

**Memo**

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

1. INTRODUCTION

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

1.1 Land Use and Zoning Siting Criteria

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

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

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

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

1.2 Rezoning Industrial Land

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

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

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

1.3 Urban Growth Boundary Expansion

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

1.3.1 Land within UGB

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

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

1.3.2 Land in Proximity to UGB

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

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

1.3.3 Recap of Alternatives Evaluated

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

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

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

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

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

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

Table 1 Alternatives Analysis Discussion- Overarching Assessment

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

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

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

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

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

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

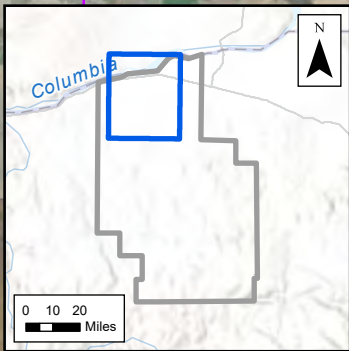
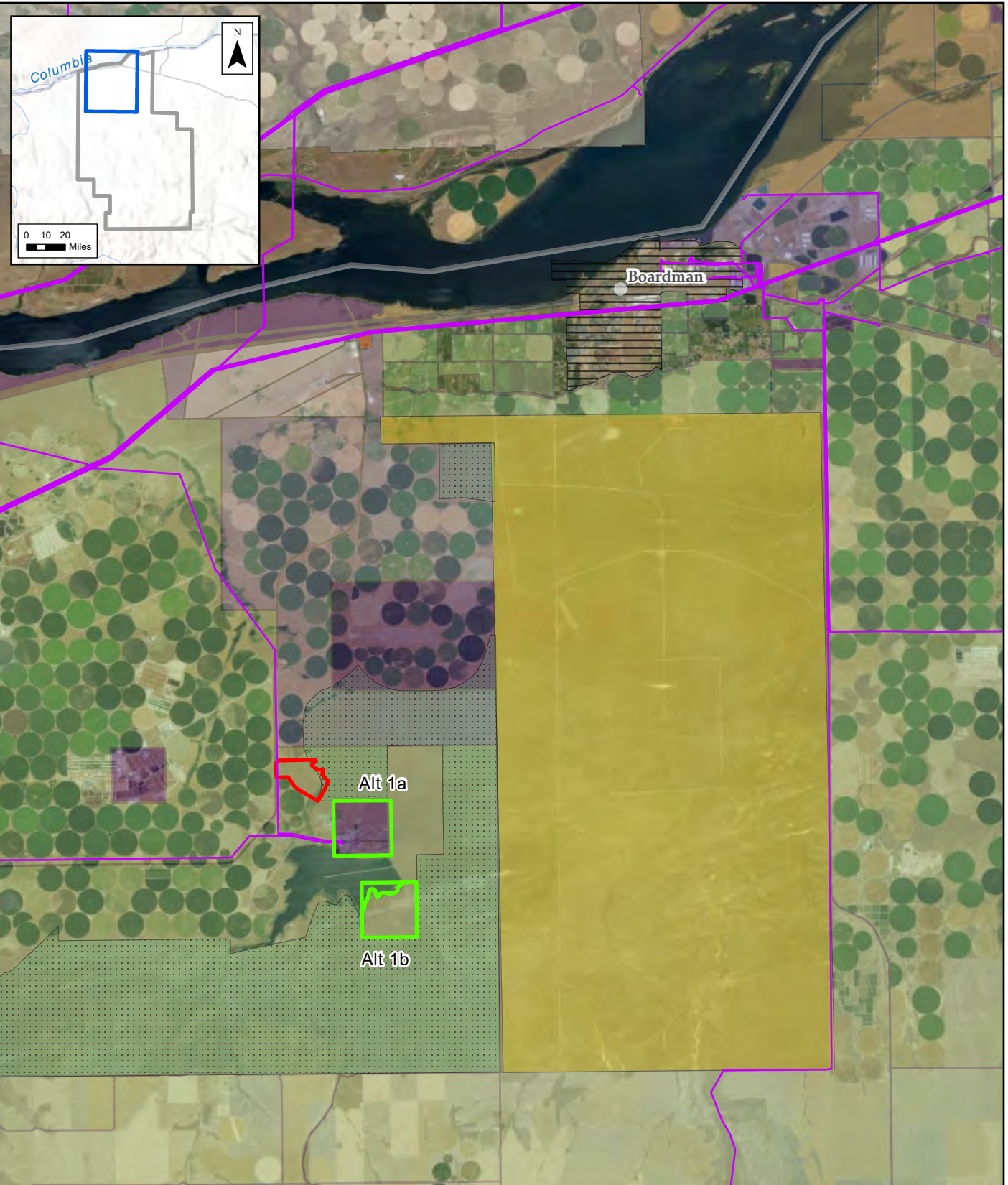
2. CONCLUSIONS

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

FIGURES

Drawn By: matt.bowen

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

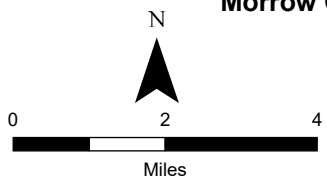


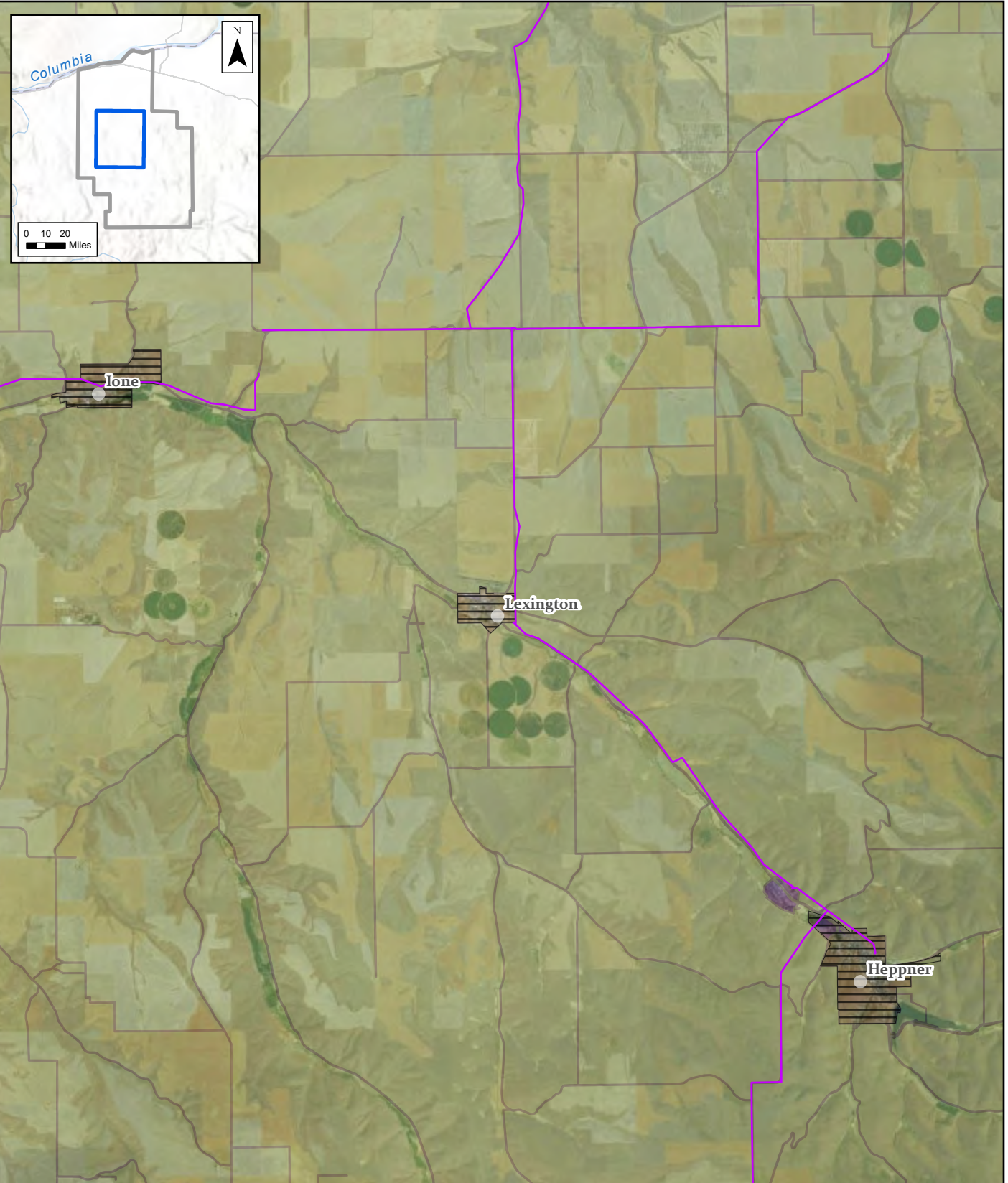
Figure 1a
Morrow County UGB and Permittable Zones
 Percheron Data Center
 Rowan Green Data, LLC
 Morrow County, Oregon



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

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Drawn By: matt.bowen



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

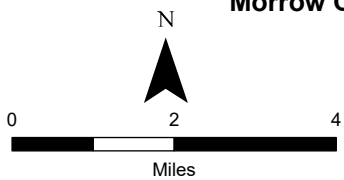


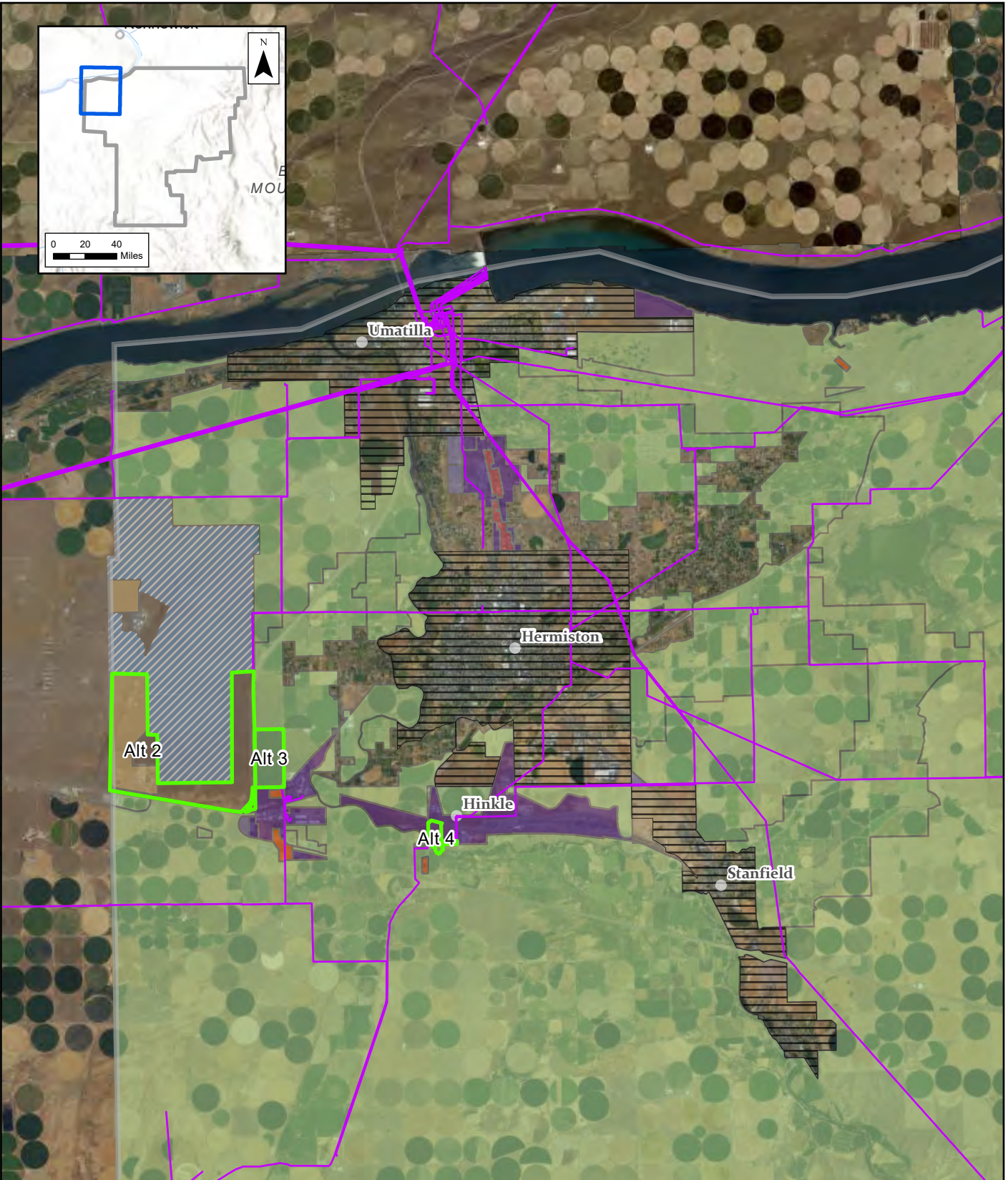
Figure 1b
Morrow County UGB and Permittable Zones
 Percheron Data Center
 Rowan Green Data, LLC
 Morrow County, Oregon



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

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

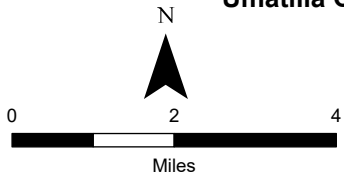
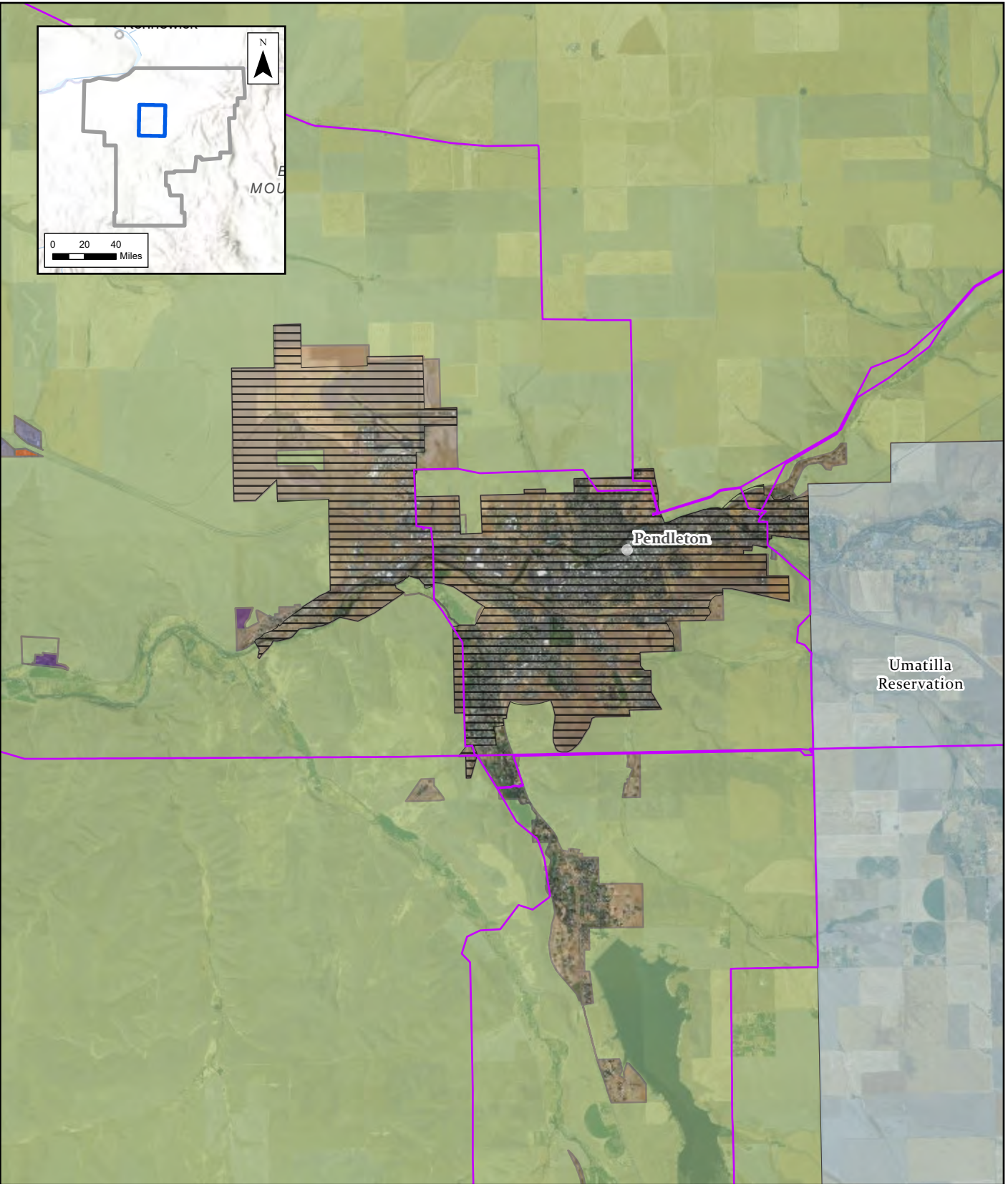


Figure 2a
Umatilla County UGB and Permittable Zones
 Percheron Data Center
 Rowan Green Data, LLC
 Umatilla County, Oregon



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



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

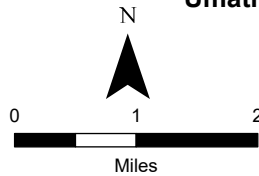


Figure 2b
Umatilla County UGB and Permittable Zones

Percheron Data Center
 Rowan Green Data, LLC
 Umatilla County, Oregon