

June 26, 2023

**VIA EMAIL & HAND DELIVERY**

Morrow County Planning Commission  
c/o Tamra Mabbot, Planning Director  
Morrow County Bartholomew Building  
110 N. Court St.  
Heppner, OR 97836

**Re: Rowan Percheron, LLC - Pre-Hearing Submittal  
(Docket AC-145-23, AC(Z)-146-22, AZM-147-23)**

Dear Chair Ekstrom and Fellow Planning Commissioners:

Thank you for the opportunity to provide you with this pre-hearing submittal on behalf of Rowan Percheron, LLC (“Applicant”). We look forward to appearing before you on Tuesday, June 27 for the first evidentiary hearing on Applicant’s zone change and goal exceptions request.

Our team is in receipt of the draft staff findings released on June 16 (“Staff Report”) along with an email from the Oregon Department of Land Conservation and Development (“DLCD”), dated June 15 (“DLCD email”). This pre-hearing submittal responds to items identified in the Staff Report and DLCD Email and provides additional information into the record ahead of the hearing. Applicant identifies three issues raised in the Staff Report or DLCD email that Applicant wants to address ahead of the hearing. To date, Applicant is not aware of any other public comment that requires our response prior to the hearing.

**Water Source and Supply**

The Staff Report raised potential concerns over Applicant’s ability to further certain Morrow County Comprehensive Plan (“MCCP”) goals and policies if Applicant was to use area groundwater for its operational water source. The Project Parcel is located within the Lower Umatilla Basin Groundwater Management Area and just north of the Ella Butte Classified Groundwater Management Area. The Project Parcel is outside any Critical Groundwater Area.

In the application, Applicant proposed more than one sources of water for its project, including use of groundwater via a new groundwater well. Since submitting the application, Applicant had further conversations with the Port of Morrow and now plans to secure water from the Port of Morrow, thus avoiding a new groundwater well. The record contains a copy of the memorandum of understanding and the more recent letter of intent Applicant negotiated with the Port of Morrow to deliver water services to the Project Parcel.

Applicant provides *Supplemental Findings* in Attachment 1 (in the form of a redline of the Staff Report) to reflect the updated information concerning the water source and supply for the Project Parcel.

### **Alternatives Analysis**

The DLCD email raised questions concerning Applicant's alternatives analysis and whether Applicant had considered sites that were within an urban growth boundary or within zones where a data center use was already allowed. Applicant's alternatives analysis did consider these factors, including land in and near the City of Hermiston.

Applicant provides *Supplemental Findings* in Attachment 1 that respond to DLCD's comments and further bolster Applicant's alternatives analysis. In addition, Applicant provides a question by question response to the DLCD email in Attachment 2.

### **Construction Traffic and Road Use Agreement**

The Staff Report raised questions concerning the project's construction traffic and potential road impacts to be mitigated for Tower Road. Following issuance of the Staff Report, the Applicant team met with County Planning Director and County Public Works Director to discuss these questions. In response, the parties are working together to negotiate a Road Use Agreement acceptable to both the County and Applicant to mitigate for potential adverse impacts to Tower Road from construction traffic. Applicant is also working with its traffic engineer to provide additional information into the record concerning construction traffic (anticipates submitting prior to the second evidentiary hearing).

Applicant anticipates providing a draft *Road Use Agreement* for discussion into the Planning Commission record. The draft will be based on a template received from the County.

### **Hearing Process**

Applicant understands that the Planning Commission anticipates holding its first evidentiary hearing on June 27 and will likely continue the hearing until July 25 for deliberation and decision. Applicant welcomes questions at the hearing and if needed, will use the time between the two hearings to respond to Planning Commission questions and file supplemental information into the record to support a recommendation of approval for Applicant's request during the July 25 hearing.

We appreciate your time on this project, and thank you for your consideration.

Very truly yours,

Davis Wright Tremaine LLP



Elaine R. Albrich