



PLANNING DEPARTMENT

P.O. Box 40 • Irrigon, Oregon 97844
(541) 922-4624 or (541) 676-9061 x 5503
FAX: (541) 922-34

AGENDA

Morrow County Planning Commission
Tuesday, January 19, 2021 7:00 pm
Bartholomew Building
Heppner, Oregon

See Electronic Meeting Information on Page 3

Members of Commission

Jeff Wenholz, Chair
Stacie Ekstrom
Greg Sweek

Mifflin Devin, Vice Chair
Wayne Seitz
Rod Taylor

Stanley Anderson
Karl Smith
Brian Thompson

Members of Staff

Tamra Mabbott, Planning Director
Stephen Wrecsics, GIS Planning Tech
Dianna Strong, Office Assistant

Stephanie Case, Planner II
Justin Nelson, County Counsel
Gregg Zody, Community Development Director

1. Call to Order
2. Roll Call
3. Pledge of Allegiance: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands: one nation under God, indivisible with liberty and justice for all."
4. Minutes: December 8, 2020
5. Public Hearings to begin at 7:00 pm (COMMISSION ACTION REQUIRED):

Land Partition LP-N-488-21: Darrell Gale, Applicant and Owner. The property is described as tax lot 1801 of Assessor's Map 5N 26E 25A. The property is zoned Suburban Residential (SR) and located West of the City of Irrigon on South 1st Street inside the Irrigon Urban Growth Boundary (UGB). Request is to partition a 2-acre parcel to create 2 parcels. Criteria for approval includes the Morrow County Zoning Ordinance (MCZO) Article 3 Section 3.050 Suburban Residential Zone and Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning. [Pages 1-6](#)

Land Partition LP-N-490-21 and Replat R-N-062-21: Port of Morrow Applicant and Owner. The property is described as tax lot 100 of Assessor's Map 4N 25E 01. The property is zoned Port Industrial (PI) and located approximately 2-miles east of Boardman within the Port of Morrow. Request is to partition a 555-acre parcel to create two parcels. Criteria for approval includes the Morrow County Zoning Ordinance Article 3 Section 3.073 Port Industrial and Morrow County Subdivision Ordinance Article 5 Land Partitioning. [Pages 7-13](#)

Land Partition LP-S-491-21: Port of Morrow Applicant and Owner. The property is described as tax lot 300 of Assessor's Map 2S 26E 21. The property is zoned General Industrial (MG) and located approximately 1-miles NW of Heppner along Highway 74. Request is to partition a 29-acre parcel to create two parcels. Criteria for approval includes the Morrow County Zoning Ordinance Article 3 Section 3.070 General Industrial and Morrow County Subdivision Ordinance Article 5 Land Partitioning. [Pp 14-19](#)

Land Partition LP-S-492-21 and Replat R-S-061-21: Port of Morrow Applicant and Owner. The property is described as tax lot 800 of Assessor's Map 2S 26E 21. The property is zoned General Industrial (MG) and located approximately 1-miles NW of Heppner along Highway 74. Request is to partition an 85-acre parcel to create two parcels. Criteria for approval includes the Morrow County Zoning Ordinance Article 3 Section 3.070 General Industrial and Morrow County Subdivision Ordinance Article 5 Land Partitioning. [Pages 20-26](#)

Replat R-N-060-21: Port of Morrow Applicant and Owner. The property is described as tax lots 102, 103, and 104 of Assessor's Map 4N 26E 06. The property is zoned Port Industrial (PI) and located approximately 2-miles east of Boardman within the Port of Morrow. Request is to reconfigure a portion of Partition Plats 2012-06 and 2011-19. Criteria for approval includes the Morrow County Zoning Ordinance Article 3 Section 3.073 Port Industrial and Morrow County Subdivision Ordinance Article 5 Land Partitioning. [Pages 27-30](#)

Conditional Use Permit CUP-N-344-21: Dan Schoenfelder, Applicant and Marilyn Schiller, Owner. The property is described as tax lot 1600 of Assessor's Map 1N 27 24. The property is zoned Exclusive Farm Use (EFU) and located 3.5 miles east of Pine City on the north side of Big Buttercreek Road. Request is to allow the crushing, screening, stockpiling and hauling of aggregate materials produced from the adjacent quarry. Criteria for approval includes MCZO Article 6 Section 6.020 – 6.040 and 6.050(I). [Pages 31-41](#)

Land Use Decision LUD-S-30-21: Jerald Schmelling, Applicant and Owner. The property is described as tax lot 1500 of Assessor's Map 5S 28 22A. The property is zoned Forest Use (FU) and located southeast of Heppner near Penland Lane. Request is to authorize a forest template dwelling. Criteria for approval includes MCZO Article 3 Section 3.020 Forest Use Zone. [Pages 42-53](#)

AZ-134-20 Zoning Ordinance Amendment. Morrow County, Proponent. This action is to update Article 3 of the MCZO for the purpose of creating a Rural Residential 10-Acre Zone (RR10). The criteria for approval are found in MCZO Article 8, Statewide Planning Goal 10 Housing, Oregon Administrative Rule Chapter 660 Division 8. This is the second of at least three public hearings with the final hearing before the Board of Commissioners. [Pages 54-60](#)

6. Correspondence
7. Public Comment
8. Adjourn

Next Meeting

February 23, 2021 at 7:00 p.m. Location: TBA

ELECTRONIC MEETING INFORMATION:

Morrow County Planning is inviting you to a scheduled Zoom meeting. Join Zoom Meeting.
<https://zoom.us/j/98816386407?pwd=ZW14TkM2LzBhbFZGQzIIS1hudGJ0UT09>

Meeting ID: 988 1638 6407 **Password:** 97844

One tap mobile:

+12532158782,,98816386407#,,,,*97844# US (Tacoma)
+13462487799,,98816386407#,,,,*97844# US (Houston)

Zoom Call-In Numbers for Audio Only:

+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 669 900 9128 US (San Jose)
+1 301 715 8592 US (Washington D.C)
+1 312 626 6799 US (Chicago)
+1 646 558 8656 US (New York)

Meeting ID: 988 1638 6407

Find your local number: <https://zoom.us/u/aqQZiI39m>

Should you have any issues connecting to the call please call 541-922-4624 or email Tamra Mabbott at tmabbott@co.morrow.or.us

This is a public meeting of the Morrow County Planning Commission, and may be attended by a quorum of the Morrow County Board of Commissioners. Interested members of the public are invited to attend. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours before the meeting to Tamra Mabbott at (541) 922-4624, or by email at tmabbott@co.morrow.or.us.

**PRELIMINARY FINDINGS OF FACT
LAND PARTITION REQUEST
LP-N-488-21**

REQUEST: To partition a 2-acre property into two parcels.

APPLICANT/OWNER: Darrell Gale
510 S. First Street
Irrigon, OR 97844

PROPERTY DESCRIPTION: Tax Lot 1801 of Assessor's Map 5N 26E 25A

PROPERTY LOCATION: West of the City of Irrigon on South First Street.

FINDINGS OF FACT:

I. BACKGROUND INFORMATION:

The subject parcel is zoned Suburban Residential and is located inside of the Irrigon Urban Growth Boundary (UGB). The subject property has an existing dwelling and is currently being used for residential purposes. The applicant is proposing to create two parcels, each 1 acre for residential development.

II APPROVAL CRITERIA:

Morrow County Subdivision Ordinance Article 5 Land Partitions will apply. Criteria are listed below in **bold type**, followed by a response in standard type.

MORROW COUNTY SUBDIVISION ORDINANCE ARTICLE 5 LAND PARTITIONS SECTION 5.030. REQUIREMENTS FOR APPROVAL. No application for partitioning shall be approved unless the following requirements are met:

1. Proposal is in compliance with the County and affected City Comprehensive Plan and applicable Zoning.

The proposed land partition meets the requirements of the Zoning Ordinance and Comprehensive Plan relative to minimum parcel size. The applicant will need to submit both a preliminary and final partition plat to be in compliance with this Article and ORS Chapter 92. This is recommended and listed as a Condition of Approval.

2. Each parcel is suited for the use intended or offered; including, but not limited to, sewage disposal approval and guaranteed access.

The applicant has proposed two parcels in the Suburban Residential Zone; each proposed parcel is of an adequate size to satisfy the 1-acre minimum size for this zone in the Urban Growth Boundary. The applicant has indicated that the future intended use for both proposed parcels is residential in nature. Access for proposed parcel 2 is along South First Street at an existing access point previously approved. Access for proposed parcel 1 will be via an easement across a portion of proposed parcel 2. It is recommended and listed as a Condition of Approval that all easements, existing or proposed, be shown on the Final Partition Plat.

To ensure buildability of each parcel, proposed parcel 2 will need to obtain site suitability from Umatilla County Health (Uco. Health). This is recommended and listed as a Condition of Approval. Based on comments from Umatilla County Public Health, it is also listed as a condition of approval that the applicant provide documentation of the location of the existing septic system to ensure that the existing system does not bisect the new property boundaries.

3. **All required public service and facilities are available and adequate or are proposed to be provided by the partitioner.**
Electricity and telephone services are available in the area, the applicant will need to work with local providers for future service. No other public services or facilities are available.
4. **Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities.**
The current parcel is residential and surrounding uses are residential in nature, this action will not prevent the proposed or surrounding parcels to continue to be used as such. The proposal will not have any identifiable adverse impacts on public services or natural resources of the area. Planning staff would find this criterion met.
5. **An approved water rights diversion plan as applicable.**
Preliminary Findings of Fact were referred to the County Watermaster and Oregon Water Resources Department (OWRD). It is recommended that the applicant comply with any recommendations of the County Watermaster and OWRD based on this review.
6. **Flag lots will not be permitted when the results would be to increase the number of properties requiring direct and individual access from a State Highway or other arterial. Flag lots may be permitted to achieve planning objectives under the following conditions:**
 - a. **When flag lot driveways are separated by at least twice the minimum frontage distance.**
 - b. **The driveway must meet driveway standards described in Article 8, Section 8.020.V.**
 - c. **The lot meets the minimum lot area of the zoning district, without including the driveway.**
 - d. **Only one flag lot shall be permitted per private right-of-way or access easement.**
This provision does not apply as no flag lots are proposed.
7. **The depth of any lot will not be restricted as long as a buildable parcel is proposed.**
The application meets this criterion as buildable parcels are being proposed, each at 1 acre in size. All proposed parcels would meet the minimum acreage for the SR zone in the Irrigon Urban Growth Boundary. It should be noted that the property would not be eligible for further division unless annexed into the City of Irrigon.
8. **No plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company will be approved unless the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.**

The applicant should be aware that this property is located in an area designated for water quality concerns by the Oregon Department of Environmental Quality. The subject property is in the Lower Umatilla Basin Groundwater Management Area (LUBGWMA). The Department of Environmental Quality designated the LUBGWMA in 1990 due to elevated nitrate concentrations in groundwater. It is recommended that wells used for drinking water be tested at least annually to determine nitrate concentrations. More information about the LUBGWMA can be found at <http://www.oregon.gov/deq/wq/programs/Pages/GWP-Management-Areas.aspx>

This property is within the West Extension Irrigation District (WEID) and were provided a notice of this proposal. The applicant will need to provide information about how water rights will be conveyed to the new parcel in the future any easement requirements of WEID. This is recommended and listed as a condition of approval.

9. **The Commission will deny an application for partitioning when it can be shown by the Commission that the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern creating more than three (3) parcels without subdividing.** This provision does not apply to this application as no more than 3 parcels are currently being proposed.
10. **In addition to the requirements set forth above, the following factors may be considered for approval or disapproval of an application for land partitioning is a geographical or other factor identified by other, appropriate professionals or Plans such as the requirements of the Comprehensive Plan, FEMA requirements, Byways rules, etc., requires it:**
 - a. **Placement and availability of utilities.**
 - b. **Safety from fire, flood and other natural hazards.**
 - c. **The same improvements may be required for a partitioning as required of a subdivision, if required it will be installed by the applicant.**
 - d. **Possible effects on natural, scenic and historical resources.**
 - e. **Need for onsite or offsite improvements.**
 - f. **Need for additional setback, screening, landscaping and other requirements relative to the protection of adjoining and area land uses. If the proposed partition is located within an Urban Growth Boundary, the affected city must be given notice according to the respective Joint Management agreement.**
 - g. **In the approval of a land partition, the need for street and other improvements will be considered and may be required as a Condition of Approval at a different standard than for a subdivision.**

Planning staff would not recommend any additional requirements based on the factors above.

III LEGAL NOTICE PUBLISHED: December 29, 2020
East Oregonian

December 30, 2020
Heppner Gazette-Times

IV AGENCIES NOTIFIED: Greg Silbernagel, Watermaster; Beverly Bridgewater, WEID; Larry Burns, Irrigon Rural Fire Protection District; Justin Nelson, Morrow County Counsel; Mike Gorman, Morrow County Assessor; Aaron Palmquist, City of Irrigon; Stephen Haddock and Matt Kenny, Morrow County Surveyor; Rosanne Godinez Sanchez, Umatilla County Public Health.

V PROPERTY OWNERS NOTIFIED: December 30, 2020

VI HEARING DATE: January 19, 2021
Morrow County Bartholomew Building
Heppner, Oregon

VII PLANNING COMMISSION ACTION: Staff recommend approval subject to the following **Precedent Conditions of Approval**. These conditions must be completed before the Planning Director may sign the final partition plat or before the land may be deeded to a third party.

1. Submit both a preliminary and final partition plat to be in compliance with Article 5 of the Morrow County Subdivision Ordinance and ORS Chapter 92.
2. All easements, existing or proposed, be shown on the Final Partition Plat.
3. Obtain site-suitability from Umatilla County Health for Proposed Parcel 2.
4. Provide documentation of the location of the existing septic system to ensure that the existing system does not bisect the new property boundaries.
5. The applicant will need to provide information about how water rights will be conveyed to the new parcel in the future any easement requirements of West Extension Irrigation District (WEID).

Jeff Wenzholz, Chair

Date

ATTACHMENTS:
Vicinity Map
Preliminary Plan

Vicinity Map

CALIFORNIA AVE

FIRST ST

City of Irrigon

WYOMING AVE

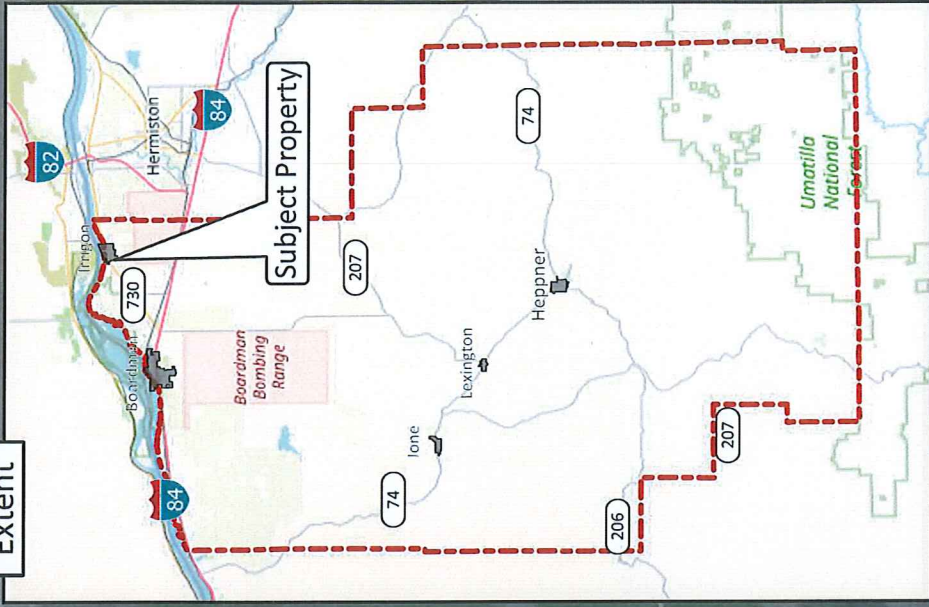
300

1801

Scale

0 100 200 Feet

Extent



Subject Property

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LP-N-488-20

Darrell Gale

5N 26E 25A TL1801

Legend

Tax Lots

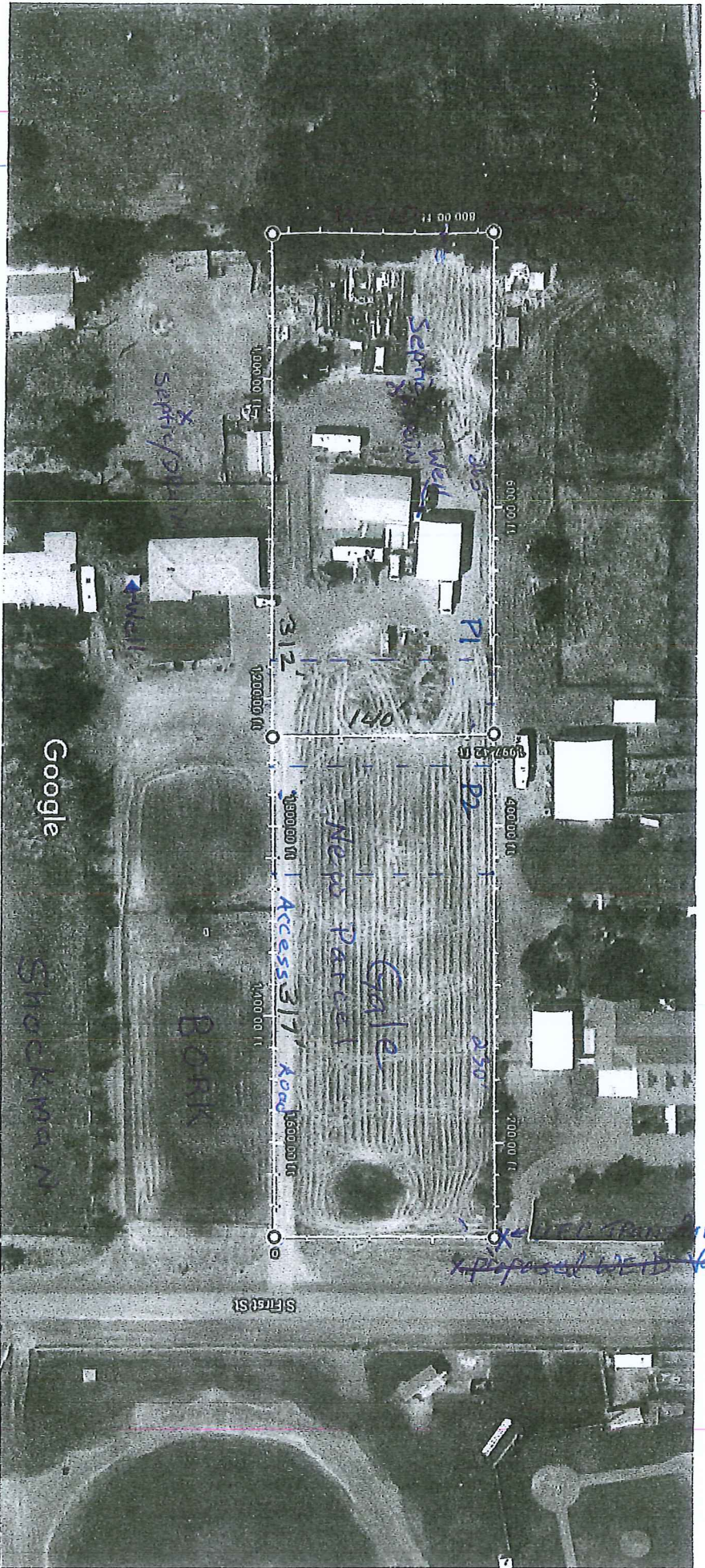
Subject Parcel



Date Saved: 12/17/2020 10:32

Cartography By: Stephen Wreccics
 Morrow County Planning Department
 Coordinate System: NAD83 Oregon GIC Lambert ft
 Datum: North American 1983
 Projection: Lambert Conformal Conic
 File: S:\Planning\land parcel\12020\LP-N-488-20 Gak(25)

5/60
N



Imagery ©2019 Google, Imagery ©2019 Maxar Technologies, State of Oregon, Map data ©2019

50 ft

Measure distance

Total distance: 1,997.42 ft (608.81 m)

140 x 630 = 88,200 / 2.02 Ac

**PRELIMINARY FINDINGS OF FACT
LAND PARTITION/REPLAT REQUEST
LP-N-490-21
R-N-062-21**

REQUEST: To partition an approximate 555-acre parcel to create two parcels.

APPLICANTS: Port of Morrow
P.O. Box 200
Boardman, Oregon 97818

OWNERS: Port of Morrow
P.O. Box 200
Boardman, Oregon 97818

PROPERTY DESCRIPTION: Tax Lot 100 of Assessor's Map 4N 25E 01

PROPERTY LOCATION: Approximately 2-miles east of Boardman within the Port of Morrow, fronting Lewis and Clark Drive.

I. GENERAL INFORMATION:

The subject parcel is zoned Port Industrial (PI) and is outside the Boardman Urban Growth Boundary. This proposed replat is to partition Parcel 1 of Partition Plat (PP) 2008-8 into two parcels to facilitate industrial development.

- II. APPROVAL CRITERIA:** The applicant has filed under the Morrow County Subdivision Ordinance, ARTICLE 5, LAND PARTITIONS. Section 5.030 REQUIREMENTS FOR APPROVAL and Section 5.075 REPLATTING both apply. The criteria are listed below in **bold type**, followed by a response in standard type:

SECTION 5.030 REQUIREMENTS FOR APPROVAL. No application for partitioning will be approved unless the following requirements are met:

- 1. Proposal is in compliance with ORS 92 and the County and affected City Comprehensive Plan and applicable Zoning.**

The PI use zone does not have defined minimum parcel sizes. The City of Boardman is to the west of the subject property and the subject property is outside of the Urban Growth Boundary therefore no city plans apply. To comply with ORS 92, which governs partitioning, it is recommended and listed as a Condition of Approval, that the applicant submit a preliminary and final Partition Plat.

- 2. Each parcel is suited for the use intended or offered; including but not limited to, size of the parcels, topography, sewage disposal approval and guaranteed access. Proof of access must show that each parcel has an easement sufficient for continued ingress and egress to a public, county or state highway or has a deeded access way.**

The subject parcels are of a size and shape to facilitate development consistent with the PI use zone. The topography of the land is flat and suited for the

proposed use. Proposed Parcel 1 will be 543-acres more or less. Parcel 2 will be 12-acres more or less. Water, waste water and any process water services are provided by the Port of Morrow.

Proposed Parcel 1 has access available from Lewis and Clark Drive, Gar Swanson, and Columbia Lane. Proposed Parcel 2 has approximately 824' frontage along Lewis and Clark Drive and planning staff would find this distance sufficient for access. County site distance requirements would be applied, however, as Lewis and Clark Drive is a POM owned road, all access permits will need to be acquired from the Port.

3. **All required public service and facilities are available and adequate.** Utilities are available to both parcels along Lewis and Clark Drive. The subject property is within the Boardman Rural Fire Protection District. A copy of the Preliminary Findings of Fact will be provided to appropriate agencies for review.
4. **Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities.**
The proposed use is industrial in nature and surrounding parcels are zoned for industrial use. Planning staff would not find that application, if approved, would have any adverse impacts on adjoining properties.

The applicant should be aware that this property is located in an area designated for water quality concerns by the Oregon Department of Environmental Quality. The subject property is in the Lower Umatilla Basin Groundwater Management Area (LUBGWMA). The Department of Environmental Quality designated the LUBGWMA in 1990 due to elevated nitrate concentrations in groundwater. It is recommended that wells used for drinking water be tested at least annually to determine nitrate concentrations. More information about the LUBGWMA can be found at <http://www.oregon.gov/deq/wq/programs/Pages/GWP-Management-Areas.aspx>

5. **An approved water rights diversion plan as applicable.**
The Preliminary Findings of Fact were provided to the County Watermaster; however, the subject property will be served by Port of Morrow Municipal Systems.
6. **Flag lots will not be permitted when the results would be to increase the number of properties requiring direct and individual access from a State Highway or other arterial. Flag lots may be permitted to achieve planning objectives under the following conditions:**
 - a. **When flag lot driveways are separated by at least twice the minimum frontage distance.**
 - b. **The driveway must meet driveway standards described in Article 8, Section 8.020.V.**
 - c. **The lot meets the minimum lot area of the zoning district, without including the driveway.**
 - d. **Only one flag lot shall be permitted per private right-of-way or access easement.**
No flag lots are proposed. Therefore, these criteria are not applicable.
7. **The depth of any lot will not be restricted as long as a buildable parcel is proposed.**

- The subject parcel sizes are sufficient for development of industrial uses and buildable parcels are proposed. The application meets this requirement.
8. **No plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company will be approved unless the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.**
This criterion does not apply as the subject property is not located within an irrigation district, drainage district, water control district, water improvement district or district improvement company.
9. **The Commission will deny an application for partitioning when it can be shown by the Commission that the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern creating more than three (3) parcels without subdividing.**
This provision does not apply to this application. Since the subject properties are zoned for industrial uses, ORS 92.325(3)(e) exempts Subdivision and Series Partition Control Law from these lands.
10. **In addition to the requirements set forth above, the following factors may be considered for approval or disapproval of an application for land partitioning is a geographical or other factor identified by other, appropriate professionals or Plans such as the requirements of the Comprehensive Plan, FEMA requirements, Byways rules, etc., requires it:**
- a. **Placement and availability of utilities.**
 - b. **Safety from fire, flood and other natural hazards.**
 - c. **The same improvements may be required for a partitioning as required of a subdivision, if required it will be installed by the applicant.**
 - d. **Possible effects on natural, scenic and historical resources.**
 - e. **Need for onsite or offsite improvements.**
 - f. **Need for additional setback, screening, landscaping and other requirements relative to the protection of adjoining and area land uses. If the proposed partition is located within an Urban Growth Boundary, the affected city must be given notice according to the respective Joint Management agreement.**
 - g. **In the approval of a land partition, the need for street and other improvements will be considered and may be required as a Condition of Approval at a different standard than for a subdivision. Planning staff would not add any additional Conditions of Approval based upon these criteria.**

SECTION 5.075. REPLATTING. A reconfiguration of a recorded subdivision or partition plat or a change in the number of lots in the subdivision or partition may be approved by the Planning Commission or as defined in ORS 92.180. Replats will act to vacate the platted lots or parcels and easements within the replat area with the following conditions:

1. A replat will apply only to a recorded plat.

A replat is required as the applicant is proposing to partition Parcel 1 of Partition Plat 2008-8.

2. Notice shall be provided when the replat is replatting all of an undeveloped subdivision as defined in ORS 92.225.

This provision does not apply as this is not a replat of an undeveloped subdivision. Notice was provided under the requirements of a Land Partition.

3. Notice shall be provided to the owners of property adjacent to the exterior boundaries of the tentative subdivision replat.

Adjoining property owners notice was provided on December 30, 2020.

4. When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified, consistent with a governing body's notice to owners of property contiguous to the proposed plat. Any utility company that desires to maintain an easement subject to vacation under this section must notify the Planning Department in writing within 14 days of the mailing or other service of the notice.

No changes to utility easements are proposed. This replat is at the request of the applicant.

5. A replat will not serve to vacate any public street or road.

No streets or roads are proposed to be vacated.

6. A replat will comply with all subdivision provisions of this Article and all applicable Ordinances.

See Land Partition requirements above.

III. LEGAL NOTICE PUBLISHED: December 29, 2020
East-Oregonian

December 30, 2020
Heppner Gazette-Times

IV. AGENCIES NOTIFIED: Matt Scrivner, Public Works Director; Mike Gorman, Morrow County Assessor; Matt Kenny, Morrow County Surveyor; Greg Silbernagle, Watermaster; Mike Hughes, Boardman Rural Fire Protection District; Ryan Neal and Jacob Cain, Port of Morrow.

V. PROPERTY OWNERS NOTIFIED: December 30, 2020

VI. HEARING DATE: January 19, 2021
Bartholomew Building
Heppner, Oregon

VII. ACTION OF THE PLANNING COMMISSION: Planning Department staff recommend approval of the land partition subject to the following Condition of Approval. This precedent condition must be met before the Planning Director may sign the final Partition Plat.

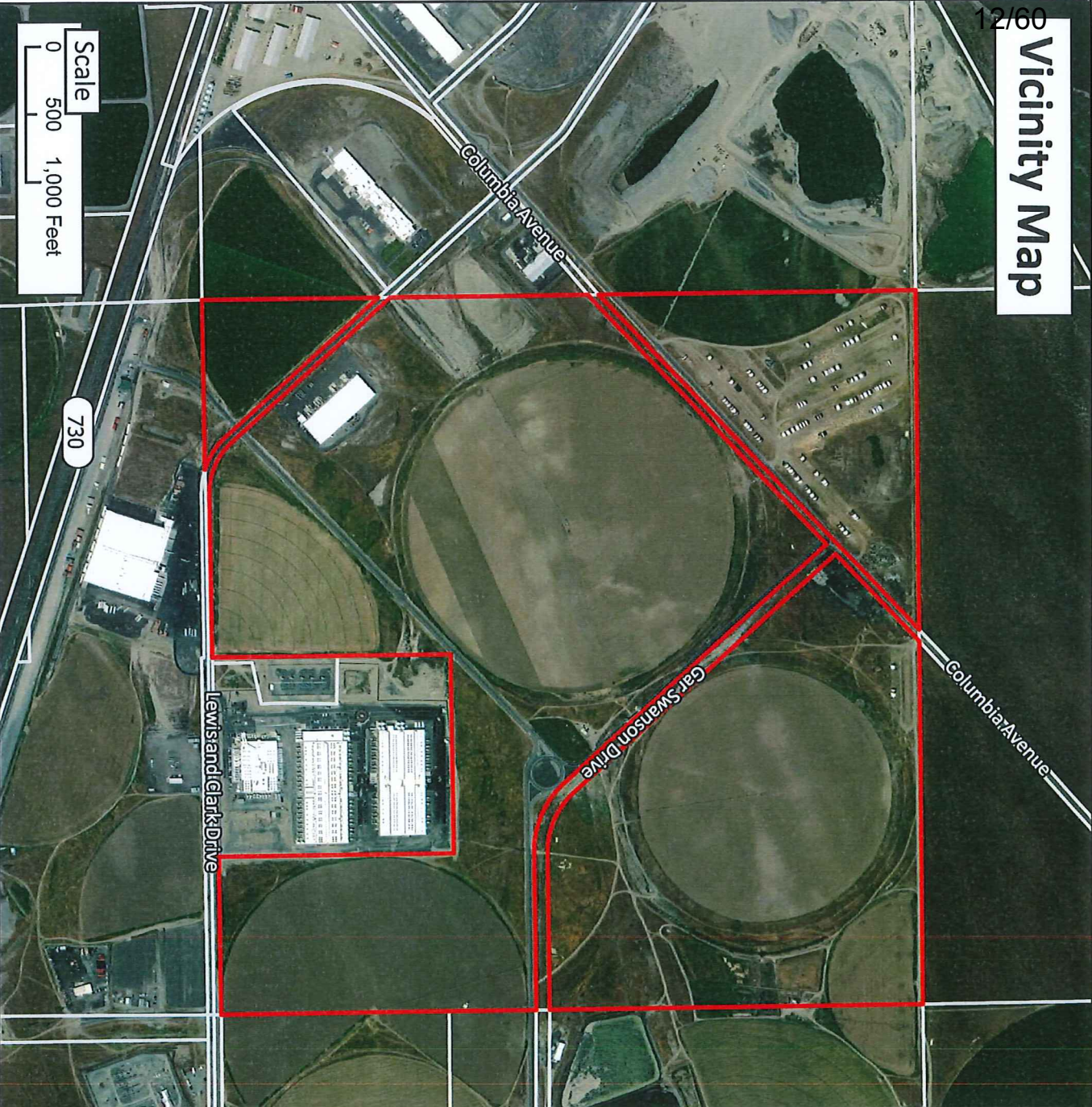
1. Submit both a **preliminary** and final Partition Plat in conformance with Oregon Revised Statute Chapter 92 and the Morrow County Subdivision Ordinance.

Jeff Wenholz, Chair

Date

Attachments:
Vicinity Map
Tentative Plan

Vicinity Map



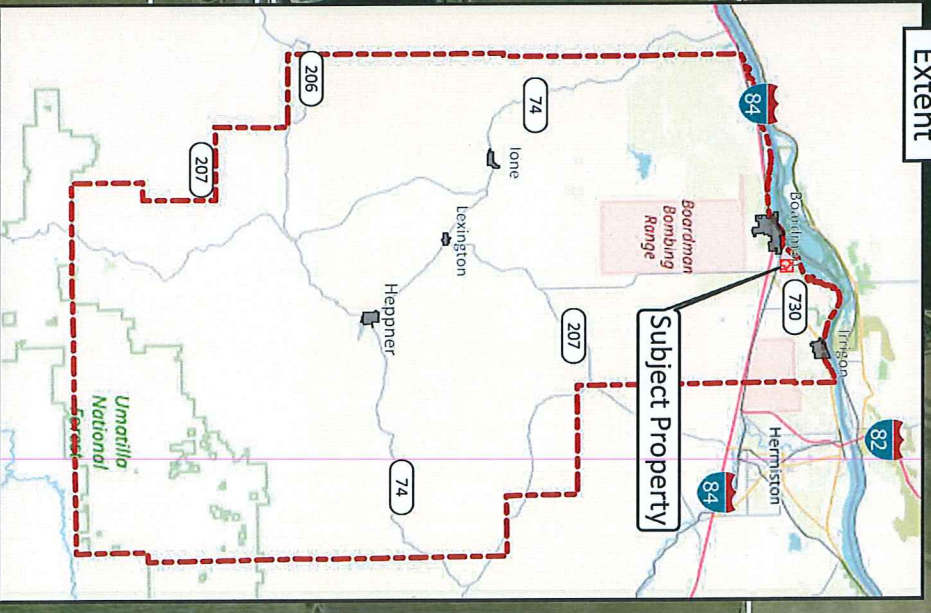
LP-N-490-21
R-N-062-21
 Port of Morrow
 4N 25E 01 TL100

Legend

Tax Lots

Subject Property

Extent



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Date Saved: 12/17/2020 2:20 PM

Cartography By: Stephen Wreccics
 Morrow County Planning Department
 Coordinate System: NAD83 Oregon GIC Lambert ft
 Datum: North American 1983
 Projection: Lambert Conformal Conic
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**PRELIMINARY FINDINGS OF FACT
LAND PARTITION REQUEST
LP-S-491-21**

REQUEST: To partition an approximately 29-acre property into two parcels.

APPLICANT Port of Morrow
P.O. Box 200
Boardman, Oregon 97818

OWNER Port of Morrow
P.O. Box 200
Boardman, Oregon 97818

PROPERTY DESCRIPTION: Tax Lot 300 of Assessor's Map 2S 26E 21

PROPERTY LOCATION: Approximately one-mile Northwest of Heppner City Limits along the north side of Highway 74.

FINDINGS OF FACT:

I. BACKGROUND INFORMATION:

The subject parcel is zoned General Industrial (MG) and is located outside of the Heppner Urban Growth Boundary (UGB). The subject property has existing shop buildings and the Oregon Department of Fish and Wildlife, Heppner Office. The applicant is proposing to create two parcels, with proposed parcel one at approximately 29-acres, and proposed parcel two approximately 0.50-acres in size. Proposed parcel two will contain the existing substation located on tax lot 300.

II APPROVAL CRITERIA:

Morrow County Subdivision Ordinance Article 5 Land Partitions will apply. Criteria are listed below in **bold type**, followed by a response in standard type.

MORROW COUNTY SUBDIVISION ORDINANCE ARTICLE 5 LAND PARTITIONS SECTION 5.030. REQUIREMENTS FOR APPROVAL. No application for partitioning shall be approved unless the following requirements are met:

1. Proposal is in compliance with the County and affected City Comprehensive Plan and applicable Zoning.

The proposed land partition meets the requirements of the Zoning Ordinance and Comprehensive Plan relative to minimum parcel size. The applicant will need to submit both a preliminary and final partition plat to be in compliance with this Article and ORS Chapter 92. This is recommended and listed as a Condition of Approval.

2. Each parcel is suited for the use intended or offered; including, but not limited to, sewage disposal approval and guaranteed access.

The applicant has proposed two parcels in the General Industrial Zone; there is no minimum parcel size in the General Industrial Zone, however, each proposed parcel is of an adequate size to satisfy the proposed use and planning staff would find that each parcel is suited for the use intended for the General

Industrial Zone. Access for proposed parcel 1 will continue to be at the existing Hwy 74 access points previously approved by the Oregon Department of Transportation (ODOT). Access for proposed parcel 2 will be via a 60' access easement across a portion of Tax Lot 300 (also owned by the Applicant) to a proposed access point along Highway 74. It is recommended and listed as a Condition of Approval that the Applicant obtain access approval from ODOT prior to the signing of the Final Partition Plat. It is also recommended and listed as a Condition of Approval that all easements, existing or proposed, be shown on the Final Partition Plat.

A lawfully permitted septic system already exists for proposed parcel one, and with no services being required on proposed parcel two, planning staff would find this requirement satisfied.

3. All required public service and facilities are available and adequate or are proposed to be provided by the partitioner.

Electricity and telephone services are available in the area, Applicant will need to work with local providers for future service requirements. The subject property is within the Heppner Rural Fire Protection District. A copy of the Preliminary Findings of Fact will be provided to appropriate agencies for review.

4. Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities.

The current parcel is zoned General Industrial and surrounding uses are industrial in nature. This action will not prevent the proposed or surrounding parcels to continue to be used as such and will not have any identifiable adverse impacts on public services or natural resources of the area. Planning staff would find this criterion met.

5. An approved water rights diversion plan as applicable.

Preliminary Findings of Fact were referred to the County Watermaster. It is recommended that the applicant comply with any recommendations of the County Watermaster based on this review.

6. Flag lots will not be permitted when the results would be to increase the number of properties requiring direct and individual access from a State Highway or other arterial. Flag lots may be permitted to achieve planning objectives under the following conditions:

- a. When flag lot driveways are separated by at least twice the minimum frontage distance.
- b. The driveway must meet driveway standards described in Article 8, Section 8.020.V.
- c. The lot meets the minimum lot area of the zoning district, without including the driveway.
- d. Only one flag lot shall be permitted per private right-of-way or access easement.

This provision does not apply as no flag lots are proposed.

7. The depth of any lot will not be restricted as long as a buildable parcel is proposed.

See discussion about lot size and minimums above.

8. No plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company will be approved unless the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company

or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.

This criterion does not apply as the subject property is not located within an irrigation district, drainage district, water control district, water improvement district or district improvement company.

9. **The Commission will deny an application for partitioning when it can be shown by the Commission that the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern creating more than three (3) parcels without subdividing.** This provision does not apply to this application. Since the subject properties are zoned for industrial uses, ORS 92.325(3)(e) exempts Subdivision and Series Partition Control Law from these lands.
10. **In addition to the requirements set forth above, the following factors may be considered for approval or disapproval of an application for land partitioning is a geographical or other factor identified by other, appropriate professionals or Plans such as the requirements of the Comprehensive Plan, FEMA requirements, Byways rules, etc., requires it:**
- a. **Placement and availability of utilities.**
 - b. **Safety from fire, flood and other natural hazards.**
 - c. **The same improvements may be required for a partitioning as required of a subdivision, if required it will be installed by the applicant.**
 - d. **Possible effects on natural, scenic and historical resources.**
 - e. **Need for onsite or offsite improvements.**
 - f. **Need for additional setback, screening, landscaping and other requirements relative to the protection of adjoining and area land uses. If the proposed partition is located within an Urban Growth Boundary, the affected city must be given notice according to the respective Joint Management agreement.**
 - g. **In the approval of a land partition, the need for street and other improvements will be considered and may be required as a Condition of Approval at a different standard than for a subdivision.**

Planning staff would not add any additional Conditions of Approval based upon these criteria.

III LEGAL NOTICE PUBLISHED: December 29, 2020
East Oregonian

December 30, 2020
Heppner Gazette-Times

IV AGENCIES NOTIFIED: Greg Silbernagel, Watermaster; Steve Rhea, Heppner Rural Fire Protection District; Justin Nelson, Morrow County Counsel; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director; Stephen Haddock, Morrow County Surveyor; Matt Kenny, Morrow County Surveyor; Teresa Penninger and Thomas Lapp, Oregon Department of Transportation.

V PROPERTY OWNERS NOTIFIED: December 30, 2020

VI HEARING DATE: January 19, 2020
Morrow County Bartholomew Building
Heppner, Oregon 97836

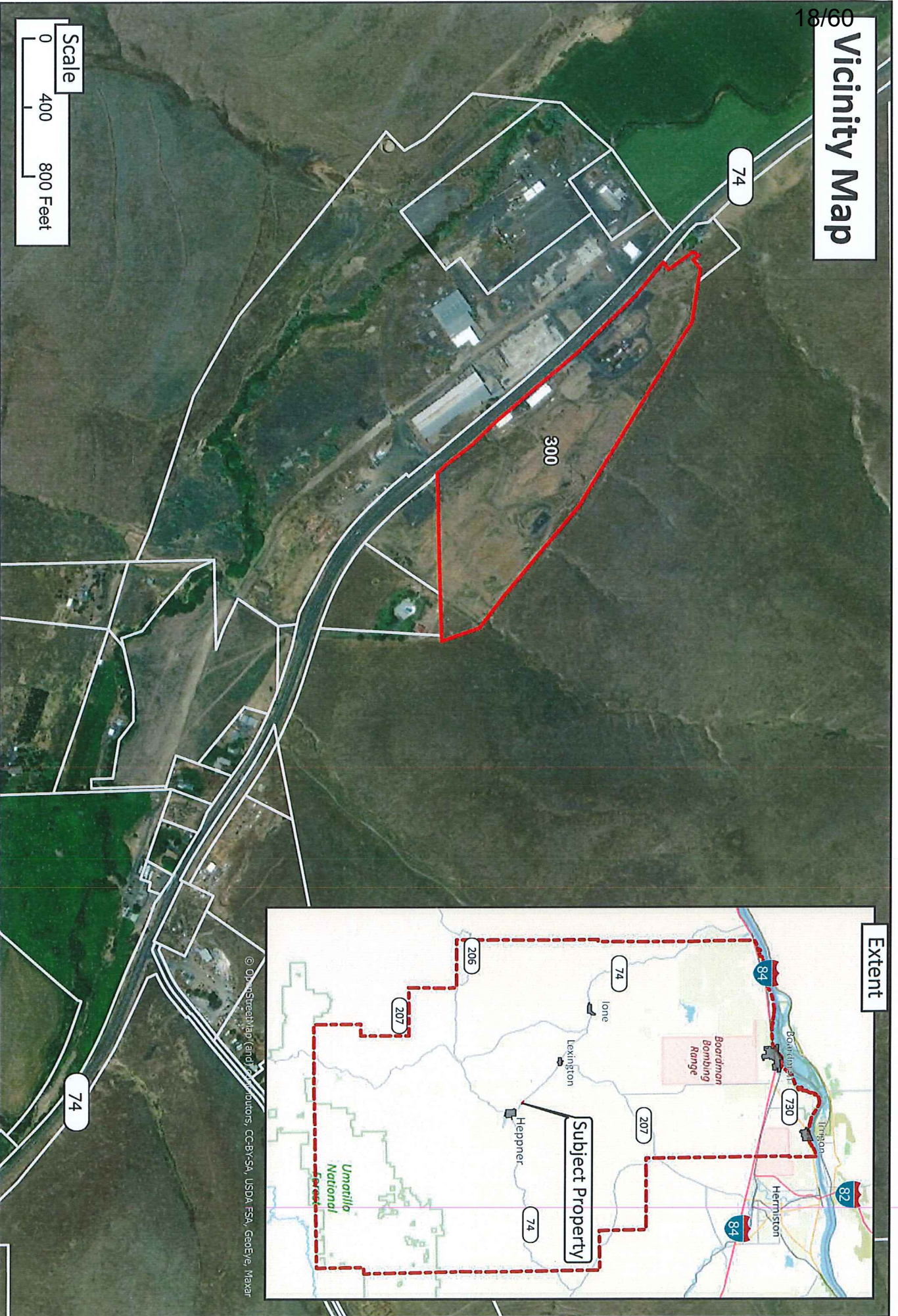
VII PLANNING COMMISSION ACTION: Staff recommend approval subject to the following **Precedent Conditions of Approval**. These conditions must be completed before the Planning Director may sign the final partition plat or before the land may be deeded to a third party.

1. Submit both a preliminary and final partition plat to be in compliance with Article 5 of the Morrow County Subdivision Ordinance and ORS Chapter 92.
2. Obtain ODOT approval for all Access Points.
3. All easements, existing or proposed, to be shown on the Final Partition Plat.

Jeff Wenholz, Chair Date

ATTACHMENTS:
Vicinity Map
Preliminary Plan

Vicinity Map



LP-S-491-21
 Port of Morrow
 2S 26E 21 TL300

Legend

 Tax Lots

 Subject Property

Extent



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Date Saved: 12/22/2020 5:29 PM

Cartography By: Stephen Wrescics
 Morrow County Planning Department
 Coordinate System: NAD83 Oregon GIC Lambert ft
 Datum: North American 1983
 Projection: Lambert Conformal Conic
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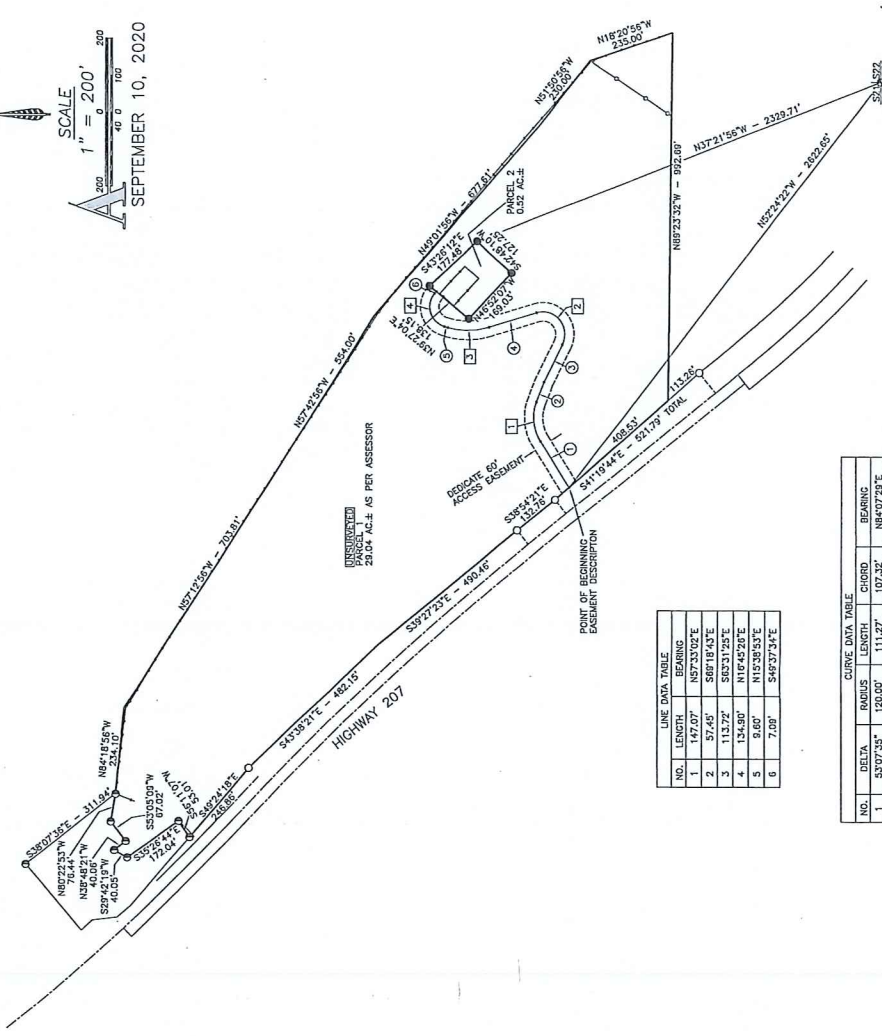
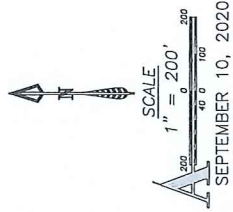


APPLICATION MAP FOR
 PARTITION PLAT OF A TRACT OF LAND, LOCATED IN
 SECTION 21, T.2S., R.26E., W.M., MORROW COUNTY, OREGON
 OXX-XX-XX
 W.O. 20-5364

SURVEY FOR
 PART OF MORROW
 COUNTY, OREGON
 BY
 ARMSTRONG SURVEYING, INC.
 157 W. 1ST ST., STE. 100
 BEND, OR 97701
 (541) 447-7731

SURVEY BY
 ARMSTRONG SURVEYING, INC.
 157 W. 1ST ST., STE. 100
 BEND, OR 97701
 (541) 447-7731

- LEGEND**
- SET 5/8" x 30" LONG IRON ROD WITH YELLOW PLASTIC CAP MARKED "ARMSTRONG S&E". SET STEEL FENCE POST ALONGSIDE.
 - FOUND 2-1/2" BRASS CAP AS PER CERTIFIED RECORD OF LAND CORNER MONUMENTATION FORM BY DAVID H. KRUMBEIN, LS 533, RECORDED APRIL 23, 1980.
 - FOUND 3/8" IRON ROD WITH YELLOW PLASTIC CAP AS PER C.S. 1029 BY G. DENNE EDWARDS, LS 951, RECORDED MAY, 2006.
 - FOUND 3/8" IRON ROD WITH YELLOW PLASTIC CAP AS PER C.S. 1040 BY J. W. WELLS, LS 1104, RECORDED JULY, 2001.
 - () RECORD AS PER
 - EXISTING FENCE LINE



LINE DATA TABLE	
NO.	LENGTH
1	147.07'
2	57.45'
3	113.72'
4	134.50'
5	9.60'
6	7.00'

CURVE DATA TABLE			
NO.	DELTA	RADIUS	CHORD
1	53°07'35"	120.00'	111.27'
2	133°14'02"	60.00'	139.52'
3	32°24'20"	200.00'	113.42'
4	11°44'33"	55.00'	110.13'

ARMSTRONG
 SURVEYING, INC.
 157 W. 1ST ST., STE. 100
 BEND, OR 97701
 (541) 447-7731

SHEET 6 OF 10
 W.O. 20-5364
 W.O. 20-5364

**PRELIMINARY FINDINGS OF FACT
LAND PARTITION/REPLAT REQUEST
LP-S-492-21
R-S-061-21**

REQUEST: To partition an approximately 85-acre parcel to create two parcels.

APPLICANTS: Port of Morrow
P.O. Box 200
Boardman, Oregon 97818

OWNERS: Port of Morrow
P.O. Box 200
Boardman, Oregon 97818

PROPERTY DESCRIPTION: Tax Lot 800 of Assessor's Map 4N 25E 21

PROPERTY LOCATION: Approximately 1-mile Northwest of Heppner along Highway 74.

I. GENERAL INFORMATION:

The subject parcel is zoned General Industrial (MG) and is outside the Heppner Urban Growth Boundary. This proposed replat is to partition Parcel 1 of Partition Plat (PP) 2012-08 into two parcels to facilitate industrial development.

- II. APPROVAL CRITERIA:** The applicant has filed under the Morrow County Subdivision Ordinance, ARTICLE 5, LAND PARTITIONS. Section 5.030 REQUIREMENTS FOR APPROVAL and Section 5.075 REPLATTING both apply. The criteria are listed below in **bold type**, followed by a response in standard type:

SECTION 5.030 REQUIREMENTS FOR APPROVAL. No application for partitioning will be approved unless the following requirements are met:

- 1. Proposal is in compliance with ORS 92 and the County and affected City Comprehensive Plan and applicable Zoning.**

The City of Heppner is to the east of the subject property and the subject property is outside of the Urban Growth Boundary therefore no city plans apply. To comply with ORS 92, which governs partitioning, it is recommended and listed as a Condition of Approval, that the applicant submit a preliminary and final Partition Plat.

- 2. Each parcel is suited for the use intended or offered; including but not limited to, size of the parcels, topography, sewage disposal approval and guaranteed access. Proof of access must show that each parcel has an easement sufficient for continued ingress and egress to a public, county or state highway or has a deeded access way.**

The MG zone does not have a defined minimum parcel size; however, the zone does require that the proposed lot must be of a size necessary to accommodate the proposed use. The landowner does not identify a specific industrial

development type. Proposed Parcel 1 will be approximately 1.9-acres more or less, proposed parcel 2 will be 82-acres more or less.

In terms of finding suitability of the parcels for on-site septic system, given the flat topography of the land and soils that generally work well for on-site septic systems, staff does not see the need to require the applicant provide a site suitability for the smaller parcel.

Staff recommends Planning Commission find that the landowner is NOT required to submit a site suitability for either parcel and allow the landowner the option to obtain a site suitability at the time of future development. The landowner is hereby on notice that county retains no responsibility if, in the future, the landowner or future landowner has limitations on development due to on-site suitability. The County remains harmless in this matter.

Proposed parcel 1 has an existing access point along Highway 74 as well as approximately 400' of frontage along the highway for any future access needs. There is an existing 60' easement that grants access to tax lots 600 and 700 to the west, and it is recommended and listed as a Condition of Approval that all existing and proposed easements be shown on the Final Plat. Proposed Parcel 2 has existing access along Highway 74 and over 2000' of frontage along the highway for any future access needs. County site distance requirements would be applied; however, the Applicant would need to work with Oregon Department of Transportation (ODOT) for access approval.

3. **All required public service and facilities are available and adequate.**
Electricity and telephone services are available in the area, Applicant will need to work with local providers for future service requirements. The subject property is within the Heppner Rural Fire Protection District. A copy of the Preliminary Findings of Fact will be provided to appropriate agencies for review.
4. **Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities.**
The proposed use is industrial in nature and surrounding parcels are zoned for industrial use. Planning staff would not find that application, if approved, would not have any adverse impacts on adjoining properties.
5. **An approved water rights diversion plan as applicable.**
Preliminary Findings of Fact were referred to the County Watermaster. It is recommended that the applicant comply with any recommendations of the County Watermaster based on this review.
6. **Flag lots will not be permitted when the results would be to increase the number of properties requiring direct and individual access from a State Highway or other arterial. Flag lots may be permitted to achieve planning objectives under the following conditions:**
 - a. **When flag lot driveways are separated by at least twice the minimum frontage distance.**
 - b. **The driveway must meet driveway standards described in Article 8, Section 8.020.V.**
 - c. **The lot meets the minimum lot area of the zoning district, without including the driveway.**

- d. **Only one flag lot shall be permitted per private right-of-way or access easement.**
No flag lots are proposed. Therefore, these criteria are not applicable.
7. **The depth of any lot will not be restricted as long as a buildable parcel is proposed.**
The subject parcel sizes are sufficient for development of industrial uses and buildable parcels are proposed. The application meets this requirement.
8. **No plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company will be approved unless the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.**
This criterion does not apply as the subject property is not located within an irrigation district, drainage district, water control district, water improvement district or district improvement company.
9. **The Commission will deny an application for partitioning when it can be shown by the Commission that the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern creating more than three (3) parcels without subdividing.**
This provision does not apply to this application. Since the subject properties are zoned for industrial uses, ORS 92.325(3)(e) exempts Subdivision and Series Partition Control Law from these lands.
- This property was subject to a previous replat approved in 2020. At the time of these findings although approved, the final plat has not been recorded with the Morrow County Clerk's Office. Precedent to completion of this action, it is required as a Condition of Approval that the plat related to Morrow County Replat R-S-058-20 be recorded with the Morrow County Clerk's Office.
10. **In addition to the requirements set forth above, the following factors may be considered for approval or disapproval of an application for land partitioning is a geographical or other factor identified by other, appropriate professionals or Plans such as the requirements of the Comprehensive Plan, FEMA requirements, Byways rules, etc., requires it:**
- a. **Placement and availability of utilities.**
 - b. **Safety from fire, flood and other natural hazards.**
 - c. **The same improvements may be required for a partitioning as required of a subdivision, if required it will be installed by the applicant.**
 - d. **Possible effects on natural, scenic and historical resources.**
 - e. **Need for onsite or offsite improvements.**
 - f. **Need for additional setback, screening, landscaping and other requirements relative to the protection of adjoining and area land uses. If the proposed partition is located within an Urban Growth Boundary, the affected city must be given notice according to the respective Joint Management agreement.**

- g. **In the approval of a land partition, the need for street and other improvements will be considered and may be required as a Condition of Approval at a different standard than for a subdivision.** Planning staff would not add any additional Conditions of Approval based upon these criteria.

SECTION 5.075. REPLATTING. A reconfiguration of a recorded subdivision or partition plat or a change in the number of lots in the subdivision or partition may be approved by the Planning Commission or as defined in ORS 92.180. Replats will act to vacate the platted lots or parcels and easements within the replat area with the following conditions:

1. **A replat will apply only to a recorded plat.**
A replat is required as the applicant is proposing to partition Parcel 1 of Partition Plat 2012-08, and an approved replat in 2020 not yet recorded.
2. **Notice shall be provided when the replat is replatting all of an undeveloped subdivision as defined in ORS 92.225.**
This provision does not apply as this is not a replat of an undeveloped subdivision. Notice was provided under the requirements of a Land Partition.
3. **Notice shall be provided to the owners of property adjacent to the exterior boundaries of the tentative subdivision replat.**
Adjoining property owners notice was provided on December 30, 2020.
4. **When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified, consistent with a governing body’s notice to owners of property contiguous to the proposed plat. Any utility company that desires to maintain an easement subject to vacation under this section must notify the Planning Department in writing within 14 days of the mailing or other service of the notice.**
No changes to utility easements are proposed. This replat is at the request of the applicant.
5. **A replat will not serve to vacate any public street or road.**
No streets or roads are proposed to be vacated.
6. **A replat will comply with all subdivision provisions of this Article and all applicable Ordinances.**
See Land Partition requirements above.

III. **LEGAL NOTICE PUBLISHED:** December 29, 2020
East-Oregonian

December 30, 2020
Heppner Gazette-Times

IV. **AGENCIES NOTIFIED:** Greg Silbernagel, Watermaster; Steve Rhea, Heppner Rural Fire Protection District; Justin Nelson, Morrow County Counsel; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director; Stephen Haddock, Morrow County Surveyor; Matt Kenny, Morrow County Surveyor; Teresa Penninger and Thomas Lapp, Oregon Department of Transportation.

V. **PROPERTY OWNERS NOTIFIED:** December 30, 2020

VI. HEARING DATE: January 19, 2021
Morrow County Bartholomew Building
Heppner, Oregon 97836

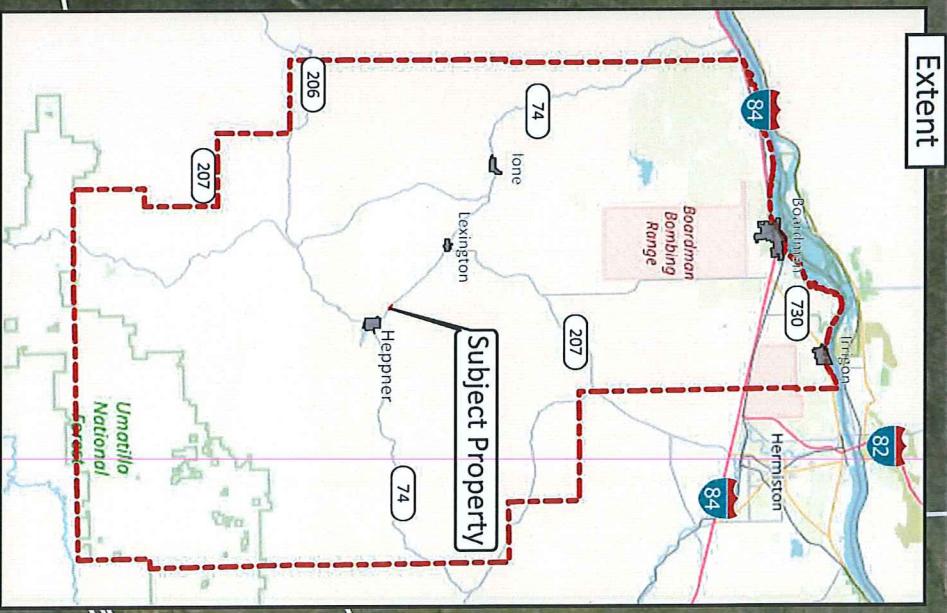
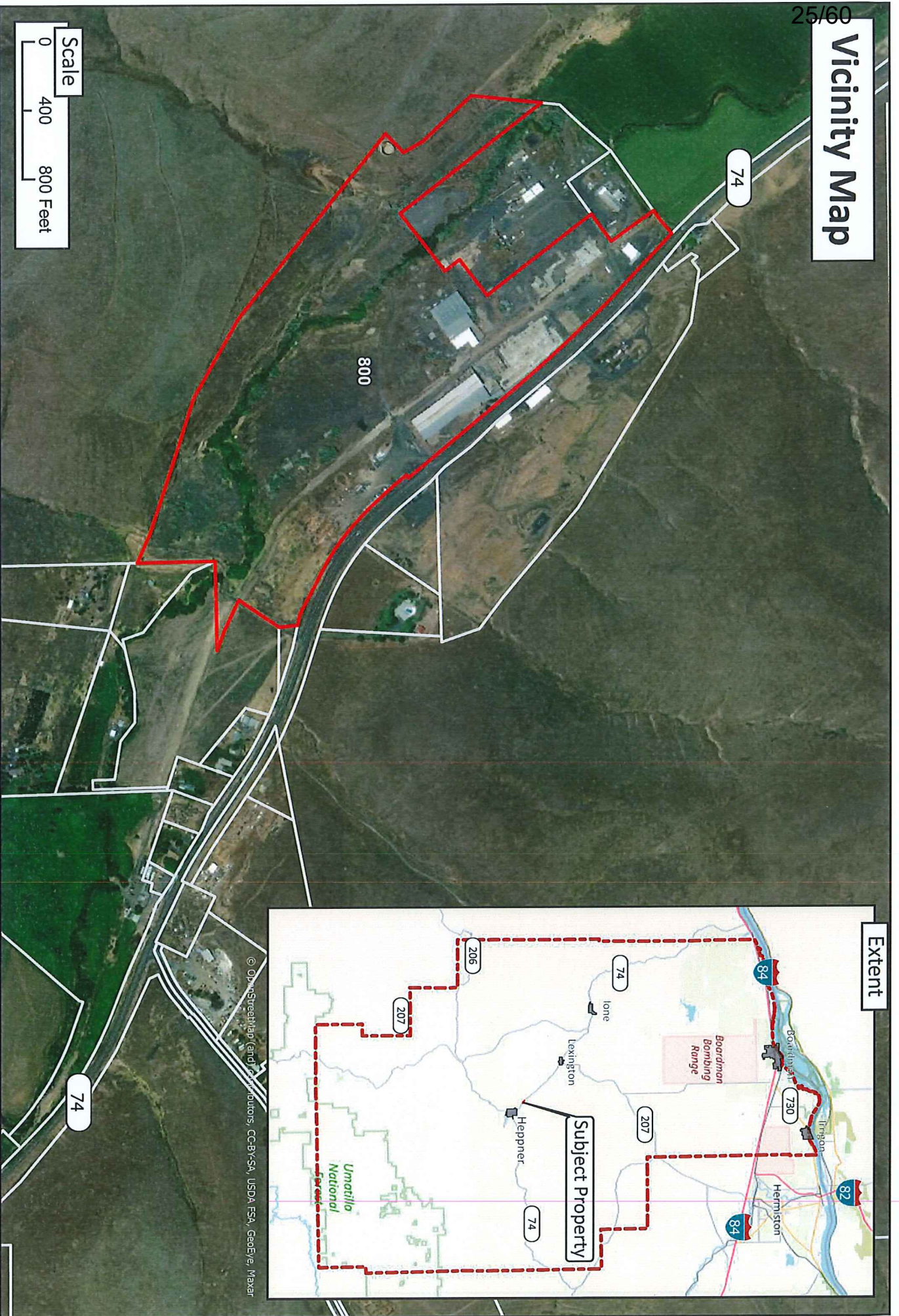
VII. ACTION OF THE PLANNING COMMISSION: Planning Department staff recommend approval of the land partition subject to the following Condition of Approval. This precedent condition must be met before the Planning Director may sign the final Partition Plat.

1. Submit both a **preliminary** and final Partition Plat in conformance with Oregon Revised Statute Chapter 92 and the Morrow County Subdivision Ordinance.
2. Show all existing and proposed easements on the Final Plat.
3. Record with the Morrow County Clerk's Office, the plat related to Morrow County Replat R-S-058-20.

Jeff Wenholz, Chair Date

Attachments:
Vicinity Map
Tentative Plan

Vicinity Map



LP-S-492-21
R-S-061-21
 Port of Morrow
 2S 26E 21 TL800

Legend

Tax Lots

Subject Property



Cartography By: Stephen Wreatics
 Morrow County Planning Department
 Coordinate System: NAD83 Oregon GIC Lambert ft
 Datum: North American 1983
 Projection: Lambert Conformal Conic
 Date Saved: 12/22/2020 5:16 PM



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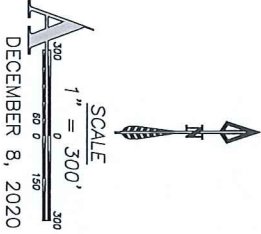
PARTITION PLAT NO. _____
PARTITION PLAT OF PARCEL 1 OF PARTITION PLAT NO. 2020-XX,
LOCATED IN THE S1/2 OF SECTION 21 AND THE NE1/4 OF
SECTION 28, T.2S., R.26E., MORROW COUNTY, OREGON
R-S-XXX-XX
W.O. 20-5364

SURVEY FOR
 PART OF MORROW
 P.O. BOX 200
 BOARDMAN, OR 97818
 (541) 461-6768

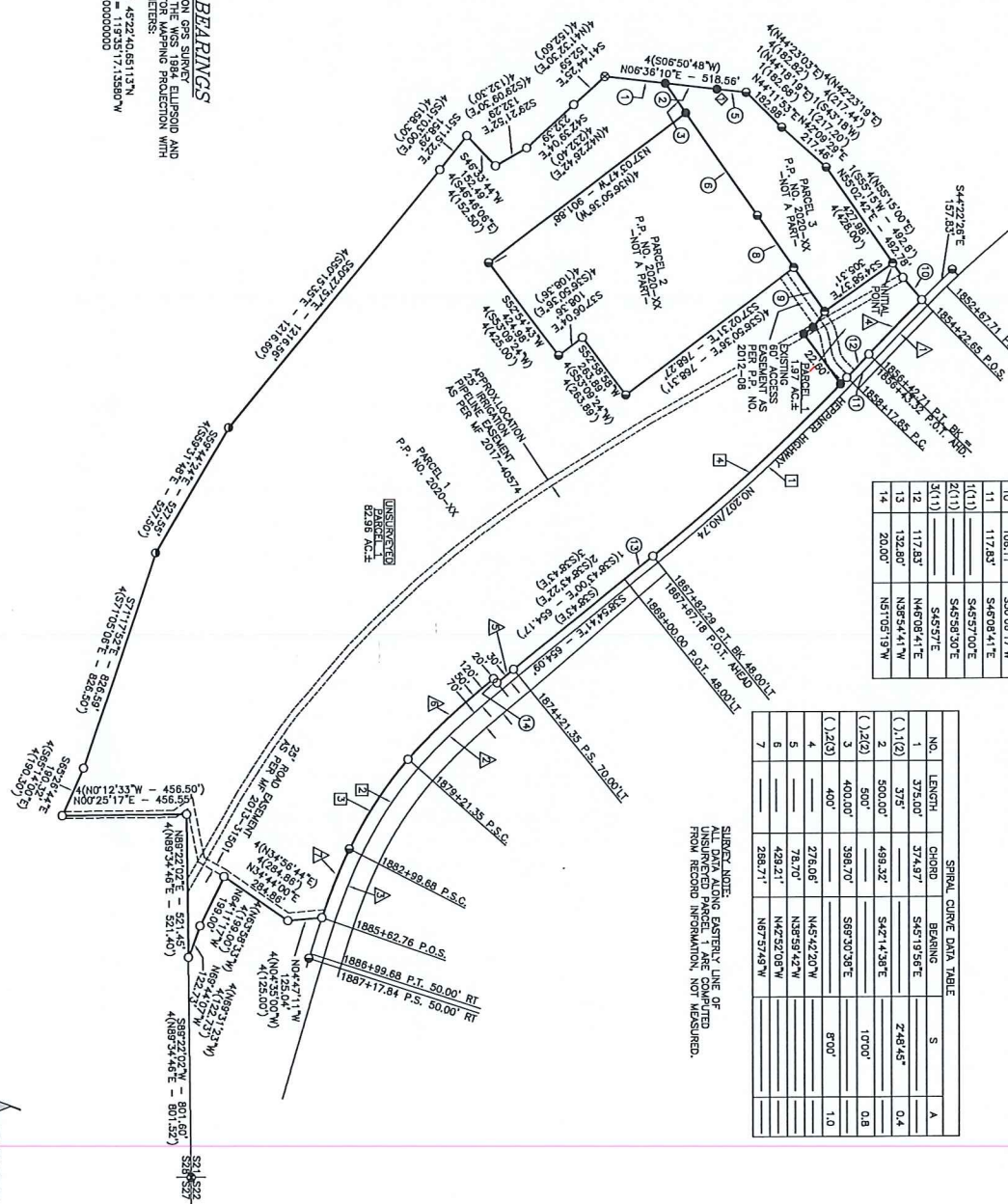
SURVEY BY
 ARMSTRONG SURVEYING, INC.
 287 NE SECOND ST. STE. 100
 PRINEVILLE, OR 97754
 (541) 447-7791

LEGEND

- SET 5/8" x 30" LONG IRON ROD WITH YELLOW PLASTIC CAP MARKED "ARMSTRONG S&E". SET STEEL FENCE POST ALONGSIDE.
- FOUND 5/8" IRON ROD AS PER C.S.H.D. STRIP MAP DRC. NO. 1884-4221-11 P.O.S. - HEPPNER SECTION, HEPPNER HIGHWAY, DATED MARCH, 1986.
- FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP AS PER PARTITION PLAT NO. 2012-08 BY RONALD V. MCKINNS, LS 2431, RECORDED SEPTEMBER 13, 2012.
- FOUND 3/4" IRON ROD AS PER PARTITION PLAT NO. 2012-08 BY RONALD V. MCKINNS, LS 2431, RECORDED SEPTEMBER 13, 2012.
- FOUND 2-1/2" IRON ROD AS PER PARTITION PLAT NO. 2012-08 BY STEPHEN K. BRADOCK, LS 56295, RECORDED SEPTEMBER 21, 2017.
- COMPUTED POINT - NOTHING FOUND OR SET.
- RECORD AS PER C.S.D. STRIP MAP DRC. NO. 88-16-16, BLINER HILL ROAD - HEPPNER SECTION, HEPPNER HIGHWAY, DATED MARCH, 1986, APRIL 9, 1986.
- RECORD AS PER C.S. 039 BY DAVID H. KRUMBEIN, LS 933, RECORDED APRIL 9, 1986.
- RECORD AS PER C.S. 0-1256-E BY G. DENNIS EDWARDS, LS 951, RECORDED JAN. 2000.
- RECORD AS PER C.S. 2013-11C BY RALPH P. THOMPSON, LS 506, RECORDED JANUARY 25, 2013.
- RECORD AS PER PARTITION PLAT NO. 2012-08 BY RONALD V. MCKINNS, LS 2431, RECORDED SEPTEMBER 13, 2012.
- LINE DATA - SEE TABLE
- CURVE DATA - SEE TABLE
- SPIRAL CURVE DATA - SEE TABLE
- ◇ CORNER IDENTIFICATION NUMBER



BASIS OF BEARINGS
 BEARINGS ARE BASED ON GPS SURVEY MEASUREMENTS USING THE NGS 1984 ELLIPSOID AND A TRANSMISSION MEASUREMENT PRODUCTION WITH THE FOLLOWING PARAMETERS:
 ORIGIN OF LATITUDE = 45722401851137N
 ORIGIN OF LONGITUDE = 1193051713580W
 SCALE FACTOR = 1.0000000000



LINE DATA TABLE

NO.	LENGTH	BEARING
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2	191.25	N05°36'10"E
3	132.13	S85°02'14"W
5	106.16	N05°36'10"E
6	456.69	S85°02'14"W
8	232.59	S85°02'14"W
9	195.40	S85°01'41"W
4(9)	108.11'	N85°15'00"E
10	117.83'	S46°08'41"E
11	117.83'	S46°08'41"E
1(11)	—	S46°59'30"E
2(11)	—	S46°57'10"E
12	117.83'	S46°57'10"E
13	132.80'	N85°44'11"W
14	20.00'	N87°05'19"W

CURVE DATA TABLE

NO.	DELTA	RADIUS	LENGTH	CHORD	BEARING
1	07°14'00"	7639.32'	964.44'	963.60'	S42°31'41"E
1(1)	—	—	—	983.79'	S42°19'57"E
2(1)	—	—	—	964.44'	S42°20'E
3(1)	07°14'	—	964.44'	963.60'	S46°28'36"E
2(2)	33°08'	1432.39'	376.30'	377.20'	S56°28'36"E
3	15°08'21"	1482.39'	391.89'	380.55'	N56°28'13"W
4	07°14'00"	7609.32'	960.65'	960.01'	N42°31'41"W

SPIRAL CURVE DATA TABLE

NO.	LENGTH	CHORD	BEARING	S	A
1	375.00'	374.97'	S45°19'56"E	—	—
2	500.00'	375'	S42°14'38"E	2°48'45"	0.4
3	400.00'	388.70'	S69°30'36"E	1°00'	0.8
4	400'	278.06'	N45°42'20"W	8°07'	1.0
5	—	78.70'	N85°59'42"W	—	—
6	—	459.21'	N42°52'08"W	—	—
7	—	288.71'	N87°57'49"W	—	—

SURVEY NOTE:
 ALL DATA ALONG EXTERIOR LINE OF PLOT FROM RECORD INFORMATION, NOT MEASURED.

**FINAL FINDINGS OF FACT
REPLAT REQUEST
R-N-060-21**

REQUEST: Request is to reconfigure parcel 3 of Partition Plat 2011-19, and parcels 1 and 2 of Partition Plat 2012-06.

OWNER: Port of Morrow
P.O. Box 200
Boardman, Oregon 97818

APPLICANT: Port of Morrow
P.O. Box 200
Boardman, Oregon 97818

PROPERTY DESCRIPTION: Tax Lots 102, 103, 104 of Assessor's Map 4N 26E 06.

PROPERTY LOCATION: Approximately 2-miles east of Boardman within the Port of Morrow along Lewis and Clark Drive.

I. FINDINGS OF FACT:

This replat will reconfigure two property lines in Partition Plats 2011-19 and 2012-06. Please see the preliminary plot plan for the resulting configuration. The zoning is Port Industrial (PI) and the property is located outside any Urban Growth Boundary (UGB).

II. APPROVAL CRITERIA:

Morrow County Subdivision Ordinance Article 5 Replatting will apply. Criteria are listed below in **bold type**, followed by a response in standard type.

MORROW COUNTY SUBDIVISION ORDINANCE ARTICLE 5 LAND PARTITIONS SECTION 5.075. REPLATTING. A reconfiguration of a recorded subdivision or partition plat or a change in the number of lots in the subdivision or partition may be approved by the Planning Commission or as defined in ORS 92.180. Replats will act to vacate the platted lots or parcels and easements within the replat area with the following conditions:

1. **A replat will apply only to a recorded plat.**
A replat is required as the applicant is proposing to reconfigure a partition affecting Partition Plat and 2011-19 and 2012-06.
2. **Notice shall be provided when the replat is replatting all of an undeveloped subdivision as defined in ORS 92.225.**
This provision does not apply as this is not a replat of an undeveloped subdivision. However, notice was provided under the requirements of the Morrow County Subdivision Ordinance.
3. **Notice shall be provided to the owners of property adjacent to the exterior boundaries of the tentative subdivision replat.**
Notice has been provided to adjoining property owners and affected agencies.
4. **When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified, consistent with a governing body's notice to owners of property contiguous to the**

proposed plat. Any utility company that desires to maintain an easement subject to vacation under this section must notify the Planning Department in writing within 14 days of the mailing or other service of the notice.

No changes to utility easements are proposed. This replat is at the request of the land owners.

5. **A replat will not serve to vacate any public street or road.**

No streets or roads are proposed to be vacated.

6. **A replat will comply with all subdivision provisions of this Article and all applicable Ordinances.**

This requirement is met as the parcels were subject to provisions of this Article with both the previous partition and this proposal. The applicant will need to submit both a preliminary and final partition plat to be in compliance with this Article and ORS Chapter 92. This is recommended and listed as a Condition of Approval.

III **LEGAL NOTICE PUBLISHED:** December 29, 2020
East-Oregonian

December 30, 2020
Heppner Gazette-Times

IV **AGENCIES NOTIFIED:** Greg Silbernagel, Watermaster; Mike Hughes, Boardman Rural Fire Protection District; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director; Matt Kenny, Morrow County Surveyor; Justin Nelson, Morrow County Counsel.

V **PROPERTY OWNERS NOTIFIED:** December 30, 2020

VI **HEARING DATE:** January 19, 2020
Morrow County Bartholomew Building
Heppner, Oregon 97836

VII **PLANNING COMMISSION ACTION:** Staff recommend approval subject to the following **Precedent Condition(s) of Approval.** This condition must be completed before the Planning Director may sign the final partition plat or before the land may be deeded to a third party.

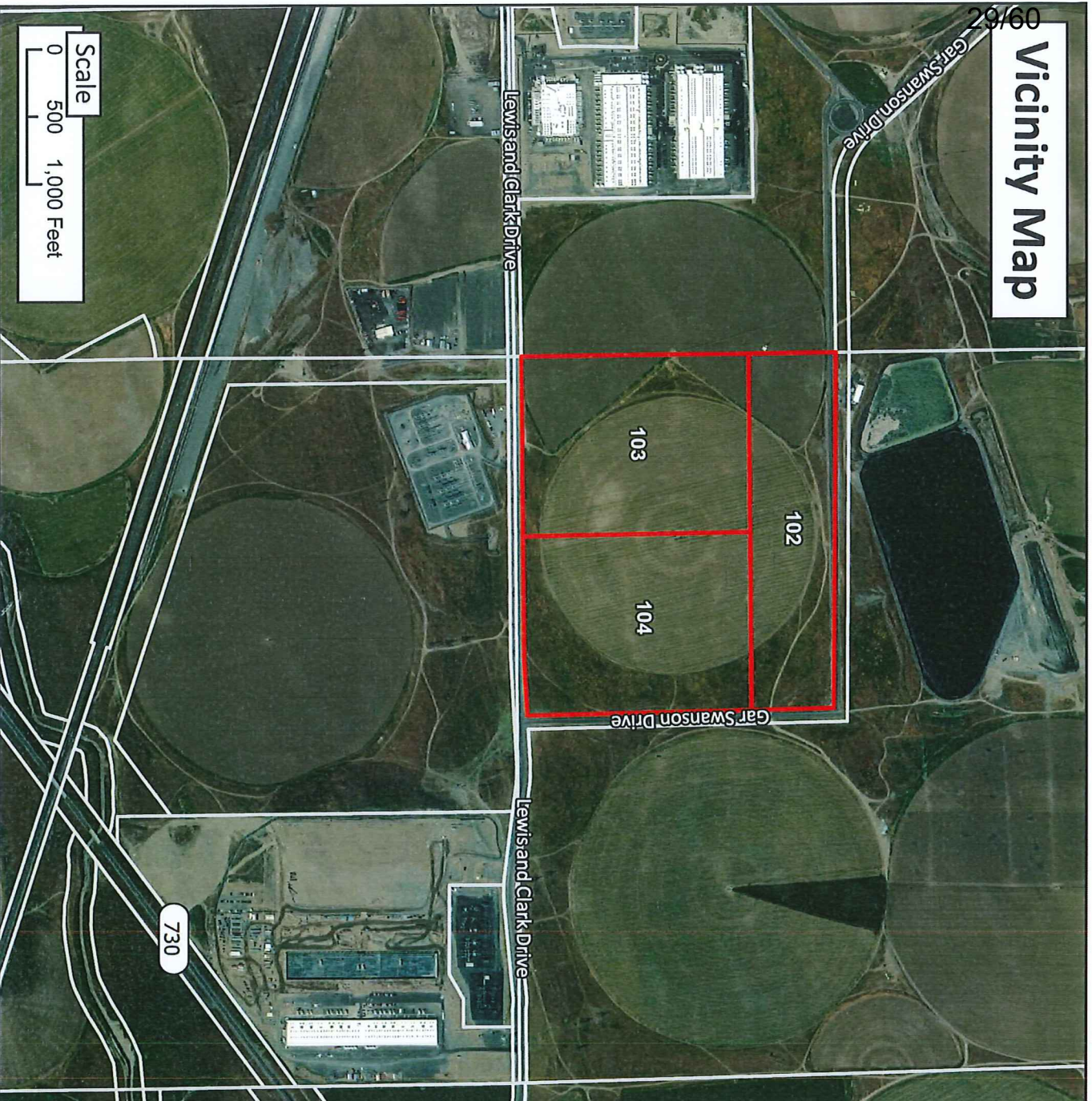
1. Submit both a **preliminary** and final partition plat to be in compliance with Article 5 of the Morrow County Subdivision Ordinance and ORS Chapter 92.

Jeff Wenholz, Chair Date

ATTACHMENTS:
Vicinity Map
Plot Plan

Vicinity Map

29/60



R-N-060-21

Port of Morrow

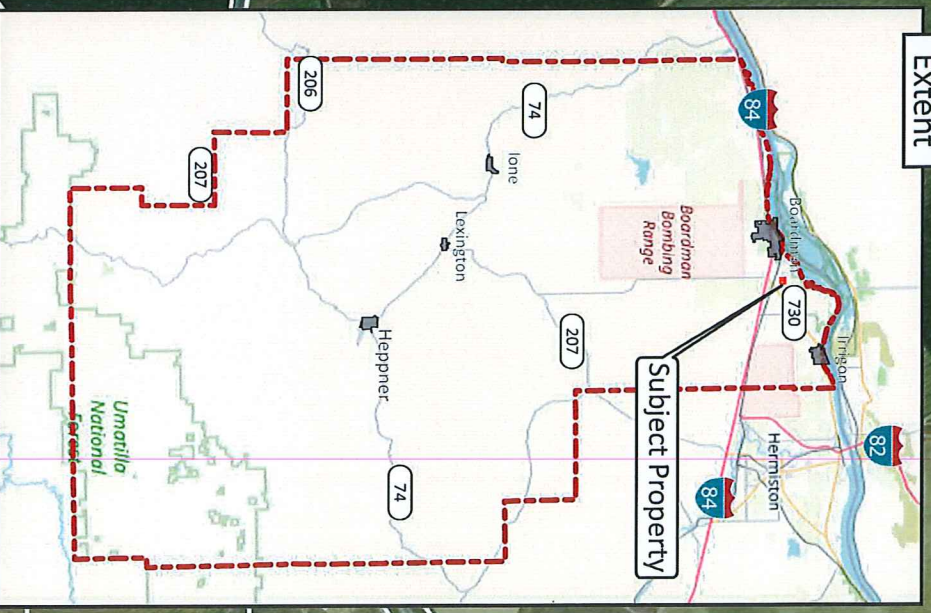
4N 26E 06 TL102, 103, 104

Legend

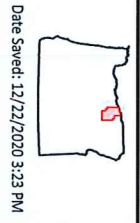
Tax Lots

Subject Property

Extent



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Date Saved: 12/22/2020 3:23 PM

Cartography By: Stephen Wreccics
 Morrow County Planning Department
 Coordinate System: NAD83 Oregon GIC Lambert ft
 Datum: North American 1983
 Projection: Lambert Conformal Conic
Model: S:\Planning\Projects\GIS\4N26E06TL102-104-21.mxd



APPLICATION MAP FOR A REPLAT OF PARCEL 3 OF PARTITION PLAT NO. 2011-19 AND PARCELS 1 AND 2 OF PARTITION PLAT NO. 2012-06, LOCATED IN SECTION 6, T.4N., R.26E., W.M., MORROW COUNTY, OREGON
 C-LP-XXX-10
 W.O. 20-5418

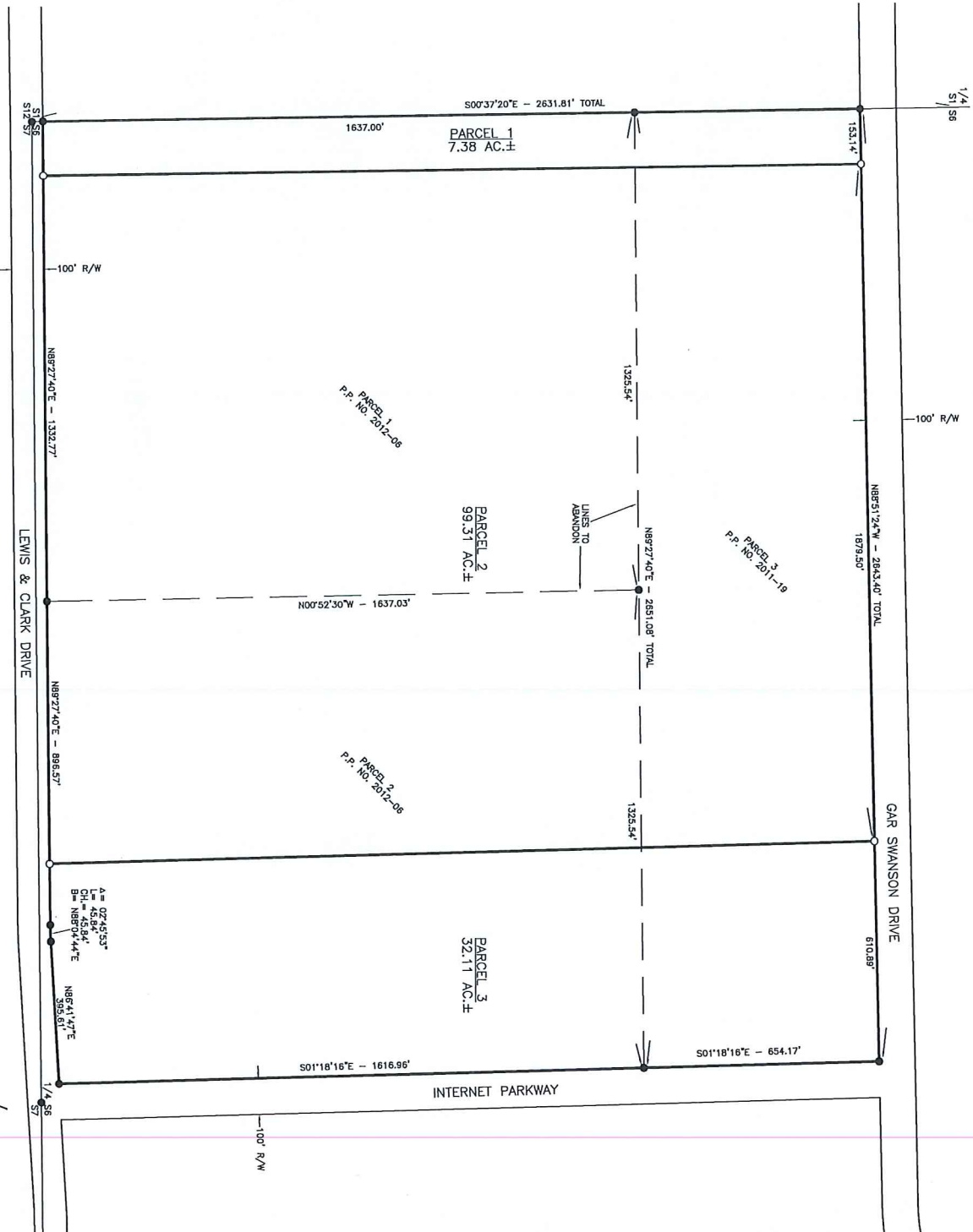
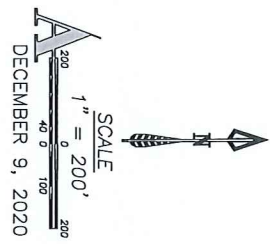
SURVEY FOR
 PART OF MORROW COUNTY, OREGON
 BOARDMAN, OR 97118

SURVEY BY
 ARMSTRONG SURVEYING, INC.
 1500 W. 10TH AVE., SUITE 100
 PRINEVILLE, OR 97754
 (541) 447-7731

LEGEND

- RECORDED SURVEY MONUMENTS
- MONUMENTS TO SET

R/W RIGHT-OF-WAY



**PRELIMINARY FINDINGS OF FACT
CONDITIONAL USE REQUEST
Application Number CUP-N-344**

REQUEST: To allow crushing, screening, stockpiling and hauling of aggregate produced from the adjacent parcel.

APPLICANT: Dan Schoenfelder
PO Box 250
Echo, OR 97826

PROPERTY OWNER: Marilyn Schiller
69958 Schiller Drive
Echo, OR 97826

PROPERTY DESCRIPTION: Tax Lot 1600 of Assessor's Map 1N 27 24

PROPERTY LOCATION: Property is located 3.5 miles east of Pine City on the north side of Big Buttercreek Road.

FINDINGS OF FACT:

I. BACKGROUND INFORMATION:

The subject property is adjacent to an existing, approved rock quarry known as the Britt Quarry. The Britt Quarry was approved July 31, 2010 as a Goal 5 significant resource ACM-23-10, AC-24-10 and AZM-25-10. At that time the subject Schiller parcel was identified in the permit for the access road to the quarry. Once the quarry activities began the Schiller property was used for stockpiling crushed rock and for part of the staging area as well as for access to county road. The current landowner, ARCUS, LLC, was notified by the State Department of Geology and Mineral Resources (DOGAMI) that stockpiling on the Schiller property is required to be included in the DOGAMI Operating Permit #25-0069. Land use approval is required before DOGAMI will amend their permit and therefore the applicant has applied for this CUP to allow stockpiling as well as crushing and screening on the Schiller property. The two parcel lines abut very near the quarry boundary and therefore the subject CUP will permit rock crushing, screening, staging area, stockpiling and mining.

The subject permit does not include permission for an asphalt or concrete batch plant, at the discretion of the applicant.

This CUP applies to an approximately 25.5-acre portion of tax lot 1600, as shown on the attached map.

II. COMPLIANCE WITH MORROW COUNTY ZONING ORDINANCE SECTIONS

3.010(C)13, 6.020, 6.030 and 6.050(I). The requirements for approval are listed below in **bold type**, followed by a response in standard type.

SECTION 3.010(C)(13) Conditional Uses Permitted: In an EFU Zone, operations conducted for mining, crushing or stockpiling of aggregate and other mineral and

other subsurface resources subject to ORS 215.298.

ARTICLE (6) CONDITIONAL USES, Morrow County Zoning Ordinance.

6. Operations for the exploration, mining and processing of geothermal resources as defined by subsection (4) of ORS 522.005, aggregate and mineral resources.

The parcel is rocky hillside used for grazing and a roadway access for farming and rangeland property as well as an existing quarry known as the Britt quarry. The Britt quarry has a Goal 5 designation in the county Comprehensive Plan as well as land use approval. The Department of Geology and Mineral Industries (DOGAMI) requires that the area used for stockpiling, crushing and mining activities be included in their Operating Permit #25-0069. Approval of this CUP application would allow the current landowner to be in compliance with DOGAMI regulations and Morrow County Zoning regulations. The proposed area will allow the Schiller property to be used for crushing, screening, stockpiling and hauling of aggregate from the Britt quarry.

SECTION 6.020. GENERAL CRITERIA. In judging whether or not a conditional use proposal shall be approved or denied, the Commission shall weigh the proposal's appropriateness and desirability, or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met or can be met by observance of conditions.

A. The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies and regulations of the County.

The stockpiling, screening, crushing and hauling of aggregate is located on land zoned for Exclusive Farm Use where mining and mining activities are allowed as a Conditional Use. Where the proposed mining activity meets the conditions and requirements of this Findings document, the mining activities will be consistent with the Comprehensive Plan and objectives of the Zoning Ordinance and other applicable policies and regulations of Morrow County.

B. If located within the Urban Growth Boundary of a city, that said city has had an opportunity to review and comment on the subject proposal.

This requirement does not apply as the property is not located within the Urban Growth boundary of any city.

C. The proposal will not exceed carrying capacities of natural resources or public facilities.

The mining operation area is not located within a designated Critical Groundwater Area as defined in Administrative Rule by the Oregon Department of Water Resources (OWRD). Water for dust abatement and crushing was not addressed in the application but presumably water will be hauled in with a water truck. It is recommended and listed as a Condition of Approval that the applicant provide the Planning Department with evidence that the additional water source to be used for mining is permissible by the OWRD. The mining operation area is within the Heppner Rural Fire Protection District and the District has been

provided a copy of the preliminary Staff Report. The applicant has not stated how solid waste will be removed from the proposed site. There is no current sewage disposal method at the site, but a portable restroom may be set up for use during mining activity. These are addressed as conditions of approval below.

SECTION 6.025 RESOURCE ZONE STANDARDS FOR APPROVAL

Note: These county standards are the same as ORS 215.298.

A. In the Exclusive Farm Use Zone a conditional use may be approved only when the County finds that the use will not:

- 1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or**
- 2. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.**

The proposed mining activity is common throughout central and southern Morrow County and historically has been compatible with adjacent farming and grazing. The Britt quarry was mined in recent past and no reports or complaints were made. Dust from mining activities can be a nuisance or negative impact to some farming operations and therefore dust abatement is recommended as a condition of approval.

Where these county standards are the same as ORS 215.298, the land use is found to comply with both state and local standards in this regard.

SECTION 6.030. GENERAL CONDITIONS.

In addition to the standards and conditions set forth in a specific zone, this article, and other applicable regulations; in permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

A. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

The mining activities will need to remain within the boundaries of the permitted area established by the DOGAMI operating permit. The application does not describe environmental effects such as noise, vibration, air pollution, glare and odor or how the effects will be minimized.

If an air quality permit is required by the Department of Environmental Quality, the operator or permittee shall submit verification from the DEQ that the discharges of contaminants and dust created by the mining operation comply with the applicable DEQ ambient air quality and emissions standards. This is listed as a condition of approval.

Hours of operation were not mentioned in the application. Planning Commission may recommend limited hours of operation in order to mitigate impacts, however, given the remote location and the fact that the nearest dwelling is ½ mile from the site, limited hours of operation does not appear to be warranted at this time.

Further, typical rock crushing contractors operate during a short period of time but operate long hours, frequently 24 hours a day. Unless concern is raised by a neighbor and nuisance is identified, no restriction on hours of operation is recommended at this time. Planning Commission may include a condition of approval be imposed in the future if warranted, to mitigate nuisance impacts.

This application can be found to be in compliance with this standard.

B. Establishing a special yard or other open space or lot area or dimension.

The application includes a site plan that shows the excavation area on the adjacent parcel, the Britt quarry, and, the access/haul road, stockpile area and crusher location. Additional setbacks are not shown, however, will be required in the DOGAMI Operating Permit. The application can be found to comply with this standard.

C. Limiting the height, size or location of a building or other structure.

There are no plans for a permanent structure at the mining site. If a structure is found to be needed, whether temporary or permanent, a zoning permit will be required.

D. Designating the size, number, location and nature of vehicle access points.

Access to the quarry is the subject of this CUP application. The roadway connects the quarry and the other mining area to Big Buttercreek Road. A single access is proposed. It is recommended that the applicant provide proof of approved access from the Morrow County Public Works Department.

1. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.

Although this CUP is proposing to use an existing road, it is recommended and listed as a Condition of Approval that the applicant provide evidence that the access to be used is properly permitted by Morrow County Public Works for the new use. Additionally, if any new accesses are necessary, Access Permits need to be obtained from Morrow County Public Works.

2. In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards.(MC-C-8-98)

The application did not address traffic impacts or estimate traffic volume. It is presumed that the mining activity will generate less than 400 passenger car equivalent trips per day. Identified road impacts are addressed below. No TIA is deemed necessary.

E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

Additional street dedication is not proposed and is not warranted. The mining activity will utilize an existing private roadway.

1. It is the responsibility of the land owner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8-98)

The subject site is in the Heppner Rural Fire Protection District, which has been provided a copy of the Preliminary Findings.

F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.

The applicant provided a site plan that shows the general area for mining activity. A more specific site plan may be submitted in the future by the applicant or operator. The location is remote and parking will be provided on site. The applicant did not specify how dust will be controlled but presumably it will be water from a water truck on site. Drainage from the mining will need to be contained on site; this is regulated by DOGAMI as part of the Operating Permit.

G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.

The application did not indicate whether signs will be used for the aggregate site. If signs other than safety signs are installed, they must comply with Morrow County Zoning Ordinance Sign Regulations.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding.

The application did identify outdoor lighting. It is expected that, when needed, lights may be used during hours of operation. It is recommended that lighting be limited during non-operating hours.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

The application does not show any detail regarding diking, screening, landscaping or other facilities. Where diking berms, etc. are needed for water run-off it will be regulated under the DOGAMI Operating Permit.

J. Designating the size, height, location and materials for a fence.

Signs are not proposed in the application. Any fence 6 feet in height or taller will need to be approved with a zoning permit.

K. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

The mining area will occur within an area that has very limited vegetation. There are no existing trees; vegetation is minimal and includes limited forage for grazing. There are no known water resources on site; water for dust abatement and for processing will be hauled in with a water truck. This preliminary Staff

Report will be provided to Oregon Department of Fish and Wildlife (ODFW) and Oregon Water Resources Department with an opportunity to provide comment and to recommend conditions of approval.

The County has been established as a Weed Control District and requires that noxious weeds be controlled by local landowners. It is the duty of the landowner to destroy or prevent the establishment and spread of identified noxious weed species. It is therefore recommended and listed as a Condition of Approval that the landowner make diligent and practical effort to eradicate weeds at the aggregate site that have been listed as "weeds of economic importance" and to prevent their spread. This list is provided as an attachment to this Staff Report.

L. Other conditions necessary to permit the development of the County in conformity with the intent and purpose of this Ordinance and the policies of the Comprehensive Plan.

This mining operation will become part of an existing Operating Permit from DOGAMI, Permit #25-0069. As a Condition of Approval, the operator will provide evidence to the Planning Department that a DOGAMI operating permit has been obtained prior to any excavation, and yearly thereafter until closed and reclaimed.

SECTION 6.050. STANDARDS GOVERNING CONDITIONAL USES.

A conditional use shall comply with the standards of the zone in which it is located and with the standards set forth in this subsection.

Local Permit Approval Criteria: An application for mineral or aggregate mining must address provisions found in Article 6 Conditional Uses Section 6.020 General Criteria, Section 6.025 Resource Zone Standards for Approval when in a Farm or Forest Zone, and the following:

1. Proposed hours and/or days of operation. The conditions as to when the mining and processing would be restricted to specific hours of operation or days when mining operations would be limited. For operations conducted after dark, limiting the location and intensity of outdoor lighting and requiring its shielding.

See above discussion under Criteria 6.030(A) above.

2. Limiting or otherwise designating the number, size, location, height, and lighting of signs. Signs other than safety signs must comply with the sign requirements in Section 4 of the Zoning Ordinance.

See above discussion under Criterion 6.030(G).

3. A rock crusher, washer or sorter shall not be located within 500 feet from a residential or commercial use unless it can be established that the use will meet DEQ performance standards for noise and not be expected to cause a noise nuisance at nearby residential or commercial uses. In farm or forest use zones the processing of rock, aggregate or minerals shall not be within one-

half mile of a noise sensitive area if the operation operates more than nine hours per day or for more than five days per week. (ORS 467.120(2)).

The nearest dwelling is more than 500 feet away and is occupied by the applicant.

4. All water necessary for the proposed operation shall be appropriated and legally available to the site.

There are no known water sources on site. Water will be supplied with a water truck. Oregon Water Resources Department has been identified as an affected agency and has been provided a copy of the Preliminary Findings of Fact.

5. The discharge of airborne contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards, or approval shall be conditioned to ensure that such standards will not be violated.

The application does not identify the name of the future operator although in conversation the applicant indicated it will be a private rock crushing company. Morrow County has a contract with the quarry owner and may use the site again in the future at which time the county's contracted rock crushing contractor will use the site. The rock crusher contract operators are responsible for DEQ air permits. It is recommended and listed as a condition of approval that the applicant and/or operator submit verification that the mining operation complies with applicable DEQ ambient air quality and emissions standards.

6. A Reclamation Plan approved by DOGAMI will be required for mining operations. When reviewing an applicant's submittal regarding a proposed reclamation plan, Morrow County will review the plan against the following criteria:

- a. A description of the present land use and planned beneficial use of the site following the mining activity. The applicant must demonstrate that the planned beneficial use is compatible with the Comprehensive Plan and Zoning Ordinance.**
- b. Provisions for the backfilling, recontouring, topsoil replacement, seedbed preparation, mulching, fertilizing, selection of plant species, seeding or planting rates, and schedules;**
- c. Provisions for adequate setbacks and slopes to protect adjacent property and public safety;**
- d. A proposed time schedule for surface mining and reclamation procedures for the removal or disposal of all equipment, refuse, structures, and foundations from the permit area except permanent structures that are part of an approved Reclamation Plan.**

The applicant is working with DOGAMI and will complete a DOGAMI approved Reclamation Plan. The applicant shall provide evidence to the Planning Department that a DOGAMI operating permit has been obtained

prior to any excavation, and yearly thereafter. This is listed as a condition of approval.

7. In accordance with the Transportation System Plan, the requirements of the Public Works Department or the Oregon Department of Transportation shall be complied with regarding the minimization of potential conflicts to local roads used for access and egress to the mining site.

The applicant shall work with the Morrow County Public Works regarding access as discussed above under Criterion 6.030(D).

8. Designating the size, number, location and nature of vehicle access points.

a. Where access to a county road is needed, a permit from Morrow County Public Works department is required. Where access to a state highway is needed, a permit from ODOT is required.

See above discussion under Criterion 6.030(D) above.

b. In addition to the other standards and conditions set forth in this section, a Traffic Impact Analysis (TIA) will be required for all projects generating more than 400 passenger car equivalent trips per day. A TIA will include: trips generated by the project, trip distribution for the project, identification of intersections for which the project adds 30 or more peak hour passenger car equivalent trips, and level of service assessment, impacts of the project, and mitigation of the impacts. If the corridor is a State Highway, use ODOT standards.(MC-C-8-98)

See above discussion under Criterion 6.030(D).

9. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way. It is the responsibility of the land owner to provide appropriate access for emergency vehicles at the time of development. (MC-C-8- 98)

See above discussion under Criterion 6.030(E).

10. An application for a mining operation contiguous to an existing operation approved under this section shall be evaluated in conjunction with the existing site when it appears the sites will be managed and operated as one.

The proposed mining operation is not contiguous to an existing approved operation.

11. Ensuring adequate space for parking and loading.

See above discussion under Criterion 6.030(F).

12. Approvals for or that include operations that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard.(one or more vineyards totaling 40 acres or more that are planted as of the date the

application for batching and blending is filed).

This criterion is not applicable as the subject property is not within two miles of a planted vineyard.

13. A plan for the control of noxious weeds. (MC OR-1-2013)

The applicant shall provide to the Morrow County Weed Coordinator/Inspector a weed plan for the control of noxious weeds and "weeds of economic importance." This shall include a pre-mining weed survey. This is listed as a condition of approval.

III. LEGAL NOTICE PUBLISHED: Heppner Gazette-Times on December 30, 2020
The East-Oregonian on December 29, 2020

IV. AGENCIES NOTIFIED: Ben Mundie, DOGAMI; Department of Environmental Quality, Pendleton Office; Anne Debbaut, Department of Land Development and Conservation; Heppner Rural Fire Protection District; Dave Pranger, Weed Coordinator; Mike Gorman, County Assessor; Matt Scrivner, Public Works Director; Greg Silbernagel, Watermaster; Steve Cherry, Oregon Department of Fish and Wildlife; Marilyn Holt and Teresa Peninger, Oregon Department of Transportation; Janet Greenup, Morrow County Soil and Water Conservation District; Bob Waldher, Umatilla County Planning Department.

V. PROPERTY OWNERS NOTIFIED: January 8, 2021

VI. HEARING DATE: January 19, 2021

VII. DECISION OF PLANNING COMMISSION:

Recommendation of staff is to approve the application subject to the following
CONDITIONS OF APPROVAL:

1. Provide evidence that the access to be used is properly permitted by Morrow County Public Works. Additionally, if any new accesses are necessary, Access Permits need to be obtained from Morrow County Public Works.
2. Record the easement authorizing use of the roadway and land owned by Marilyn Schiller.
3. Provide to the Morrow County Weed Coordinator/Inspector a weed plan for the control of noxious weeds and "weeds of economic importance." This shall include a pre-mining weed survey.
4. Provide evidence that a DOGAMI operating permit has been obtained prior to any excavation, and yearly thereafter.
5. Provide verification from DEQ that the mining operation complies with applicable DEQ ambient air quality and emissions standards and submit the air permit, if applicable.
6. Provide evidence that water used for dust abatement and mining is permissible by the Oregon Department of Water Resources.

- 7. Hours of operation for the aggregate mining will not be limited. However, in the future if complaints are raised by neighboring property owners, Planning Commission may impose limitations to hours of operation.
- 8. Site shall remain free of garbage and debris and will otherwise comply with the Solid Waste Ordinance.

Jeff Wenholz, Chair

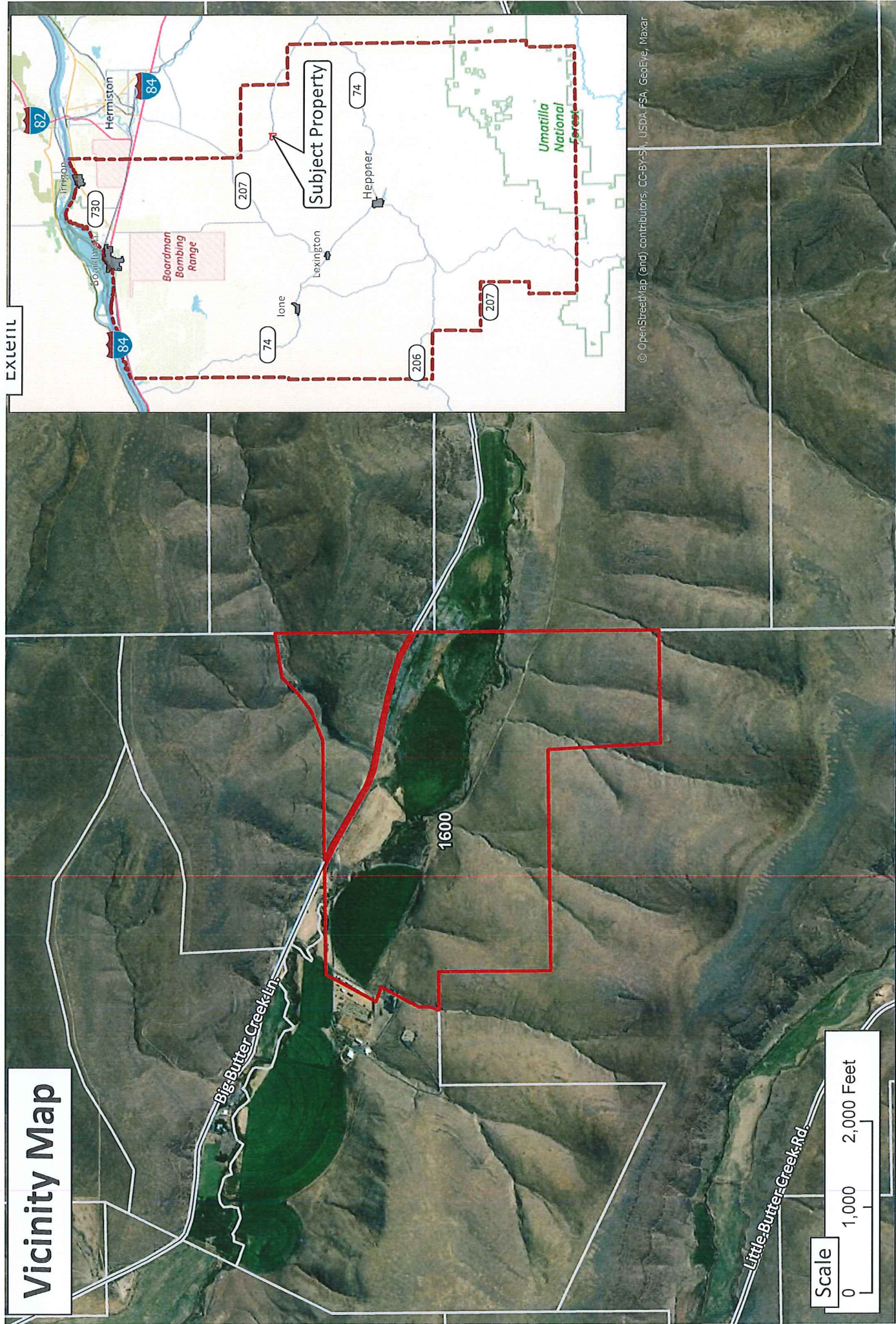
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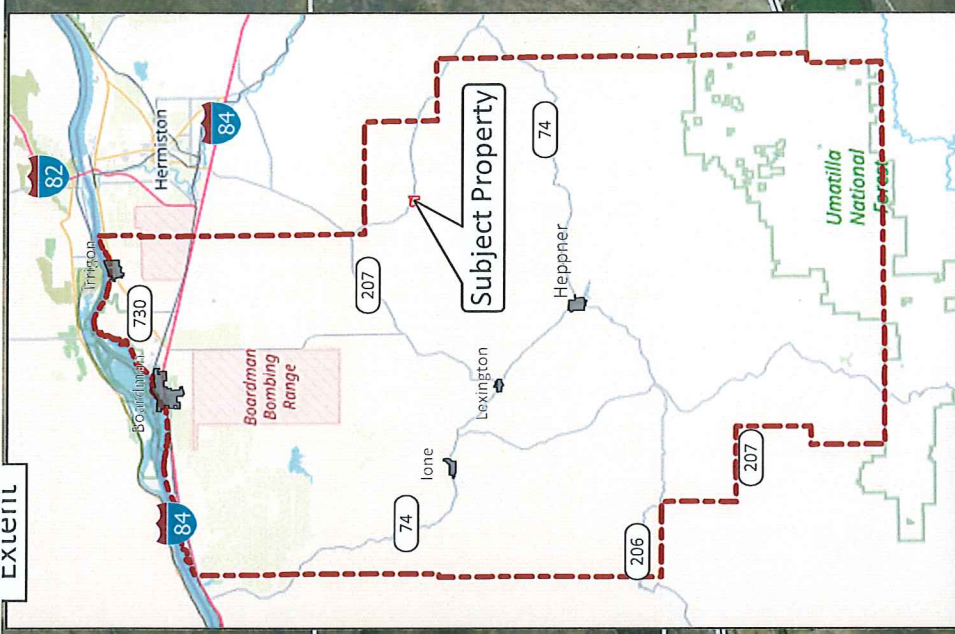
Vicinity Map, Plot P

Morrow County list of weeds classified as noxious weeds and "weeds of economic importance"

Vicinity Map



EXTENT

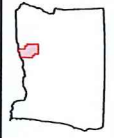


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Legend

- Tax Lots
- Subject Property

CUP-N-344-21
 Daniel Schoenfelder
 1N 27E 24 TL1600



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 Morrow County Planning Department
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41/60

**PRELIMINARY FINDINGS OF FACT
LAND USE DECISION
Application No. LUD-S-30-21**

REQUEST: To site a Forest Template Dwelling on an existing lot in the Forest Use (FU) Zone.

APPLICANT/OWNER: Jerald Schmelling
19680 SE Heuke Rd.
Damascus, OR 97089

PROPERTY DESCRIPTION: Tax lot 1500 of Assessor's Map 5S 28 22A.

PROPERTY LOCATION: Lot 1 in the Lake Penland Subdivision near Penland Lake.

FINDINGS OF FACT:

- I. **BACKGROUND INFORMATION:** The subject parcel is approximately 1.5-acres and is located in the Lake Penland Subdivision, approximately 16 miles southeast of Heppner. Lake Penland Subdivision was recorded as a subdivision plat in 1973 and continues to exist as non-conforming residential lots in the Forest Use Zone. There is a recorded document of covenants and restrictions applicable to the properties in the Lake Penland Subdivision. Legal access to the Subdivision and to the parcel is Lake Drive, also known as NF 020. According to the application the parcel is presently bare.

In accordance with the Morrow County Zoning Ordinance a forest template dwelling may be authorized if certain criteria are met, the criteria and responses are listed below.

- II. **APPROVAL CRITERIA:** The applicant has filed under the Morrow County Zoning Ordinance, ARTICLE 3, USE ZONES, Section 3.020 Forest Use Zone. Section 3.020 includes REQUIREMENTS FOR APPROVAL, and are listed below in **bold type**, followed by a response in standard type:

B. Uses Permitted Outright. B. Uses Permitted Outright. In the Forest zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance:

27. A template dwelling subject to Subsection D.3 and D.11.

See the standards below.

D. Use Standards

3. A single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

a. Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:

(1) All or part of at least three other lots or parcels that existed

on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

b. Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

(1) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

c. Capable of producing more than 50 cubic feet per acre per year of wood fiber if:

(1) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

According to the SCS Soil Survey of Morrow County, the parcel contains Helter silt loam (19C and 19E). The site index is 80 for Lodgepole pine (72 cu.ft./ac/yr). See attached plot plan, vicinity map, and soils map. The parcel is within the Lake Penland Subdivision which was recorded as a subdivision plat in 1973 and continues to exist as non-conforming residential lots in the Forest Use Zone. Many of the subdivision lots have dwellings; 30 parcels are within a 160-acre square of the subject parcel and at least 10 of those parcels contain dwellings that existed on January 1, 1993. The application meets 3(c) of these criteria.

d. Lots or parcels within urban growth boundaries shall not be used to satisfy eligibility requirements.

This criterion is not applicable as this lot is not in or near an urban growth boundary.

e. A dwelling is in the 160-acre template if any part of the dwelling is in the 160-acre template.

This criterion is met as all of the dwellings identified are within the 160-acre template.

f. Except as provided by paragraph g, if the subject tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

The application meets the template test as provided in subsections 3(a)(b) and (c), therefore this criterion would not apply.

g. The following applies where a tract 60 acres or larger abuts a road or perennial stream.

(1) The measurement shall be made in accordance with paragraph f. However, one of the three required dwellings shall

be on the same side of the road or stream as the tract, and:

- (a) Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or
- (b) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract.

(2) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

This criterion is not applicable as the tract is not 60 acres or larger.

h. A proposed "template" dwelling under this ordinance is not allowed:

- (1) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, or other provisions of law;
- (2) Unless it complies with the requirements of Sections E and F;
- (3) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph D.1.c for the other lots or parcels that make up the tract are met; or
- (4) If the tract on which the dwelling will be sited includes a dwelling.

The dwelling is allowed as none of these provisions apply.

i. Where other lots or parcels that make up a tract in Subsection h:

- (1) The applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.
- (2) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

The dwelling meets the criteria for approval under Section 3c above, but does not require one or more lot to meet the minimum acreage requirement.

11. For single-family dwellings, the landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

The landowner shall sign and record with the Morrow County Clerk's Office a Right to Forest Disclaimer prior to obtaining Zoning and Building Permits. This is required and listed as a condition of approval.

E. Siting Standards for Dwellings and Structures in Forest Zones

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest zones. These criteria are designed to make such uses compatible with forest operations, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this section together with the requirements of Section F to identify the building site:

1. Dwellings and structures shall be sited on the parcel so that:
 - a. They have the least impact on nearby or adjoining forest or agricultural lands;
 - b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - c. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
 - d. The risks associated with wildfire are minimized.

The applicant has proposed a plot plan (see attached). There are a number of other dwellings in the Lake Penland subdivision. There is no proposal to further remove land from forest use to site any access roads and service corridors. Risk associated with wildfire will be minimized by the conditions for siting dwellings and structures in the Forest Use Zone (see below).

2. Siting criteria satisfying Subsection 1 may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

The setbacks for the Forest Use Zone will apply to this dwelling. The dwelling will need to be sited, at minimum, 20 feet from the road, 25 feet for the side yards, and 25 feet for the rear yard. There is an additional Stream Setback which requires all sewage disposal installations to be set back 100 feet from the high-water line or mark of all streams and lakes, which is met as shown on the plot plan provided with the application. These setback requirements will be applied at the time the Zoning Permit is issued and will be enforced through the Building Permit program.

3. The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:

- a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
- b. A water use permit issued by the Water Resources Department for the use described in the application; or
- c. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

The application does not show that domestic water will not be provided at this time. When drinking water is to be installed it is recommended and listed as a Condition of Approval that the applicant provide documentation that the well meets Water Resources Department requirements or otherwise meets the requirements listed in (b.) above. The Preliminary Findings of Fact were provided to the County Watermaster at the Water Resources Department.

4. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

Information provided by the applicant from the Forest Service indicates that Lake Drive is a private road, therefore it is listed as a condition of approval that the applicant provide proof of a long-term road access use permit or agreement to conform with this criterion.

5. Approval of a dwelling shall be subject to the following requirements:

a. Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules;

b. The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

c. Stocking survey report:

(1) If the lot or parcel is more than 30 acres, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;

(2) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax; and

d. The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

The subject property is not currently specially assessed for forest use. The applicant meets this requirement. The standard Right-to-Forest Disclaimer Statement has already been listed as a Condition of Approval.

F. Fire-Siting Standards for Dwellings and Structures

The following fire-siting standards or their equivalent shall apply to all new dwelling or structures in a forest zone:

1. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards that shall comply with the following:

a. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;

b. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;

c. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use; and

d. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

Penland Lake Subdivision is listed on the Federal Register for Communities-at-Risk in the Morrow County Community Wildfire Protection Plan as it contains a high density of homes in a fire-conducive landscape. The Composite Risk Priority has been listed as "extreme" as the fire behavior potential, values at risk and infrastructure all are vulnerable in case of wildfire in the Penland Lake Subdivision. Penland Lake Subdivision is not located within the Heppner Rural Fire Protection District. The Oregon Department of Forestry patrols and protects against wildfire in the forests, but does not protect dwellings. The Preliminary Findings of Fact were provided to the local office of the Department of Forestry and the Heppner Rural Fire Protection District for comment.

For previous development of dwellings in Penland Lake Subdivision the State Fire Marshall's office has requested that the applicant provide, based on Oregon Fire Code, a 20-foot wide driveway with a vertical clearance of 13 feet 6 inches. It is therefore recommended and listed as a Condition of Approval that the applicant

either meet the State Fire Marshall's request or provide documentation that the current driveway can be accessed by firefighting equipment typically available and used in this area should a wildfire event happen. The appropriate agency to provide such documentation would be the Oregon Department of Forestry.

Penland Lake, which would provide more than 4,000 gallons in a fire suppression effort, can be used to fight wildfires in the Subdivision. Additionally, the applicant must provide self-fire protection in the form of the Conditions provided in F(3), (4), (5) and (6) below; they are recommended and listed as Conditions of Approval. It is recommended the applicant install a residential fire suppression system, such as a sprinkler system in the residence to protect against fire damage.

2. Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.

Lake Drive is a gravel road, that was developed at the time of the Lake Penland Subdivision and maintained by the owners within the subdivision. This criterion is met as the driveway is to be constructed consistent with the standards identified above under subsection (F)(1).

3. The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry and shall demonstrate compliance with Table 3.020-1.

This is listed as a Condition of Approval.

4. The dwelling shall have a fire retardant roof.

This is listed as a Condition of Approval.

5. The dwelling shall not be sited on a slope of greater than 40 percent.

This is listed as a Condition of Approval.

6. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

This is listed as a Condition of Approval.

III. AGENCIES NOTIFIED: Rosanne Godinez Sanchez, Umatilla County Public Health; Brandon Houck, United States Forest Service, Umatilla National Forest; Teresa Alcock, Oregon Department of Forestry; Steve Rhea, Heppner Rural Fire Protection District; Eric Julsrud, Upper John Day Watermaster, Oregon Water Resources Department; Glenn McIntire, Building Official; Matt Scrivner, Morrow County Public Works Director; Mike Gorman, Morrow County Assessor; Craig Andreson, Field Deputy State Fire Marshal.

IV LEGAL NOTICE PUBLISHED: Heppner Gazette-Times and East Oregonian
December 30, 2020

V PROPERTY OWNERS NOTIFIED: December 30, 2020

VI HEARING DATE: January 19, 2021
Bartholomew Building
Heppner, Oregon

VII PLANNING COMMISSION ACTION: Staff recommend approval subject to the following Conditions of Approval:

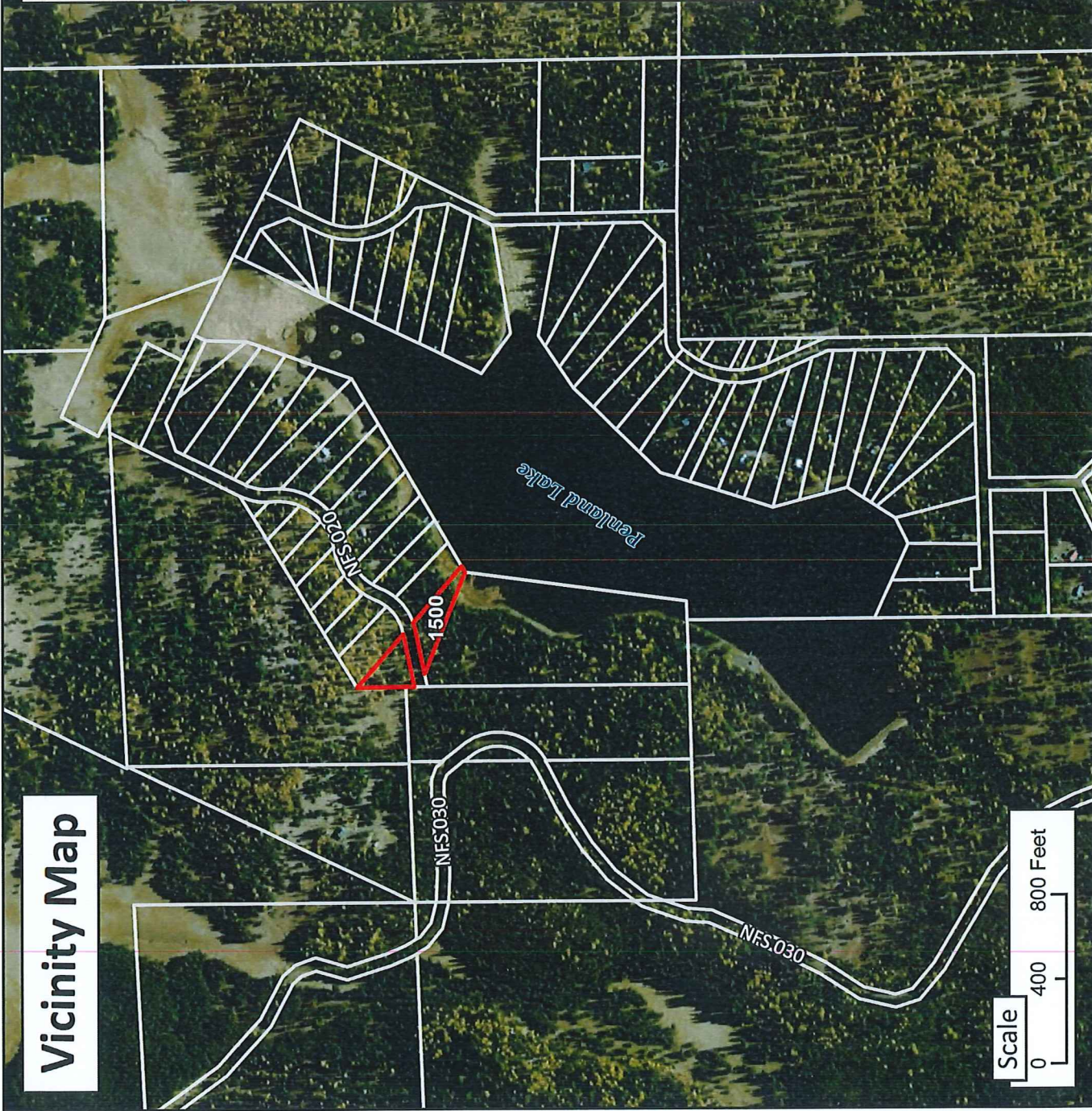
1. The landowner shall sign and record with the Morrow County Clerk's Office a Right to Forest Disclaimer.
2. When a water well is installed the applicant must provide documentation that the well meets Water Resources Department requirements or otherwise meets the requirements listed in E(3) above.
3. The applicant shall provide proof of a long-term road access use permit or agreement.
4. Provide a 20-foot driveway with a vertical clearance of 13 feet 6 inches, or provide documentation from an appropriate agency that indicates the current driveway meets accessibility standards.
5. Maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner.
6. The dwelling shall have a fire-retardant roof.
7. The dwelling shall not be sited on a slope of greater than 40 percent.
8. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

Jeff Wenzholz, Chair

Date

ATTACHMENTS:
Vicinity Map
Plot Plan
Soils Map
Area Study Map

Vicinity Map



Scale
0 400 800 Feet



LUD-S-30-21
Jerald Schmelling
5S 28E 22A TL1500

Legend

Tax Lots

Subject Property

Extent



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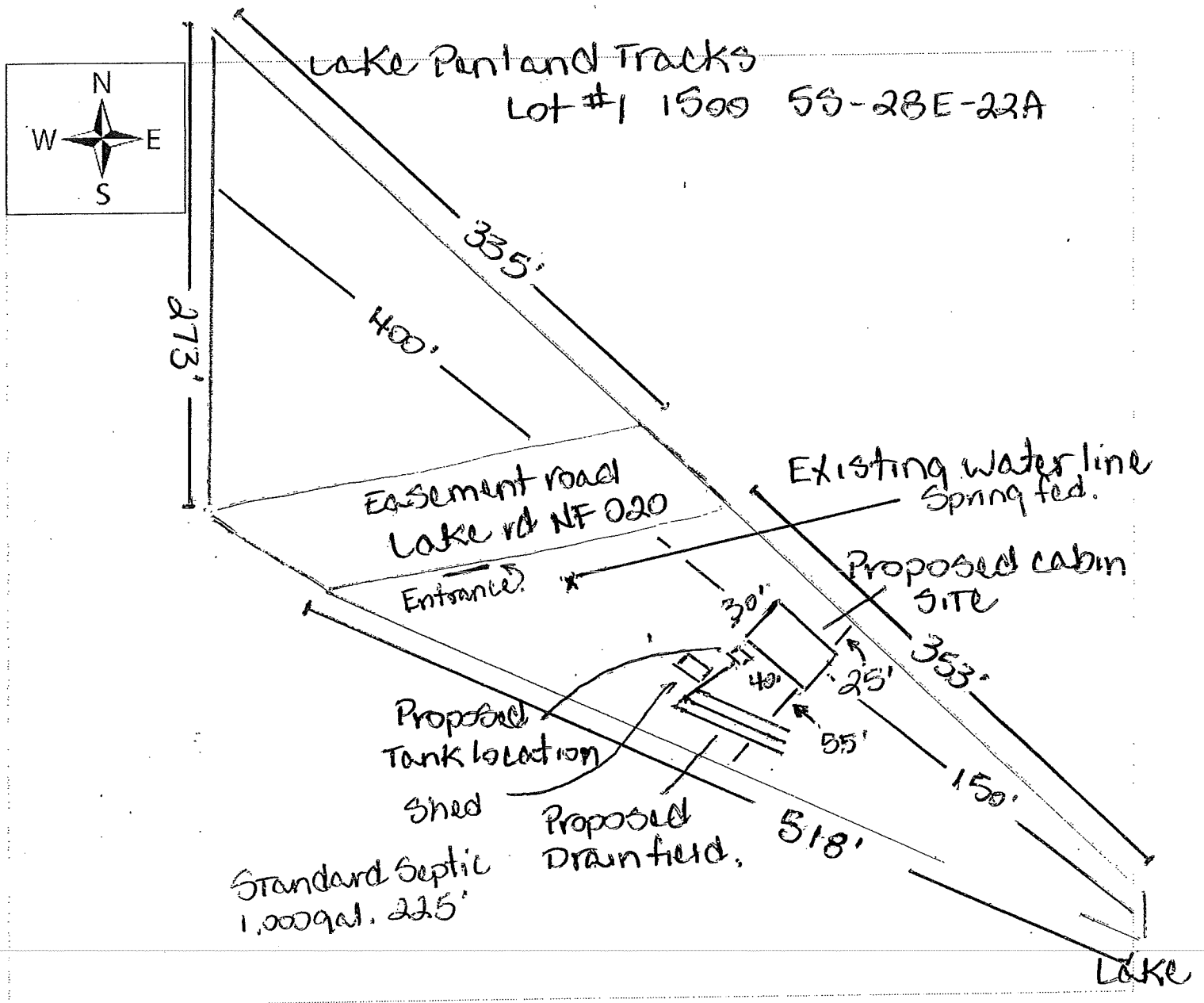
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Morrow County Planning Department
Coordinate System: NAD83 Oregon GIC Lambert ft
Datum: North American 1983
Projection: Lambert Conformal Conic
File: S:\Planning\GIS\MapData\12-23-20\14-06-21_P042021



Site Address: No actual address 5S-28E-22A City: Huppner

Please include locations for any Test Pits, existing structures, future structures, property lines, easements, existing and proposed wells, etc.







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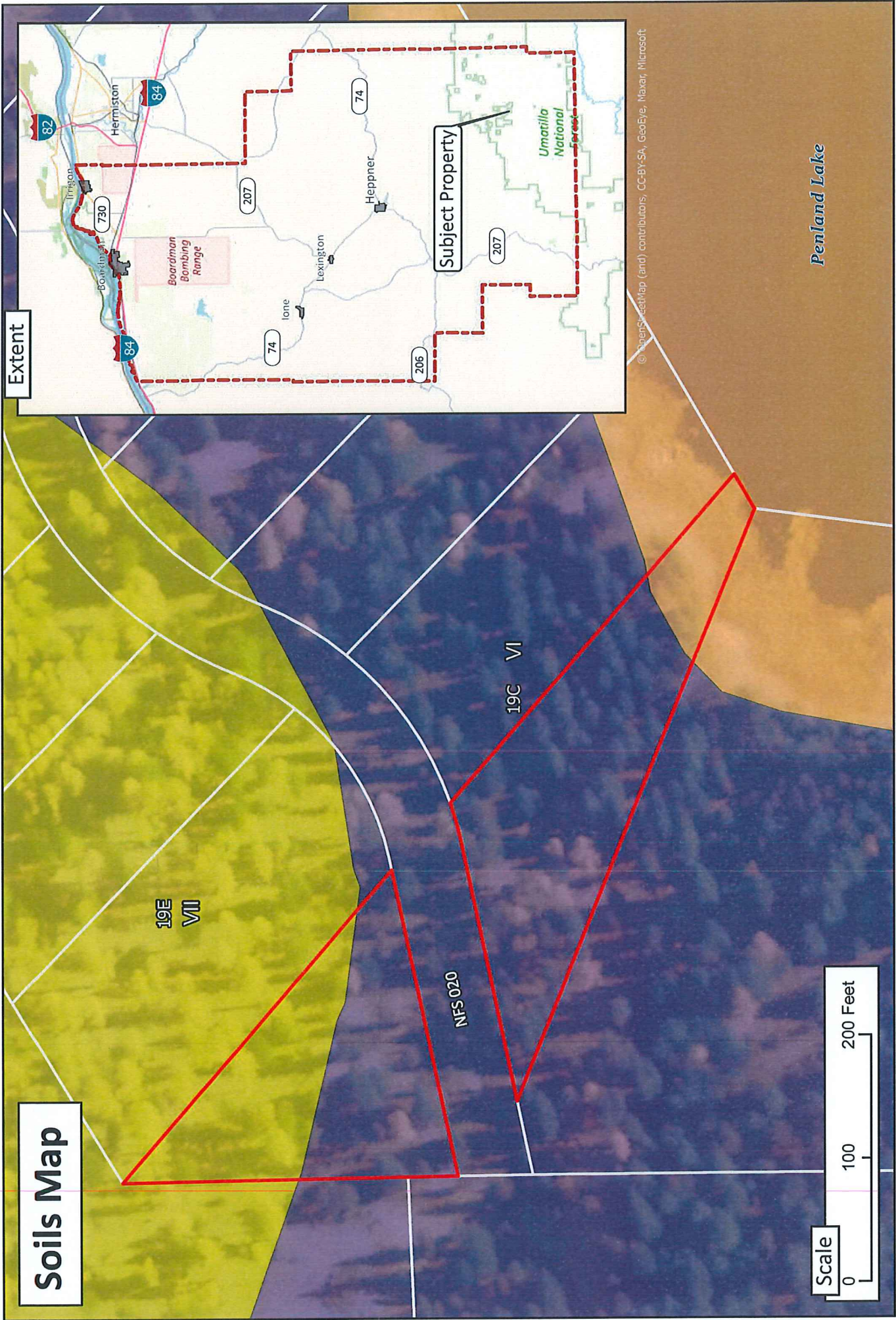


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-  Tax Lots
-  Subject Property

LUD-S-30-21
 Jerald Schmelling
 5N 28E 22A TL1500



Soils Map

Extent

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Area Study Map

160-Acre Study Area

NFS 020

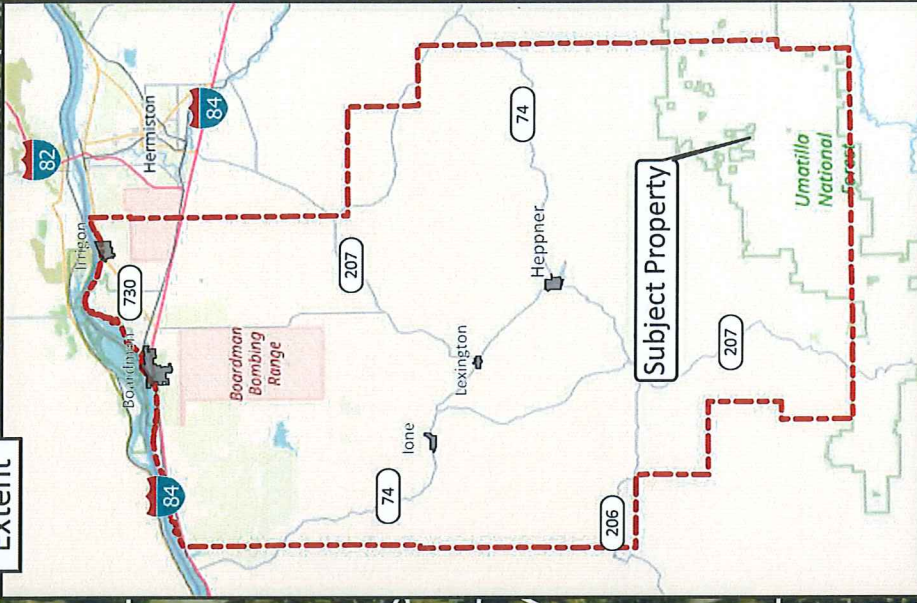
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Penland Lake

Scale



Extent



Subject Property

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LUD-S-30-21
 Jerald Schmelling
 5N 28E 22A TL1500

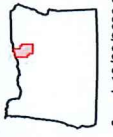
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Tax Lots



Subject Property



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 Morrow County Planning Department
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PLANNING DEPARTMENT

PO Box 40 • 205 Third Street NE
Irrigon, Oregon 97844
(541) 922-4624

January 6, 2021

MEMORANDUM

TO: Planning Commission
FROM: Tamra Mabbott
CC: Interested Parties
RE: Update on Proposed Rural Residential 10-acre minimum lot size zone

On December 8, 2020, Andrew Mulkey, staff attorney with 1,000 Friends of Oregon, submitted a letter with comments about the proposed RR-10 zone. A copy of the letter was shared during your December 8th meeting (also attached).

Planning Commission continued the hearing on the RR-10 Zone adoption in order to allow staff time to respond to the issues raised by 1,000 Friends.

Staff consulted with Department of Land Conservation and Development Commission (DLCD) staff on the issues raised in the 1,000 Friends letter. A summary of DLCD staff comments is at the end of this memo.

Staff has requested a meeting with 1,000 Friends to discuss the county's modified Findings and how county will address issues raised. A verbal report of that meeting will be shared at the Planning Commission meeting.

Below is a summary and analysis of the issues raised and a recommendation on a path forward.

1. Statewide Planning Goal 2 (SWPG 2) Mr. Mulkey points out that SWPG 2 requires counties rely on their comprehensive plans or "land use planning process and policy framework" as "a basis for all decision and actions related to us of land. OAR 660-015-0000(2) More specifically, Mr. Mulkey identifies the RR-10 zone as a "management implementation measure" for which OAR 660-015-0000(2) requires a comprehensive plan serve as the basis for adoption. Staff concurs with Mr. Mulkey and proposes to update the M CCP.

It is interesting that 1,000 Friends calls out the "management implementation measures" when rural residential (ten acre, now by law) is part of the Goal 14 Rule. County may argue that since County already has rural residential zoning (2 acre FR 2 Zone for example), the amendment actually is a compliance issue, to be consistent with ORS 197.175 and 197.250. Additionally, according to 197.612 county does not need a

public hearing to implement this compliance measure. Truly, county is not creating a whole new zone, rather, county is creating a zone that is in compliance with Goal 14.

2. Goal 10 Housing Mr. Mulkey correctly points out that the Housing element of the MCCP does not identify an RR-10 Zone. In response, staff proposes to update the Goal 10 Housing Element of the MCPP in advance of adoption of the RR 10 Zone. The 2019 Housing Study includes detailed population projections, a residential Buildable Lands Inventory of all five cities and unincorporated county and will serve as the primary factual basis for updating the Housing Element of the Plan.

The Housing Element update will require that county staff prepare a new legislative application and also the requisite 35-day notice (for a post acknowledgement plan amendment (PAPA)) to Department of Land Conservation and Development (DLCD). Staff proposes to have the notice and draft update prepared for commission consideration at the February 23, 2021 Planning Commission meeting.

3. Compliance with Exception Process for Goals 3, 4, 5 and 14 Mr. Mulkey questioned how the new zone would comply with the exceptions process and Goals 3, 4, 5 and 14. In a phone conversation with Mr. Mulkey staff explained how the rezone process would indeed require an exception for each new rezone application, that is, each time a landowner proposes to rezone their lands and apply the RR-10 Zone. Staff also shared the contents of the October commission training and background analysis that will apply to future rezones. During that October meeting, staff noted the rigor of the exceptions process, for which each landowner would be required to provide the analysis (aka Burden of Proof).

An explanation on how the goal exception process would apply will be included in the forthcoming, redrafted Findings for the RR-10 Zone. In summary, the RR-10 Zone will create a new zone for the MCZO only. Each and every time a landowner seeks to rezone his/her land will require an application for a plan and zone amendment as well as an application for exception to applicable statewide Planning Goals.

There appears to be some confusion about Morrow County's proposed RR-10 Zone and work underway by other counties who are working to create "non-resource lands." Morrow County is NOT considering a "non-resource" planning and zoning process, at least not at present. Rather, the scope of the Morrow County RR-10 zone is narrow in focus, similar in nature and scope to the RR-10 Zone in neighboring Umatilla County and also in Clatsop county. Again, staff will provide additional analysis of the exceptions process in the redrafted Findings and also in the Ordinance for Adoption of the new zone.

4. Analysis of Subject Lands In a phone conversation with staff Mr. Mulkey raised concern about the scope of future rezoning and its potential impact on farm and forest lands.

Staff explained that Morrow County's approach, like Umatilla and Clatsop counties, is to create the opportunity for landowners by adopting a Zone, but that each landowner would be responsible for submitting the plan, zone and exception application. Additional analysis about safeguards to protect adjacent farm and forest lands will be included in the revised Findings.

5. Goal 14 justification for rural residential plan designation Mr. Mulkey points out that the county "fails to explain the connection between the RR-10 proposal and the counties (sic) existing Goal 14 justification for rural residential plan designation." Staff proposes to draft new language to be included in the Goal 14 Urbanization Element of the MCCP as part of the RR-10 Zone Findings. Where the Goal 14 plan amendment will be exclusively for the RR-10 Zone, a separate application and state PAPA process will not be required. Rather, staff will revise the DLCD PAPA notice previously submitted for the RR 10 Zone.

Note: the current Goal 14 Urbanization chapter in the MCCP is four pages in length. The chapter was "repealed and replaced" in 2015 as part of a UGB amendment for the Town of Lexington. The intent in 2015 was apparently to update only the rural residential portion of the Goal 14 chapter but instead, the entire chapter was replaced. Further work on Goal 14 is warranted but for the purposes of justifying a RR-10 Zone only a small analysis will be added to Goal 14 section of the MCCP.

Summary of DLCD Staff comments on the memo as written above.

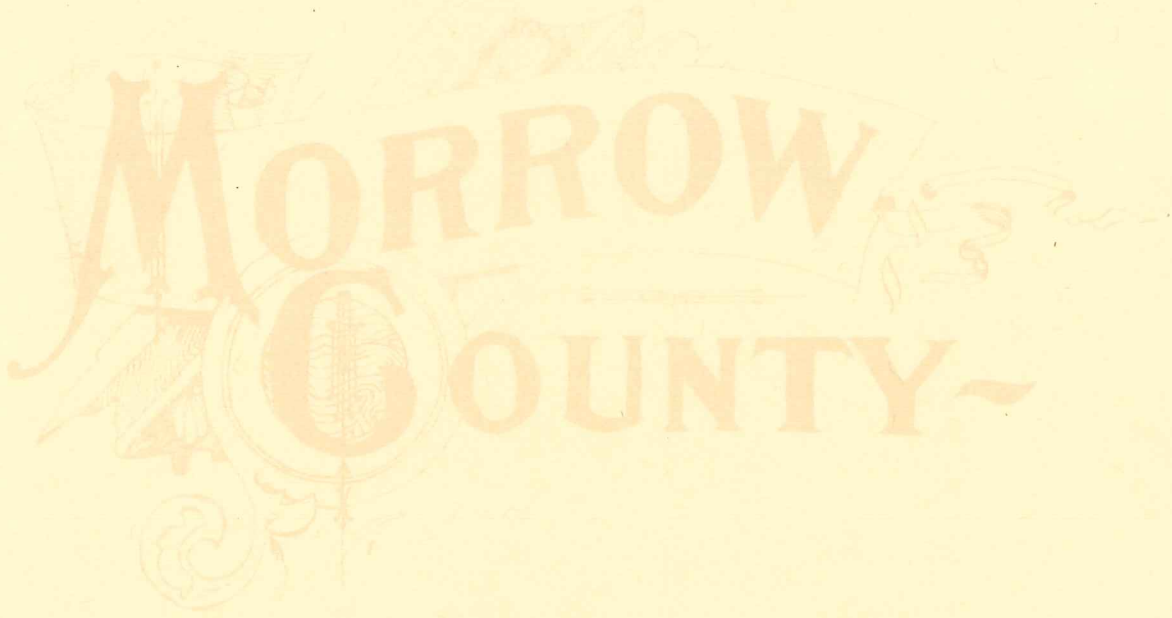
1. Your memo looks good. I am still confused about the Housing-Goal 10 aspects, since Goal 10 only applies in urban areas.
2. One of the strongest roles counties have in relation to Goal 10 is maintaining strong agreements with cities regarding management of urban fringe areas that are outside city limits and within urban growth boundaries. By maintaining strong measures that prohibit intensive development in those areas under county jurisdiction, counties can ensure that once annexed, the areas in question can be developed efficiently and cost-effectively to urban standards.
3. What I think is not appropriate is claiming that there is a rural housing need that justifies creation of more rural residential land. The department has taken a strong stand in the past against such a policy prerogative by counties. As long as your Goal 10 language doesn't include such a justification, I think we are fine with it.

SUMMARY OF PATH FORWARD

In summary, to address concerns of 1,000 Friends, and in accordance with the review of DLCD, staff proposes the follow next steps:

1. Update draft Findings to clearly outline that the legislative action is narrow in scope and will only create an RR-10 Zone in the Zoning Ordinance. Add reference to similar zones in Umatilla and Clatsop counties.
2. Update draft Findings and the purpose state in the RR-10 Zone to clarify that each application to rezone EFU lands to RR-10 will require a Goal 3 exception (farmland) or 4 (forest land) and Goals 5, 6, 14 and possibly 7 (Natural Hazards).

3. Update Comprehensive Plan Goal 10 Plan. Update will include reference to 2019 housing study and updates forthcoming by cities.
4. Draft language to Comprehensive Plan Goal 14 Urbanization Element with language noting that 10 acre residential parcels are not “urban” and therefore do not require an exception to Goal 14.
5. If Planning Commission agrees with the path forward, commission may continue the hearing on the RR-10 Zone to February 23, 2021. At the February meeting staff will have the draft Goal 10 Housing and Goal 14 Urbanization chapter for review.



December 8, 2020

By electronic mail

Morrow County Board of County Commissioners
c/o Tamra Mabbott, Planning Director
tmabbott@co.morrow.or.us

RE: RR-10 Zone, File Number AZ-134-20

On behalf of 1000 Friends of Oregon, please accept the following statement for the record in the proposal to create a 10-acre Rural Residential Zone, RR-10, file number AZ-134-20. Please include 1000 Friends in any subsequent notice related to proceedings in this matter and any notice of decision.

The RR-10 proposal fails to comply with Goal 2

The proposed RR-10 zone does not comply with Morrow County's comprehensive plan, Goal 2, or state law. Goal 2 requires that counties use their comprehensive plans, or "land use planning process and policy framework" as "a basis for all decision and actions related to use of land." OAR 660-015-0000(2). Goal 2 also requires that counties "assure an adequate factual base" for their decisions and actions. *Id.* As written, the current proposal does not those requirements.

The County cannot propose and implement a new zone without first justifying and explaining the basis for the zone in its comprehensive plan. In this case, the proposal fails to identify the basis for the zone. Comprehensive plans "shall be the basis for specific implementation measures," and such "measures shall be consistent with and adequate to carry out the plans." OAR 660-015-0000(2). Goal 2 explains that there are two types of implementation measures, "management implementation measures" and "site or area specific implementation measures." Management implementation measures include ordinances and regulations; the proposed RR-10 zone falls into that category.

As currently written, the comprehensive plan does not provide the basis for newly proposed RR-10 zone. The comprehensive plan does not recognize the RR-10 zone or justify its creation. And the proposed findings do not explain how the RR-10 zone is consistent with or carries out particular provisions of the comprehensive plan. In other words, the proposal fails to demonstrate that it implements any aspect of the comprehensive plan.

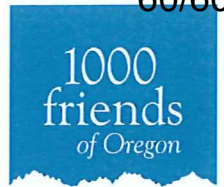
The summary of application statement and purpose statement for the RR-10 zone presents a set of unsupported assertions about the zone, its purpose, and the reasons for its creation. These statements are inadequate. The County must provide an adequate factual base to support the zone's purpose and need. For example, Goal 2 requires the County to incorporate the factual justification for the zone into its comprehensive plan or supporting documents: "All land use plans shall include identification of issues and problems, inventories and other factual for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs." OAR 660-015-0000(2). In this case, nothing in the comprehensive plan or the proposal describes the inventory of currently available land that would allow current or future residents to "live within the county but on a rural setting with small acreage." Draft Findings of Fact I. Without that information or its incorporation into the comprehensive plan, the County fails to provide a basis for the zone.

Goal 10 does not justify the RR-10 zone

The proposed findings attempt to justify the RR-10 zone under the County's Goal 10 policies. Goal 10 and the County's Goal 10 plan policies do not, and cannot, justify the RR-10 zone. First, Goal 10 applies to buildable lands "in urban and urbanizable areas that are suitable, available and necessary for residential use." For that reason, the County's Goal 10 policies do not apply to resource lands or other rural lands within the County. Such an interpretation would be inconsistent with Goal 10. Second, the proposal does not limit the RR-10 zone to areas already designated as urban or urbanizable areas. Finally, the proposed findings fail to explain the extent of any "expected population growth" or how the newly proposed zone would meet that growth in light of lands already designated for that purpose.

Compliance with the exceptions process and Goals 3, 4, 5, and 14

First, the actual language of the proposal itself does not contain any provisions that link the implementation of the RR-10 zone to the state or county goal exception process. At the very least, the County needs to provide for that process in the provisions for the zone. Second, the language of the zone does not explain what existing lands would be subject to or eligible for the exception process for the RR-10 zone. The various purpose statements for the proposal imply that the zone could comply with Goal 3 because of the exceptions process. The proposal does not address Goal 4. Third, the proposal does not address Goal 5 or how the residences would comply



with protections for inventoried Goal 5 habitat. Finally, the fails to explain the connection between the RR-10 proposal and the counties existing Goal 14 justification for rural residential plan designation.

Conclusion

1000 Friends asks that Board of County Commissioners address these issues before adopting the proposed RR-10 zone. I am happy to provide further clarification of 1000 Friends' concerns with this proposal to the Board or the Planning Director and planning staff.

Sincerely,

A handwritten signature in black ink that reads "Andrew Mulkey".

Andrew Mulkey
Rural Lands Staff Attorney
1000 Friends of Oregon
(503) 497-1000x138
andrew@friends.org

1000 Friends of Oregon is a non-profit organization founded by Governor Tom McCall shortly after the Legislature passed Senate Bill 100, which created the land use planning rules that shape Oregon's communities. Since its founding in 1975, 1000 Friends has served Oregon by defending Oregon's land use system—a system of rules that creates livable communities, protects family farms and forestlands, and conserves the natural resources and scenic areas that make Oregon such an extraordinary place to live. 1000 Friends accomplishes this mission by monitoring local and statewide land use issues, enforcing state land use laws, and working with state agencies and the Legislature to uphold the integrity of the land use system.

cc by email:

Jim Johnson, Oregon Dept. of Ag.
Justin Nelson, County Counsel