REQUEST: To update certain portions of the Morrow County Zoning Ordinance (MCZO) related to farm and forest resource zones, bringing them into compliance with Oregon Revised Statute (ORS) and Oregon Administrative Rule (OAR). This update will also allow the addition of ancillary uses related to agritourism and guest ranches in accordance with recently adopted policies of the Economic Element of the Comprehensive Plan. More specifically the Exclusive Farm Use (EFU) and Forest Use (FU) Zones of the Zoning Ordinance are proposed for amendment reflecting ORS, OAR and other discretionary requirements. A map amendment is also being proposed to rezone the Small Farm (SF-40) use zone to EFU to better represent the uses allowed. This amendment affects all areas of Morrow County currently zoned EFU, Small Farm and FU.

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

OWNER: Multiple (notice lists are on file in the Planning Department)

LOCATION: All lands zoned for farm or forest use in Morrow County as depicted on the attached maps

BACKGROUND INFORMATION AND PROCESS:
Planning staff have for many years recognized that the farm and forest use zones of the Morrow County Zoning Ordinance where not in compliance or consistent with Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR) governing allowed and conditional uses. While allowed uses could be applied directly from ORS, discretionary uses are not available to applicants until such time that the county amends their development code to make those provisions available, which limited many economic opportunities for Morrow County landowners, particularly in relation to more recently available agritourism opportunities.

Several years ago the Department of Land Conservation and Development (DLCD) worked with planners from around the state to create a model code for farm and forest use zones; Morrow County participated in that original work. This biennium Morrow County committed to the DLCD to use the model code and work with DLCD and consultant staff to implement the model code, concluding the work with public hearings working towards adoption. Since last fall Planning staff have worked with the Planning Commission on definitions and purpose statements for the various affected use zones, then more recently worked through the model code to gain an understanding of the opportunities. Discussion with the Planning Commission also resulted in the proposal to replace the Small Farm provisions with the EFU zone; this was determined after discussion that the Small Farm provisions do not create 40 acre parcel opportunities and that the provisions are identical to the EFU zone.
More specifically this action will amend the MCZO Article 1 Introductory Provisions to address definitions specific to farm and forest uses; Article 3 Use Zones Section 3.010 EFU and Article 3 Use Zones Section 3.020 FU using the model code to incorporate both allowed and discretionary uses as defined in both ORS and OAR, and incorporating health and safety measures; Article 6 Conditional Uses to address standards for how uses are reviewed; and Article 7 Dimensional Adjustment, Variances, Special or Temporary Use Permits, and Non-Conforming Uses to address hardship variance standards necessary in farm and forest use zones. The proposed amendments incorporate mandatory elements of ORS and OAR that regulate land use, land divisions and standards into the county’s farm and forest zones. A portion of this action will also eliminate Article 3 Use Zones Section 3.042 Small Farm, applying the EFU zone to those lands, requiring a map amendment to do so. This change in zone designation is intended to create better clarity for the public and affected land owners of the uses allowed within the affected area.

A summary of the proposed changes include:

• Adding and modifying definitions that apply to land use, farm use, development standards, building specifications, and agricultural and equine structures to improve and update the MCZO.
• Updating procedures addressing permit approval criteria and similar use determinations. Also more clearly defining how dwellings are approved on farm land.
• Revising conditional use permit review criteria in the EFU and FU zones, and adding hardship variances to the list of conditional uses in the EFU and FU zones.
• Creating opportunities to allow guest ranches, agritourism and commercial events on agricultural lands as defined in ORS and OAR.
• Modifying and updating farm stand, home occupation, land dimension and site development standards.
• Clarifying land division and parcel creation criteria in EFU and FU zones.

Notice was mailed to all EFU, Small Farm and FU zoned property owners who may be impacted by these proposed amendments. The notice applies to any lands owned within any of those three use zones. Notice has and will be published in the East Oregonian and Heppner Gazette at least 10 days prior to each public hearing in front of the Planning Commission or Board of Commissioners. Notice of future public hearings will be mailed or emailed only to those individuals who submit written comments or oral testimony as part of the initial Planning Commission hearing or who otherwise request future notification.

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

A. The local conditions have changed and would warrant a change in the zoning of the subject property(ies).
This farm and forest use model code update incorporates current non-discretionary uses as outlined in ORS and OAR into the EFU and FU portions of the MCZO. This criterion requires an evaluation of changing local conditions, which Planning staff would argue have not changed. But the ORS and OAR that govern farm and forest uses have.

Part of this proposal is also to apply the EFU zone to land currently identified as Small Farm. While this is an amendment to the Zoning Map, it does not change the Comprehensive Plan Map as the designation is still ‘agricultural.’ The current Small Farm use zone is identical to the EFU zone, the only substantive change being the title. The Purpose statement of the current Small Farm use zone states the following, “Although the Small Farm zone was acknowledged as an SF-40 Zone with a 40 acre minimum lot size in the County’s Comprehensive Plan in 1985, ORS passed subsequently by the Oregon Legislature require the minimum lot size in all SF-40 Zone to be 80 acres.” As the updated EFU zone will include an 80 acre minimum parcel size there will be no differences in acknowledged uses. For convenience and clarity the Planning Commission chose to move to the hearings process with a proposed change to the Zoning Map from Small Farm to EFU.

B. The public services and facilities are sufficient to support a change in designation including, but not limited to, water availability relevant to both quantity and quality, waste and storm water management, other public services, and streets and roads.

1. Amendments to the zoning ordinance or zone changes which significantly affect a transportation facility shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
   a. Limiting allowed land uses to be consistent with the planned function of the transportation facility or roadway;
   b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
   c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel to meet needs through other modes.

There is no change to the Comprehensive Plan designation and all of the lands continue to be resource lands. This action would allow new uses, but those uses are identified within the ORS and OAR structure. Some of the new allowed uses under the agritourism framework do include a review for traffic impacts that would address traffic or other transportation impacts. Most of the changes to the farm and forest use zones would not increase traffic or create impacts to warrant a review under this section.

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

See above 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.

During the recent update of the Economic Element the Planning Commission identified that tourism should be included as an economic opportunity for Morrow County communities and the agricultural community. To see this economic opportunity implemented the agritourism provisions available within ORS are fully incorporated into the proposed EFU provisions. Additional changes in support are found in Article 1 Introductory Provisions Section 1.030 Definitions and Article 6 Conditional Uses.

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

As part of the discretionary provisions incorporated within the proposed changes public health and welfare requirements have been included. Most are found related to the agritourism provisions and other opportunities that would have transportation, sanitation or security impacts.

III DLCD 35 DAY NOTICE: March 20, 2017

IV PROPERTY OWNER NOTICE: May 10, 2017

V LEGAL NOTICE: Heppner Gazette Times and East-Oregonian May 10, 2017

VI AGENCIES NOTIFIED: Jon Jinnings, Scott Edelman, Tim Murphy and Tabatha Hoge, Department of Land Conservation and Development; Jim Johnson, Oregon Department of Agriculture; Travis Medema, Oregon Department of Forestry; Lori Seitz, United States Forest Service; Teresa Penninger and Marilyn Holt, Oregon Department of Transportation; Mike Gorman, Morrow County Assessor’s Office

VII HEARING DATES:
Planning Commission
May 30, 2017
Morrow County Bartholomew Building
Heppner, Oregon
IX RECOMMENDATION: The Planning Department recommends that the Planning Commission recommend to the Morrow County Board of Commissioners adoption of the amended portions of the Morrow County Zoning Ordinance (Article 1 Introductory Provisions, Article 3 Use Zones Section 3.010 Exclusive Farm Use, Article 3 Use Zones Section 3.020 Forest Use, Article 6 Conditional Uses, and Article 7 Dimensional Adjustments, Variances, Special or Temporary Use Permits, and Non-Conforming Uses) and the Zoning Map amendment changing the Small Farm use zone to Exclusive Farm Use.

Attachments:
- Vicinity Maps (2) Identifying Exclusive Farm Use, Forest Use and Small Farm use zones; the Small Farm map depicts the area subject to the Zoning Map Amendment
- Article 1 Introductory Provisions
- Article 3 Use Zones Section 3.010 Exclusive Farm Use
- Article 3 Use Zones Section 3.020 Forest Use
- Article 6 Conditional Uses
- Article 7 Dimensional Adjustments, Variances, Special or Temporary Use Permits, and Non-Conforming Uses