from the Carty reservoir.
- Threemile Canyon Farms. Applicant's staff have been working closely with Threemile Canyon Farms since early 2021 to secure land rights to the partitioned parcel, as well as all of the environmental, physical, and geological investigations deemed prudent by Applicant as part of that process.

4.3 Anticipated State-Level Permits

Applicant anticipates, based on the preliminary Project design, that the following state-level permits may be required for construction and operation:

- Oregon Department of Environmental Quality (DEQ), National Pollutant Discharge Elimination System (NPDES) 1200-C Permit
- DEQ, Onsite Septic Permit
- DEQ, Basic Air Contaminant Discharge Permit (ACDP)
- DSL, Removal/Fill Permit (if doing wetland enhancement, which is not anticipated)

5. RESPONSE TO PLAN AMENDMENT APPLICATION QUESTIONS

1. ***Current use of the subject property;***

The Project Parcel is currently vacant and undeveloped (see **Figure 2**). See **Appendix F** (Historical Aerial Imagery).

2. ***Historical use of the land;***

The Project Parcel has been vacant and undeveloped with no history of agricultural use since at least 1952, based on review of historical aerial imagery (**Appendix F**). To the best of the property owner's knowledge, the land has never been farmed, grazed, or irrigated (**Appendix B**).

3. ***Do you want to change the current use of the land?***

Yes, rezone the Project Parcel from EFU to MG.

4. ***What type of development do you have planned for the land?***

A data center with supporting accessory infrastructure.

5. ***Does the current zone allow the type of development identified in Question 4?***

No, data centers are not permitted for conditional uses in the EFU Zone.

6. ***What zoning designation would allow this type of development?***

A data center is a use permitted by right in the proposed MG Zone.

7. ***Is there other property in the area that would allow this type of development?***

No, see the Alternatives Analysis in **Appendix D**.

8. ***If yes, please identify the properties.***

See the Alternatives Analysis in **Appendix D**.

9. ***If no, please explain why other lands with the desired zoning would not be suitable for your intended development.***

See the Alternatives Analysis in **Appendix D**.

10. ***What type of development surrounds the subject land?***

The Project Parcel is adjacent (north, west, and south) to active agricultural operations, mostly pivots, all owned and operated by Threemile Canyon Farms, the current property owner of the Project Parcel. To the east is the BCA and to the southeast is the existing Carty site. The Carty site hosts the Carty Generating Station, a 450-MW, combined-cycle natural gas-fueled 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). In total, the Carty site encompasses about 4,997 acres. From the Project Parcel, there is General Industrial (MG) zoning about 5,000 feet away at the Carty site and about 0.95 mile to areas zoned SAI and MG within the Port of Morrow's Airport Industrial Park. The Boardman Naval Weapons System Training Facility is located about 5 miles to the east of the Project Parcel. See **Figure 2** (Project Parcel Map) and **Figure 3** (Adjacent Land Use and Zoning).

6. GOALS 3, 11, AND 14 EXCEPTION REQUESTS

The Applicant proposes to develop an urban-scale industrial use on rural agricultural land that may require 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.

6.1 COMPLIANCE WITH OAR 660, DIVISION 4

6.1.1 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: Applicant seeks goal exceptions under OAR 660-004-0010(1)(a), (c), and (d)(D). Applicant demonstrates below that this application meets the applicable requirements of OAR 660-004-0020, 660-004-0022, 660-011-0060(9), and 660-014-0040 to allow the requested goal exceptions.

6.1.2 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.³ The Project Parcel is also considered "undeveloped rural land" under OAR 660-014-0040(1). To ensure that the County meets OAR 660-004-0018(4), the Applicant requests that the County impose a Limited Use (LU) overlay zone on the Project Parcel to limit the industrial uses allowed in the M-G

³ 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. 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).

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 under Section 2, Project Description.

6.1.3 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: The Applicant requests that the County amend the MCCP to document the exceptions to ensure compliance with OAR 660-004-0020(1).⁴

(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:

6.1.3.1 Reasons Justify the Requested Exceptions:

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

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.⁵ Applicant demonstrates below that reasons that justify why the state policies embodied in Goals 3, 11, and 14 should not apply 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. Applicant proposes to microsite the Project within the Project Parcel to avoid impacts to drainages and wetlands and limit permanent impacts to about 190 acres (e.g., the Project Footprint, as shown in **Figure 5**).

With respect to “why the use requires a location on resource land,” 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

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

⁵ *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”).

land proposed for the Project Parcel is adjacent to existing transmission with capacity, a siting factor that was severely constrained for other sites considered as a part of the Alternatives Analysis.

In addition to showing reasons, the Applicant must demonstrate that Applicant is proposing the minimal amount of land to accommodate the use and that no non-resource land is available. With respect to the amount of land, Applicant seeks to remove approximately 274 acres from Goals 3, 11 (water supply only), and 14 protections. This is the minimal amount of land to support the proposed data center campus. With respect to availability of non-resource land, Applicant incorporates by reference the Alternatives Analysis to support findings that justify why the Goal 3, 11, and 14 protections should not apply to the Project Parcel and locating the use on resource land is justified.

Rural Industrial Development (OAR 660-004-0022(3)(c))

The proposed development is industrial-scale in nature and would be located on resource land outside of an Urban Growth Boundary (UGB). The use has a significant comparative advantage located on the Project Parcel for the following reasons:

- **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. The Applicant understands the Carty site to be in close proximity to existing and planned Pacific Power transmission infrastructure and capacity. The Project will 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.
- **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 management, thereby minimizing the need for offsite land application or extension of public sanitary services.

The Project Parcel is locationally dependent on the availability of existing and planned transmission infrastructure. The Project Parcel has a significant comparative benefit given it is currently vacant and not being used for productive capacity, and suitable land for onsite wastewater management. As discussed in the Alternatives Analysis (**Appendix D**), the Project Parcel met all of the Applicant's siting criteria with the exception of Siting Criteria 7, Land Use and Zoning. The Applicant evaluated alternative sites, and none had the same comparative advantage as the Project Parcel.

Urban-Scale Facility Supports Economic Activity (OAR 660-014-0040(2))

A reason to support the Goal 14 exception includes, but is 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." Adjacent or nearby natural resources include farmland. With respect to farmland, the proposed development supports the ongoing agricultural production of the adjacent farming operation (Threemile Canyon Farms) by putting the Project Parcel to higher, better use and providing revenue to support the ongoing farming operation.

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

The proposed development and removal of the Project Parcel from Goal 3 protections will have no impact to productive agriculture. The Project Parcel is comprised predominately of Class 7, nonarable soil and has not been irrigated. See **Appendix C** (Soils Analysis Memo). Despite being owned by Threemile Canyon Farms, a large agricultural landowner and operator in the County, the Project Parcel has not been grazed or farmed due to poor soil conditions and topography. See **Appendix B**

(Landowner Affidavit). 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 area of the Project Parcel. Further, as described below, the proposed use of the Project Parcel will be compatible with the surrounding ongoing agricultural operations, the findings of which are incorporated herein. For this reason, the County may find that the requested Goal 3 exception is justified. The County may also rely on this reason to support the Goal 14 exception to allow urban scale use of rural resource land. The 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* * * *.” Accordingly, a reason that supports a Goal 3 exception may also support a Goal 14 exception.

Other Reasons (OAR 660-004-0022(1)): Comparative Economic Benefit

The Project Parcel is unused because it has no economic value for agricultural operations. The Goal 3 exception will allow the Applicant to put the Project Parcel to productive use, with a data center development that will have significant, direct economic benefits to the County. Johnson Economics performed a third-party analysis of the economic impacts of data center projects in the area and of local market wages and employment characteristics. See **Appendix G** (Economic Analysis Summary Memo).

- 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).

In addition, the proposal specifically furthers the goals and policies of the 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 directly supports Goal 2 and Policy 2A and Policy 2B by providing increased job opportunities during construction and operation, as well as increasing wages well above the median annual earnings of County residents. For construction, at least 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).

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 Morrow County, as well as the construction and technology industries, including supporting service providers. The Project offers a service that may be provided locally and support the continued economic development of the County.

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: Applicant selected the Project Parcel given its significant comparative advantages of being located next to the Carty site and existing and planned transmission infrastructure to serve the Project. This co-locating minimizes the need for transmission line extensions.

6.1.3.2 No Alternative Site Can Reasonably Accommodate the Project:

OAR 660-004-0020(b) and OAR 660-014-0040(3)(a) require Applicant to demonstrate that new 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. Applicant undertook a robust Alternatives Analysis in selecting the Project Parcel. See **Appendix D** (Alternatives Analysis).⁶

(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: A map of the possible alternative areas considered in the Alternatives Analysis are included in **Appendix D** as Figures 1(a)-1(f).

(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?

⁶ 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). The proposed findings under OAR 660-004-0020(2)(b) demonstrate that Applicant also satisfies OAR 660-014-0030(3)(a). Therefore, to the extent that stand-alone findings are required for Goal 14, Applicant incorporates by reference the analysis and findings under OAR 660-004-0020(2)(b) as findings for OAR 660-014-0040(3)(a).

(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: Applicant identified 8 siting criteria for selecting a project location. The siting criteria collectively determined what sites may be suitable for the proposed data center. No one criteria was determinative. Applicant evaluated all the required land types as a part of the Alternatives Analysis before identifying the Project Parcel. Applicant incorporates by references **Appendix D** (Alternatives Analysis) to support findings under OAR 660-004-0020(2)(b)(B) and (C). Table 1 and Figures 1(a)-1(f) in the Alternatives Analysis set out Applicant’s alternative sites, the assessment of the siting criteria for the alternative sites, and provide conclusions on reasonableness. Ultimately, the identified alternative sites were rejected as unreasonable, as none could satisfy the balance of the siting criteria. The Alternatives Analysis provides a broad review of alternative areas, considering numerous parcels in the “Overarching Assessment” and specifically evaluating in more detail four alternative sites plus the Project Parcel.

6.1.3.3 Environmental, Economic, Social and Energy Consequences (“EESE Analysis”):

Applicant is required to undertake an EESE Analysis for the requested goal exceptions. OAR 660-004-0020(2)(c) (e.g., Goal 2, Part II(c)(4)) provides the general EESE Analysis for goal exceptions. OAR 660-014-0040(3)(c) provides additional considerations for an EESE Analysis when taking an exception to Goal 14. Applicant incorporates the elements of the Goal 14 EESE Analysis below, under the general EESE Analysis, and to the extent necessary, incorporates by reference the below findings to support findings under OAR 660-014-0040(3)(c).

(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 has 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 **Appendix K** (Threatened and Endangered Species Habitat Assessment) and **Appendix H** (WGS Protocol Survey Results). The Project Parcel contains no WGS. AKS 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 DSL, and filed the wetland delineation with DSL for concurrence. See **Appendix L** (Wetland Delineation Report and DSL Concurrence). Applicant will avoid wetlands, drainages, and development within the Federal Emergency Management Agency (FEMA) floodplain. See **Figure 4** (Project Area and Key Site Features).

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 **Appendix M** (Cultural Resources Desktop Report) and **Appendix N** (Tribal Email Correspondence).

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 discusses the anticipated state-level permits required for construction and operation in **Section 4**, which is incorporated herein by reference. For these reasons, the County may conclude 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 **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. 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 **Appendix G** (Economic Analysis Summary Memo); see **Section 6** above for Reasons Analysis. 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 may find that the proposed data center will not result in negative economic impacts.

Social. The Project will provide increased local job opportunities for area residences, during construction and operation. It will also provide social benefits in the form of taxes for the County's social programs. 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 **Appendices M** and **N**. Applicant maintains 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. 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 Project in accordance with Oregon Public Utility Commission-approved rules and regulations and tariffs. Applicant requests that the County find that the proposed data center will not result in negative energy impacts.

6.1.3.4 *The Project is Compatible with Adjacent Uses:*

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices.

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

Response: For purposes of this analysis, "other adjacent uses" include those uses on land directly adjacent to the Project Parcel. See **Figure 1** (Project Parcel Tax Lot). To the north and west, the land is in pivots, the land to the east is uncultivated and located within the BCA, and to the south, there are more pivots and the Carty site. As demonstrated under the EESE Analysis, the Project will not 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. Further, Applicant seeks the flexibility to use public water supply to avoid having to use groundwater, as it becomes more restricted in use. The onsite or offsite management of 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. For these reasons, the County may conclude that the proposed data center use will be compatible with the adjacent uses.

6.2 Compliance with OAR 660-014-0040

Applicant requests goal exception for "rural agricultural land" or "undeveloped rural land" as used within the meaning of OAR 660-014-0040. The County may justify the requested Goal 14 exception based on reasons set forth under OAR 660-004 and OAR 660-014-0040.

6.2.1 *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: As discussed in Section 6.1, reasons justifying an exception include, but are not limited to those reasons enumerated in rule. The reasons the Applicant identified to justify the Goal 3 exception also support the extension of public water service to the Project Parcel and the requested Goal 14 extension. The Project will have significant economic benefits for the community and makes use of an unproductive, underutilized land proximate to existing industrial zoning and operations, with utility infrastructure. The economic benefits are dependent on having access to existing and planned transmission infrastructure with capacity. The economic benefits are also dependent upon having suitable land (size, topography, soil types) to accommodate the onsite stormwater and wastewater management. For these reasons, the County may find that the Goal 14 exception is justified.

6.2.2 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 for the Project Parcel, including potential sites located within existing UGBs of Umatilla and Morrow Counties, as well as sites already zoned for data centers. The Alternatives Analysis (**Appendix D**) demonstrates that sites within the existing UGBs or rurally zoned industrial areas cannot reasonably accommodate the Project. 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 Project and meet the siting criteria were deemed not reasonable sites.

6.2.3 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:

Response: Applicant incorporated by reference the EESE Analysis Section 6.1.3.3 above to support findings under OAR 660-014-0030(3)(b).

6.2.4 The Project is Compatible with Adjacent Uses:

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

* * *

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

(A) Whether 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: Applicant incorporates by reference the Compatibility Analysis under Section 6.1.3.4 above. The amount of land included in the exception area is appropriate, as it allows for Applicant to avoid impacts to environmental resources on the Project Parcel. It also allows sufficient land to manage stormwater and wastewater onsite through evaporation and retention ponds. Applicant has studied the potential environmental impacts and demonstrates, based on available information, the Project 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. Applicant will be obligated to obtain all local, state, and federal environmental permits for the Project's construction and operation.

6.2.5 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 seeks flexibility to use a public water supply. Applicant is in discussions with the Port of Morrow to provide the Project Parcel with water from proposed Water Treatment plant and ensure that if Applicant opts to use a public water supply, such services can be provided in a timely and efficient manner. See **Appendix E**. On this basis, the County may find that OAR 660-014-0040(3)(d) can be met.

7. RESPONSE TO MCZO ARTICLE 8 ZONE CHANGE CRITERIA

MCZO 8.040 provides the applicable approval criteria for a zone change. Applicant addresses each in turn below.

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 adoption of the County's zoning ordinance. 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. See **Appendix B** (Landowner Affidavit). The historic and current conditions of the Project Parcel arguably disqualify the Project Parcel from being "agricultural land" under Goal 3. The future conditions of the Project Parcel, given the changing environmental conditions of the area, likely ensure that it will remain unproductive into the future with likely increased soil erodibility. Further, the Project Parcel is nearby an existing energy facility and transmission lines and capacity that offer locational advantages for development of the Project Parcel. For these reasons, Applicant maintains that the County may find that conditions have changed to warrant rezoning the Project Parcel.

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: Applicant addresses below each public service and facility to demonstrate that there are sufficient services and facilities to support the zone change.

Stormwater or Wastewater Services and Facilities. No public stormwater or wastewater services or facilities are proposed or needed. Applicant anticipates managing all stormwater or industrial wastewater onsite.

Water Services and Facilities. The Project Parcel will require potable water for employees and industrial water for processing and cooling. For industrial process water, Applicant anticipates about 20 to 60 million gallons of annual total water use for the data center, depending on a variety of factors. Applicant is evaluating options for sourcing the needed water. Currently, potential water supply sources include, but are not limited to (1) a water supply agreement for use or transfer of existing water rights from nearby water rights holder(s) and, (2) a water supply agreement with the Port of Morrow to obtain water from the Port's Boardman Airport Industrial Park. Initially, an onsite exempt groundwater well may provide up to 5,000 GPD of potable water for supplying the restrooms, sinks, lunchroom, until such time as POM facility water is available.

Transportation Services and Facilities. As discussed in **Appendix I** (Traffic Impact Analysis), the proposed zone change will not result in significant impacts to the County's transportation system and the existing roads are capable of serving the anticipated number of trips for the data center's

construction and operation. Therefore, the County may find that the public transportation system is adequate to support the zone change.

Police/Fire/Emergency Response Services and Facilities. The Project Parcel is within the Rural Fire Protection District's (RFPD) service area.

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: This zone change application does not significantly affect a transportation facility, as demonstrated in **Appendix I** (Traffic Impact Analysis). The record reflects that the proposed zone change and future development will not result in impacts contemplated under subpart 2(a)-(d) above. The proposed zone change and future use are consistent with the function, capacity of level of service of the transportation system, as further discussed in **Appendix I** (Traffic Impact Analysis).

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 demonstrates that the proposal is consistent with the applicable MCCP goals and policies in **Section 9**. The proposal serves a public need of providing safe, reliable data storage, benefitting individuals, as well as public and private entities. Applicant demonstrates in the Alternatives Analysis (**Appendix D**) that another site is not reasonably available. Further, the proposed Project Parcel is already in proximity to other rural industrial uses and transmission infrastructure. See **Figure 2** (Project Parcel Map). Applicant does not anticipate offsite impacts that would burden area landowners. For this reason, the County may find that this criterion has been adequately considered.

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

Response: Applicant demonstrates in the EESE Analysis that the proposal will not result in significant adverse impacts to nearby lands. Applicant does not anticipate the proposed construction and operation of the data center would result in public health or welfare concerns and will respond on the record if any such concerns are raised.

8. 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 analysed and justified in the exception request. Therefore, Applicant requests that the County impose an LU overlay zone limiting the use of the Project 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 use drought tolerate 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)

9. CONSISTENCY WITH MCCP GOALS AND POLICIES

The MCCP goals and policies identified below are most relevant and applicable to this application. Goals and policies not addressed below are either the responsibility of the County or more aspirational, directing or encouraging or supporting an action or result rather than requiring that action or result.

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 County Court 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 County Court on the proposed amendments, as provided for by state law and the County's land use regulations. Additionally, Applicant hosted a public meeting on November 3, 2022, to hear comments and obtain feedback on the proposed Project Parcel.

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 is satisfied for the reasons set out in the 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 addresses 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 Project is 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.

Agricultural Land Policy 1 is an aspirational policy that seeks to balance economic and environmental considerations, limit incompatible non-agricultural development, and maintain a high level of liveability in the County. While not a mandatory review criterion, this policy is met because this application will not impact or remove productive agricultural land from existence and because industrial uses are not incompatible with adjoining or adjacent agricultural uses.

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. As described above, conflicts between industrial and agricultural uses are minimal. Industrial development in the proposed location is consistent with the Comprehensive Plan, as reflected by the existence of several approved MG and (SAI zoning and land use designations immediately adjacent to the proposed Project Parcel.

Agriculture Policy 6 provides for the County to consider the needs of the farming community in evaluating future development projects in other sectors of the economy. This policy is satisfied because the land proposed for conversion from agriculture to industrial is not productive and the lease or sale of the land to the Applicant (and associated payments) may allow for the expansion of agricultural activities on productive irrigated lands by the landowner, thereby benefitting the agricultural community.

Agriculture Policy 10 states that the County should support energy generating projects offering to release water from their reservoirs for irrigation purposes and provide Morrow County farmers with

surface water. The Project will likely not be able to provide industrial wastewater to farmers due to the high salinity levels.

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. This policy is met because the Project Parcel will have a limited impact on air quality, water, and land quality. The Project is required to meet all federal, state, and local permitting requirements for air and water impacts, which will be limited to what is necessary for the Project's operation. The land, as discussed throughout this document, should be considered non-productive and adjacent to intense industrial and commercial uses and is therefore appropriate for the development of the Project Parcel and consistent with the intent of this element. The Project Parcel is sited and designed to minimize impacts to the natural environment and is in harmony with the development limitations with respect to slopes, soils, wildlife, geology, and water resources.

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 of water and groundwater is regulated primarily by the Oregon Department of Water Resources (ODWR) and Oregon DEQ, and all Project-related approvals will be obtained, should this application be approved.

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 and is not directly germane to this plan amendment request, as this plan amendment is relating to industrial development.

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. This section is met by 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). Although data centers are allowed in other types of zoning, the availability of suitable land meeting the needs of the use are very limited and by "filling in" the industrial zoning in the southern portion of the County adjacent to Tower Road and the Carty site, the County may attract similar emerging and higher-salary type jobs to a new area. Finally, data centers and similar emerging technologies often serve as "anchors" for future proposed green or sustainable development.

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, as stated under Goal 2 above, 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.

Economic Goal 4 encourages compatible land uses throughout Morrow County. The amendments further these goals by providing new industrial development opportunities on land that is more suitable for industrial development 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 these goals as it aims to target industrial zoning along a region of highway that is already accustomed to higher traffic volumes and noises associated with the operation of commercial dairy and other farming uses, as well as traffic for the generation station. The noise and traffic attributable to the Project Parcel would produce a nominal impact to the area.

Economic Goal 6 seeks to maintain a balance between economic and environmental activities. The Project Parcel proposed to be rezoned for industrial use is located in an area with other industrial zoning and uses and will not impact adjacent agricultural or industrial uses. As stated throughout this document, the Project Parcel has never been farmed or used for productive agricultural activities and the development of the Project will not supplant a viable and legitimate agricultural use. Additionally, the proposed Project Parcel will have limited impact on the natural environment, as 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. Therefore, the Project Parcel proposed for industrial zoning is in a better position to accommodate industrial activity with minimal impact to the 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. Accordingly, Economic Goal 7 is met

Goal 11 (Public Facilities and Services Element)

Applicant is seeking a Goal 11 exception. Nonetheless, Applicant addresses the Project's consistency with the MCCP's Goal 11 policies to the extent the Project furthers the County's 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 Project seeks the flexibility to extend public water services to avoid using limited groundwater. Applicant does not seek the extension of public sanitation services. The Port MOU helps demonstrate that such public water services will be provided in the least amount of time, with reliable service secured by developers, and at little to no cost to the County. The Project utilization of fire and police services is not expected to place a burden on existing County capacity, 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.

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. A transmission line ROW necessary for the extension of service to the Project already exists to the west, along Tower Road..

General Policy G requires that public facilities and services not exceed the carrying capacity of the air, land, and water resources. Through compliance with DEQ air quality regulations for industries, high air quality standards can be maintained. Similarly, water quality can be maintained through the permitting process. Finally, the land is both suitable for the Project use and proposed to be developed in an environmentally friendly and responsible manner with respect to slopes, soils, water resources, and wildlife.

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. While this policy is not a mandatory review criterion, it will be satisfied because the Project does not propose requesting or requiring the provision of County services and economic benefits provided by the proposed use include a range of economic and fiscal impacts on the Morrow County community and

the County. The impacts include 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 be met, including an approved subsurface sewage disposal system. The Project proposed to provide water and sewer onsite. The Project Parcel includes ample space for the installation and maintenance of a septic system to serve the Project.

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. Alternatively, the Applicant can secure contract solid waste services, further eliminating an impact on County services required to serve the Project.

Goal 12 (Transportation Element)

While most of the County's Goal 12 objectives are very 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 is consistent with Objective #2, as the proposed land use amendment can be accommodated by the existing transportation infrastructure network.
- This application is consistent with Objective #5, as the proposed land use amendment will not significantly impact the existing County's roadway system or require reclassification of the system.
- This application is consistent with Objective #14, as the proposed land use amendment will not impact the existing overall roadway network in a way that would require modification or further coordination with other agency infrastructure.
- 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.

The applicable Transportation Policies are Policies 1, 2, 4, 5, 6, 7, 9, 10, and 11. The proposed land use amendment is consistent with each of these policies for the following reasons:

- The overall transportation network is capable of adequately 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).
- No traffic impacts that would require ROW modification and roadway facility upgrades (Policy 6).
- All forecast traffic generation will be compatible with the function and carrying capacity of the applicable roadway network (Policies 7 and 11).
- No traffic impacts that would impact roadway function or require modifications to roadway classifications (Policies 9 and 10). The classification of Tower Road is particularly 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.

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 extend public water service to the Project Parcel to avoid using limited groundwater resources.

10. CONSISTENCY WITH STATEWIDE PLANNING GOALS

A goal exception is a Comprehensive Plan Amendment. In addition to the relevant exception standards, the state-wide planning goals apply to plan amendments. The goals identified below are the only goals applicable to the plan amendments requested in this application. Goals not identified do not apply.

Goal 1 (Citizen Involvement).

Goal 1 requires opportunity for citizens to be involved in all phases of the planning process. For plan amendments, Goal 1 is satisfied when a local government follows the public involvement procedures for plan amendments set out in its acknowledged Comprehensive Plan and land use regulations.

Morrow County's regulations for MCCP amendments include notice to the public and to the Department of Land Conservation and Development (DLCD); public hearings before the Morrow County Planning Commission (which makes a recommendation to the County Governing Body); and public hearings before the Morrow County Board of Commissioners. Compliance with these regulations results in compliance with Goal 1.

Goal 2 (Land Use Planning)

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** above. 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 **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 application.

Goal 3 (Agricultural Lands)

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.

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

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 **Appendix L**, indicate one wetland and one intermittent stream located within the Project Parcel, as shown on **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 **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 v. 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 **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 the Project 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 **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 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.

Goal 9 (Economic Development)

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.

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.

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 **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 **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 are not expected to result in a significant effect on the surrounding transportation network or require offsite mitigation.

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.

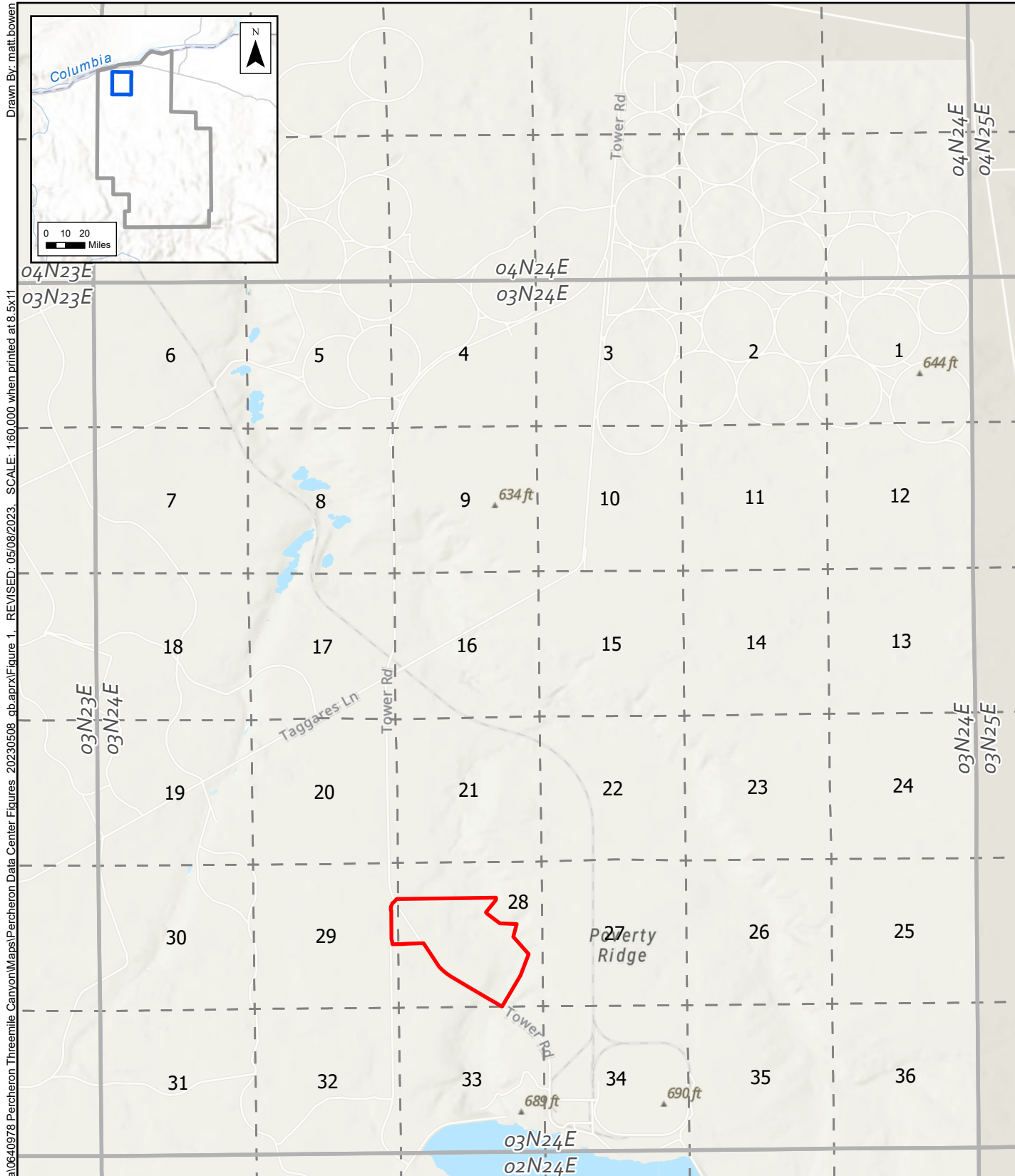
Goal 14 (Urbanization)



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.

FIGURES

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 Project Parcel
 Section Lines

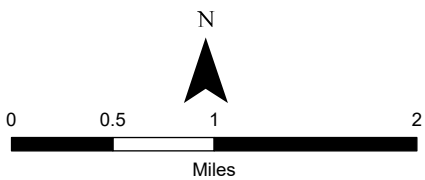
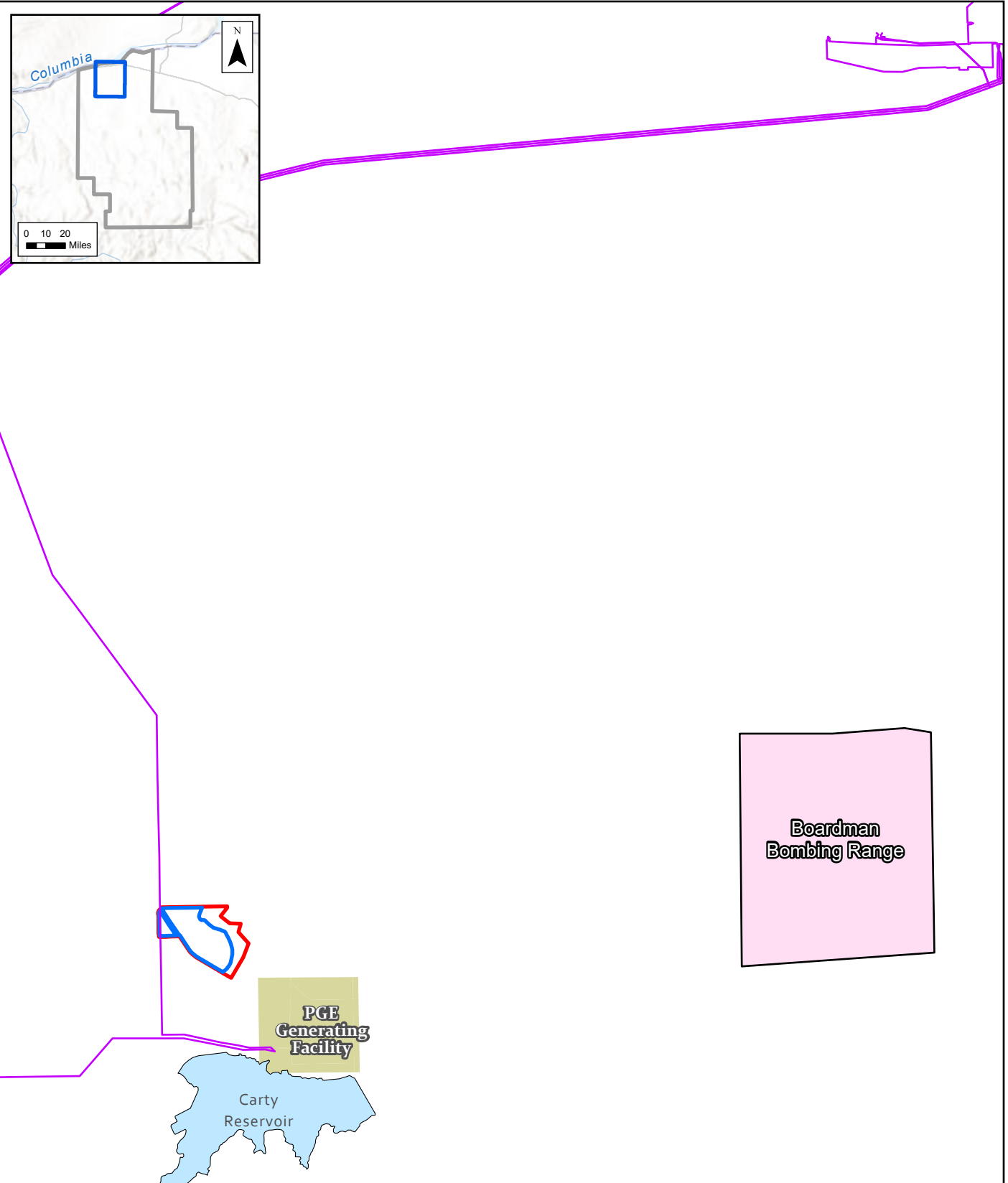


Figure 1
Project Parcel Tax Lot
 Percheron Data Center
 Rowan Green Data, LLC
 Morrow County, Oregon

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 Footprint
- Project Parcel
- Reservoir
- PGE Generating Facility
- Boardman Bombing Range

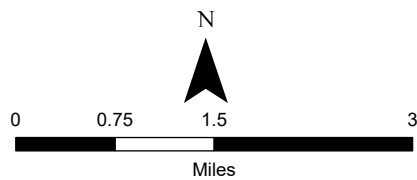
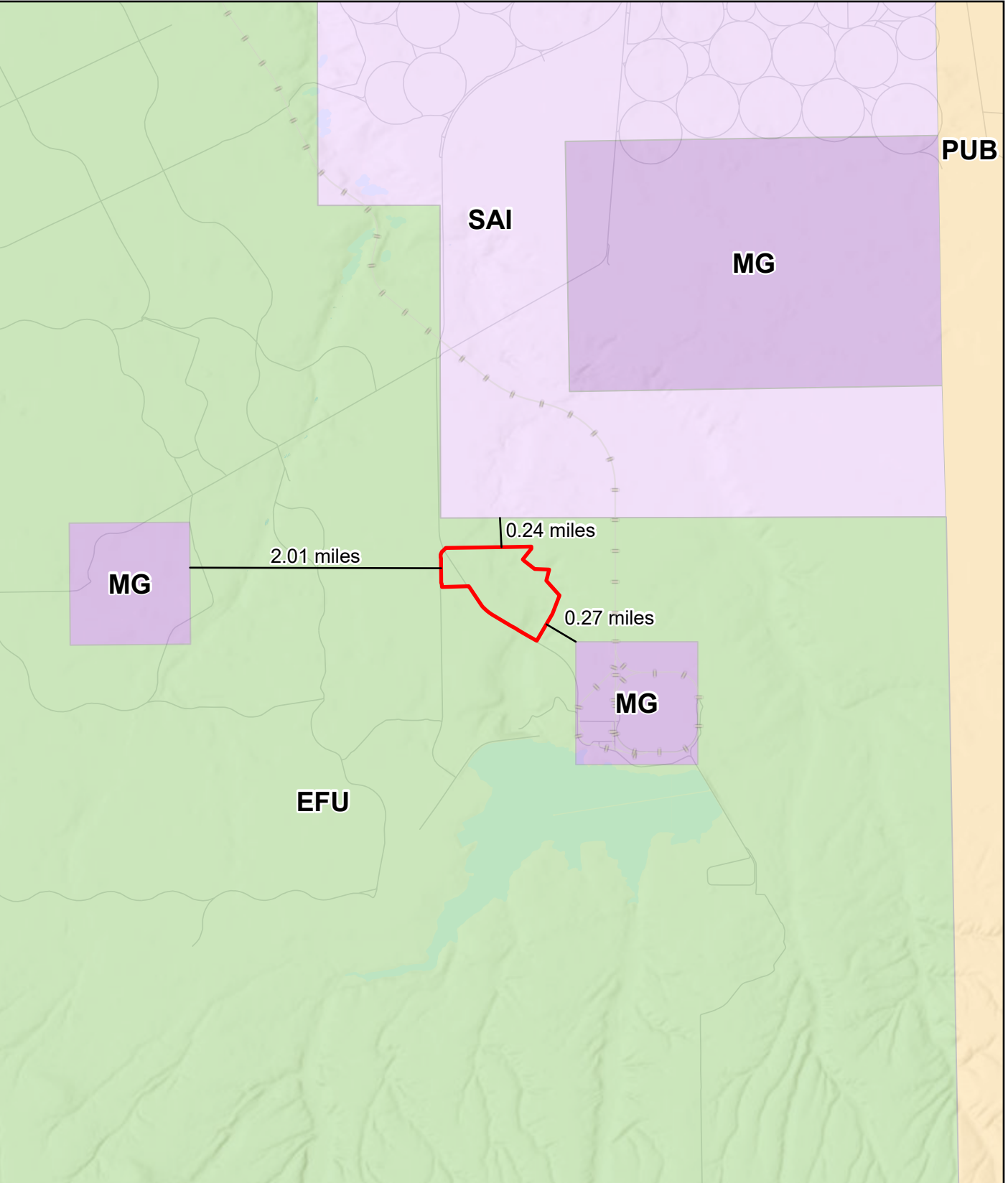


Figure 2
Vicinity Map
Percheron Data Center
Rowan Percheron, LLC
Morrow County, Oregon

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



- Project Parcel
- Zoning**
- Exclusive Farm Use
- General Industrial
- Public
- Space Age Industrial

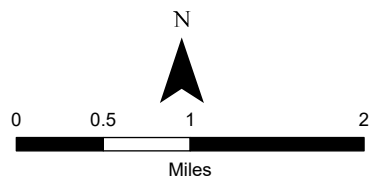
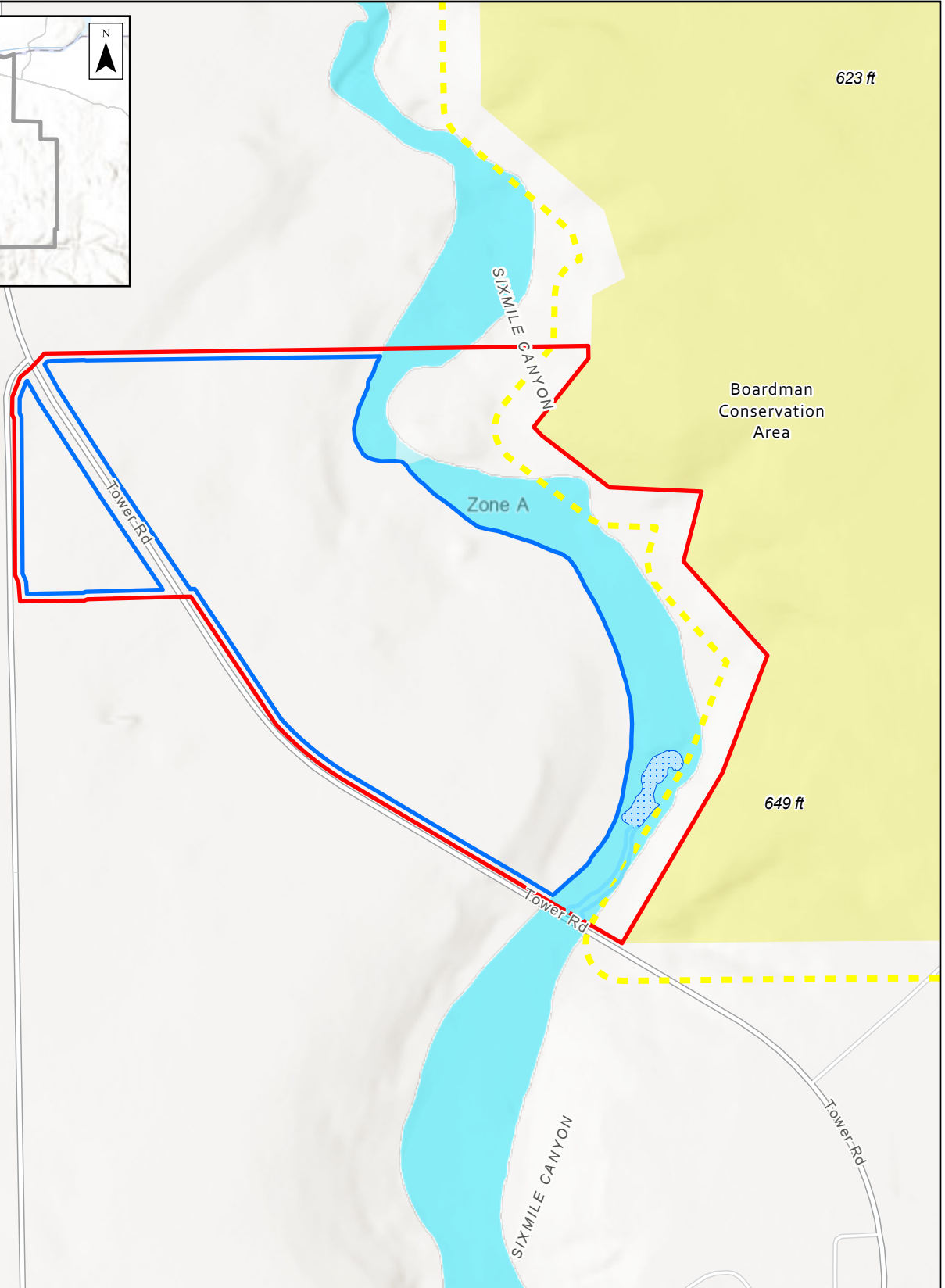
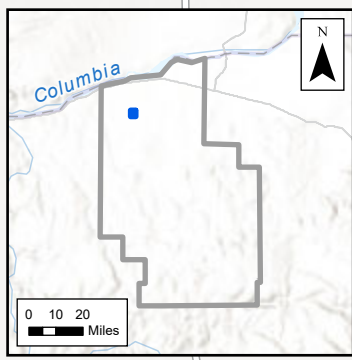


Figure 3
Adjacent Land Use and Zoning
 Percheron Data Center
 Rowan Percheron, LLC Morrow
 County, Oregon

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Drawn By: matt.bowen



- Project Parcel
- Project Footprint
- Farm Conservation Area
- 250 ft Farm Conservation Area Buffer
- Surveyed Stream Boundary
- Surveyed Wetland Boundary
- FEMA Special Flood Hazard Zone A (1% Annual Chance Flood)

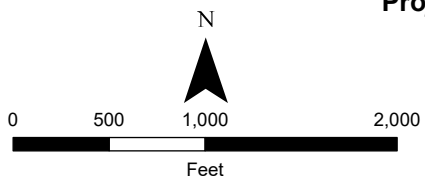
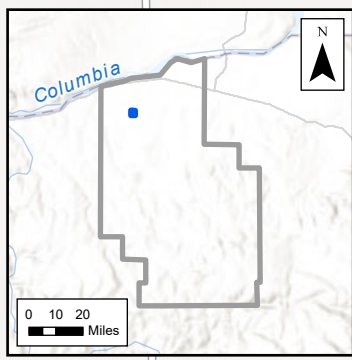


Figure 4
Project Area and Key Site Features
 Percheron Data Center
 Rowan Percheron, LLC
 Morrow County, Oregon

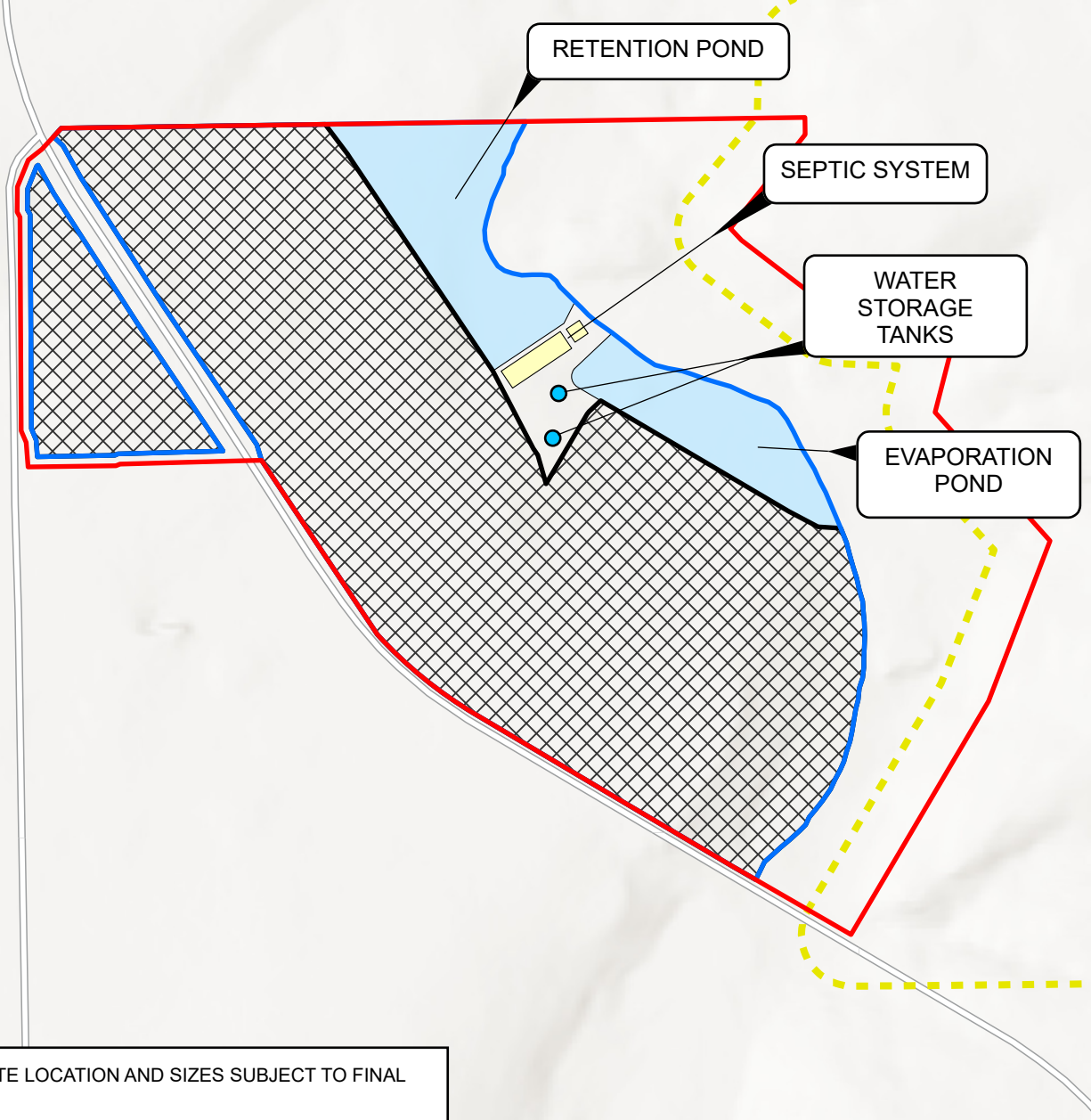
Source: NAIP 2020; NAD 1983 2011 StatePlane Oregon North FIPS 3601 Ft Intl

M:\US\Projects\P-R\Rowan Green Data\0640978 Percheron Threemile Canyon\Maps\Percheron Data Center Figures_20230516_gb.aprx\Figure 5_ REVISED: 05/16/2023 SCALE: 1:10,000 when printed at 8.5x11

Drawn By: matt.bowen



Conceptual Example Layout



*APPROXIMATE LOCATION AND SIZES SUBJECT TO FINAL DESIGN.

- Project Footprint
- Project Parcel
- Pond
- Water Storage Tanks
- Septic System
- Proposed Data Center Buildings and Electrical Infrastructure
- 250 ft Farm Conservation Area Buffer

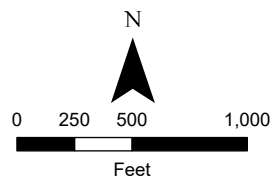


Figure 5
Preliminary Project Layout
Percheron Data Center
Rowan Percheron, LLC
Morrow County, Oregon

Source: Esri - World Imagery; NAD 1983 CORS96 StatePlane Oregon North FIPS 3601 Ft Intl

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