

ENCLOSURE 3

Transcript of August 16 BOC Hearing

**Morrow County Board of Commissioners Hearing
August 16, 2023**

00:00:05 Electronic Voice Recording in progress.

00:00:15 Tamra Mabbott Oh, the Agenda.

00:00:26 Chair Sykes OK, I'm going to call the meeting of the Morrow County Board of Commissioners to order and there's one item on the agenda today, it's Public land use hearing applicant Rowan Green Data Zone Change, Exclusive Farm Use to MG General Industrial, and Exceptions to Planning Goals 3 & 14. So we will start with the staff report Planning Directory Tamra Mabbott.

00:00:58 Tamra Mabbott Steven, do you have maps ready? Steven's going to pull up some maps? But he was helping us with the room.

00:01:04 Speaker Your audio is really low.

00:01:08 Tamra Mabbott Oh, how do we do that? Who is Zooming it?

00:01:12 Steven I'll be right there.

00:01:15 Tamra Mabbott Is, what did he say?

00:01:17 Speaker 7 He'll be right there.

00:01:19 Tamra Mabbott Valerie is your computer on mute? Because I think I think it's coming through yours.

00:01:19 Valerie I'm not connected.

00:01:26 Tamra Mabbott Oh, I'm not either so, it is.

00:01:32 Speaker Someone's running that right there.

00:01:43 Tamra Mabbott Delayed reaction.

00:01:54 Speaker The volume is really low on mine.

00:01:57 Speaker OK.

00:02:01 Tamra Mabbott The people on Zoom, can you hear us? Maybe your thumbs up. Dan, are you there?

00:02:12 Dan Kearns I can hear you real Good.

00:02:15 Tamra Mabbott Oh, perfect, Oh, great, OK, Steven fixed it. Steven is our Assistant Planner and IT guy.

00:02:27 Chair Sykes Before you get started on your staff report I need to cover the statutory bias conflict of interest declaration of ex parte contact objections to jurisdiction. Do any of the commissioners have objections? No, alright, thank you.

00:02:47 Comm. Wenholz Can I ask another question here, coming back from years of Planning Commission?

00:02:57 Tamra Mabbott A disclaimer.

00:02:58 Comm. Wenholz And that's an Opening Statement.

00:02:59 Tamra Mabbott An Opening Statement.

00:02:59 Comm. Wenholz Correct. Is this quasi-judicial?

00:03:01 Tamra Mabbott It is, that's exactly right this one is both quasi judicial and legislative. So I could almost do it by heart. My apologies. My apologies, so we have some new folks here. I'm used just showing up and it's all set up, right. Let me see if I can get . . . so.

00:03:16 Unknown Female Tamra, can I interrupt for a second? It's easier to hear you, more difficult the hear the Commissioners.

00:03:27 Tamra Mabbott OK, I think Jeff was kind of whispering, so. Yeah, great, one second and I can find the disclaimer statement. Do you have it there Valerie?

00:03:43 Valerie Ballard I got the Land Use Hearing Order Hearing Procedure.

00:03:51 Tamra Mabbott This is it, Yep. Thank you. I should have embedded that, but OK.

00:04:07 Chair Sykes OK, I'm going. I'm going to start over here from this. First I'm going to call for abstentions of conflicts of interest any ex parte contact with the with opponent. The proponents should be mentioned in the statement made that either one the contract has influenced the Commissioner and therefore they must abstain from voting to, the contact did not influence the decision maker. There is not a conflict of interest and the Commissioner made with this statement herein. Number two, chair; testimony and evidence must be directed for the applicable substantive criteria. Failure to raise an issue with sufficient specificity to the Board of Commissioners and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue. Interested parties are the right to request the continuous and the right to have the record remain open for seven days. Individuals testifying need to state their full name and address for the record as well as sign in, or as 197- 7635, 197-7963 and 197-7627.

00:05:27 Tamra Mabbott

Thank you. We had a pre-meeting to make sure everything was covered and we're earning our keep today, so thank you catching that very much. So, pretty much so, for the record, I'm Tamra Mabbott. I'm the Morrow County Planning Director and as Chair Sykes has said, today is a Land Use Hearing for a plan, a map and a zone amendment on 274 acres of land. And Steven has the vicinity map up on the screen. So the subject parcel is outlined, right there. That's the vicinity. There it is, that's it thank you. If you could turn it, Steven please, that would be great That was the vicinity map. Thank you. Great, so it's an odd shaped piece of ground, and the applicants had two hearings in front of the Planning Commission and they voted to recommend the Board of Commissioners approve. And in front of you, you have a packet which we emailed to you last week. We also have here today the entire print record, the application and other materials if anybody from the audience or on Zoom would like to see any of those materials. And they're also posted on our website, which is embedded in the cover memo to the Planning Commissioner, oh, to the Board of Commissioners, sorry about that. We did that to save a few trees and because I think our current Board of Commissioners are fairly techy and do most of their stuff from their computers, but they also have the board packet of paper copy today in front of them. Before I start, I'd like to enter into the record, a few additional items. So a couple of items arrived yesterday and one today. Board, you have these in front of you. The first item is a letter dated August 15th, it's a letter from Oregon Department of Land Conservation and Development. There's an e-mail and an attachment from Mary Killion and there's also a letter dated August 15th from Devon, from 1,000 Friends of Oregon, Devon Kestner from 1,000 Friends of Oregon. So if you don't mind they could add those to the record.

00:08:04 Chair Sykes

I'll make a motion to adopt these into the record.

00:08:08 Comm. Wenholtz

I vote second, all in favor say Aye.

00:08:09 Comm. Drago

Aye.

00:08:10 Chair Sykes

All opposed? Motion granted.

00:08:13 Tamra Mabbott

Great. Thank you. So what you have in front of you is, I'll start with them now and Michaela did a nice job of numbering everything for the packet and in your, attached to your memo is a draft ordinance that has been reviewed by both our County Counsel and our Land Use Council, Dan Kearns, who is there, I can see them on my screen, but I don't see them in another location. And so depending on your action that would be an item to adopt. You also have a set of findings that are redlined and highlighted. We started with my original

findings and they've gone through a few iterations. It's customary to allow the prevailing party to draft findings for approval or to reflect the Planning Commission decision which, they did do. So, that is the base that, that could be the basis for approval if, after the end of the hearing, you want to approve the application. I also, in my memo, pointed out there were a couple of other items that are maybe a little bit more of a legal nature that I identified as possible grounds for someone to appeal or the board to not approve the application. And that is, you received those today. So there's a letter from 1,000 Friends and a letter from the Department Land Conservation and Development that call into question the number of items and, I know that DLCD is on the phone, so when you get to agency comments, I'll just defer to the agency to represent their comments. I don't know if anyone from 1,000 Friends would be here today. I think that's the housekeeping part. So the application is to rezone 274 acres from exclusive farm use to general industrial with an overlay zone that would allow the development of a data center complex. Do you have the site plan there Steven? Might be the next map. Yes, that's right. That's the water map. Site plan is, there you go. So of the 274 acres 190, you see that hashmark area would be the developable area. The applicant is here to defend their application. As you know, the burden of proof is on the applicant to make the case and they have done a robust job of that. In your packet beginning on page 72 to 80 is a list of all the exhibits, I just want verbally on the record to note that the Board has that list of exhibits and again, those are all those exhibits and the exhibit list is on our website. New items that are in your packet that were not in the Planning Commission packet is a revised memo from Kittleson and Associates on the traffic. Actually, some additional information on the alternatives analysis and the Minutes from the Planning Commission meeting which are drafted minutes. Those have not been adopted, that's a little out of our order, but I thought the Board would want to see what those discussion items were amongst Planning Commission members. And that's primarily that. It's a legislative action that's not sponsored by the county, so as staff we don't take a position, we just make sure the process is followed and we take the first cut at drafting findings. I think rather than going into a lot of detail, it makes sense to defer to the applicant to give you a good overview of their case. I do want to ask Eric Imes to talk a little bit about a road. Do you do you mind doing that Eric? I don't see him, let's see where'd he go. We talked just this morning. There he is, perfect.

00:13:00 Eric Imes

Yeah. Right now?

00:13:04 Tamra Mabbott

So the access to that Property would be Tower Road, which is a county road. It's about 9 miles South of the intersection with I-84.

And Eric and I have met with a development team a few times, Planning Commission spent a fair amount of time talking about the access road and, Eric just wanted to bring up another point, but we had discussed in that in those meetings and at The Planning Commission meeting. Do you want to talk about the road use agreement?

00:13:44 Eric Imes

Yeah, we don't have an agreed upon agreement yet, but we've discussed details about it regarding chip seal following construction and then pre construction or double chip seal from mile post the to the entrance. Part of discussion was the fact that at milepost 8, Tower Road, the Tower Road easement goes to the South West. The County easement, I'm sorry; and then the easement to the power plant continues directly South. So there's been discussion about whether the county should take over maintenance following this proposed construction or not. And the more I learned about that easement, the county can't actually do maintenance on a non-county road easement. So we'll work through some of those things. Tamra, you lead me in a different direction or something I'm missing?

00:14:59 Tamra Mabbott

No, I think you got it just right. So that's right, the primary access is Tower Road. So the first 8 miles as Eric was pointing out is the county road. You can see the technical easement or right of way moves off to the left at about the point where that 9th and 10th mile intersect, and that's really just an easement that the Pacific General Electric has had for years and years. And so that's the part Eric is saying, is this correct, Eric, that really the county could not maintain that part?

00:15:37 Eric Imes

Not without some changes. But the condition of that road from outpost 8 is in need of repair and as I understand it, it's the responsibility PGE now; I gave them a quote a couple years ago on chip sealing and that, but nothing ever happened. So it's in need of repair.

00:16:02 Tamra Mabbott

Any questions from Matt about the road? Again, I'm skipping over a lot of the details because I think the applicants can do a lot better than I can. I just wanted to make sure that you have it in your thought process, that we've evaluated road and road impacts from the county perspective pretty well.

00:16:21 Chair Sykes

Well, I'm reading over the minutes and so forth, listen, you didn't bring up any new information just now did you?

00:16:28 Tamra Mabbott

That's correct.

00:16:29 Chair Sykes OK, just want to make sure because it sounds just like what we said before.

00:16:37 Tamra Mabbott And, the road use agreement would have to come in front of the Board of Commissioners and it's possible it will have the a final document to share before you make a final decision. I do want you to know that the applicant's attorney actively would look at a further date to continue the hearing. So they'll probably ask for a continuance today. Sharing that with you so you can kind of take a deep breath if you're feeling like you're on the spot make final decision today. My recommendation would be to honor their request for continuance so that they can address the additional items in the record. And then, hopefully that continued hearing, we can also look at a final road use agreement so then you don't have that subjective matter deferred to a later hearing date. So any questions of me about the procedure or the substance of the application? It's a little unfair, Commissioner Drago, because your peers over here spent quite a few years on the Planning Commission, so you might have to catch up with him. But so, in order to do the rezone application to zone it from anything other than farm use and natural resource use requires an exception with state wide planning goal 3 which is in the record. This is also an exception to statewide planning goal 14, which is urbanization, and that is because the density is not in a rural density. It's an urban density, and then the application also includes an exception to state wide planning goal 11, because they'll be providing, they're proposing to provide a municipal water service out to the site. The rest of the site, wastewater and septic water would be on site. I think that's it, unless you have any more questions? Because, what was going to say, they'll do a better job of, to give the rest of the details.

00:18:47 Chair Sykes They'll speak in the public hearing for us and the staff report is here.

00:18:50 Tamra Mabbott That's right. I would defer to Dan Kearns. Dan, is there anything that I missed? Dan, I think most of you have met him is our in-house land use counsel.

00:19:10 Dan Kearns Out-house counsel. I think you covered it, to give a summary of where things are and you can point out the two new opposition letters that came in yesterday. And so I think it's, unless the Commissioners have any questions, to the applicant?

00:19:35 Chair Sykes OK. With that, we will now open the public hearing. The first, one we're going to ask to speak are for the applicants and proponents. So if you would speak up here and say your given name.

00:20:21 Tamra Mabbott Excuse me, Chair, there's lot's of extra copies of lots of the materials and the entire Board packet back here and if anybody hasn't signed into the sign in sheet. OK. Are you sharing your screen? OK, perfect. And I did make a paper copy of the PowerPoint for the Commissioners that came in yesterday.

00:21:21 Bobby Hollis Is that? Thank you very much for hearing today. My name is Bobby Hollis, I'm your Chief Commercial Officer of Roman Digital Infrastructure. Our goal is to provide sustainable options for developing the new data center and technology that are happening in ways that we all are seeing all around us to help us communicate and help us reach out to people, our loved ones and do the things that we all have become accustomed to, especially over the last few years. So what we're here to discuss today is the virtual data center and, our goal is to hopefully answer any questions and really help you understand why we think this is a great place both in the county and this particular site because of its unique characteristics to build a data center and to really provide the opportunity to develop this part of the economy. Next slide.

00:22:24 Unknown Speaker Not sure. I love this right, actually. Again for us. Please, there we go.

00:22:54 Bobby Hollis The team before you now, the three dressed identically, not on purpose. I'm Bobby Hollis, I actually live in Las Vegas, Nevada and I'm the Chief commercial officer. To my left is David Shiflett, who's actually been leading the development of this project for the last several years and really very much will be doing a lot of the discussion around what we've seen and why we think this is a great site. And then to his left is Martin Romo, who is leading our our government affairs and public relations and economic development aspects of the project. So you'll hear from him about why you can but this actually is a great benefit to the community as well. And then speaking to hopefully a few of experts that you probably are familiar with some of the organizations that they are affiliated with, we have Hubbell that has helped us with some of the public outreach that we've done at communications, Nathaniel Brown and Lauren Garetto. We also have Davis Wright Tremaine, which is our legal counsel that's been really helping us shepherd this entire process. And so you'll have Elaine Albrich, who will be up and really leading a lot of the discussion today and Olivier Jamin. And then from the expertise, especially on the environmental side, you have ERM, you have Tess McMorris, David Wayman and Richard Peel, who all will be speaking to what we've seen at the site and again, why we think it's a really great site for data center development. And then lastly, especially given some of the questions that came up and all that's

already alluded to, we have Kittelson and Matt Hughart who will be talking about some of the roads and traffic issues. Next slide.

00:24:39 Unknown Speakers Where would it? Sure, where that like, yeah, it might be the computer. Can you advance it Steven?

00:24:55 Bobby Hollis I'll be right back.

00:24:57 Steven It doesn't look like it, this actually was, there we go. Here we go for some reason the little roll thing goes, OK.

00:25:07 Tamra Mabbott Our Internet connection is unstable. Thanks Steven. He has that connection.

00:25:11 Steven I think we're good.

00:25:20 Bobby Hollis Rowan Digital Infrastructure, Rowan was founded in 2020 with a mission to deliver high quality digital infrastructure solutions to hyperscale customers. And what we mean by hyperscale customers. Because I know they're there's. A little bit of confusion about what that is. There's there's literally about 3 sectors in what we call the customer segment in the data center world. It's hyper scale, which is the large technology companies which are single tenant facilities that really focused on putting their intellectual property and their technology in that location as opposed to Co-location which has a bunch of tenants. So it might have Disney on one floor and the US Postal Service on another floor and different mixes. We're not in that space. We're in the hyperscale space. The other one is something called enterprise where you have all the companies that we're all used to doing business with that all have an app probably on your phone they want to know what you're ordering at Starbucks, etcetera and those are dedicated to those facilities where the data is for that particular company. Our focus and everything that you've seen and the application that we submitted is around that hyperscale campus where it will be one tenant and it's usually that the big applications and the big technology customer that you've all heard of before, it's the Facebook or Meta, the Google, the Apple and Amazon, those types of folks that we're looking at from an opportunity perspective and one of the core reasons for that is because they have this game sustainability objectives that we do as an organization. So one of the the tricky parts of doing data center development and IT in this kind of a way is that it does use a lot of electricity. So making sure that we actually align ourselves with customers that are focused on doing the things that we believe are important, such as renewable energy and renewable electricity and finding the right locations in places like Oregon where you have great hydro, great solar, great wind, all of the things come together

and present that opportunity and again, that's what really drove us to Oregon and really drove us to this particular site. And lastly, just as a team, we we've got a lot of depth and expertise. Many of us came from the renewable sector before we moved into the data center world. I spent about the last 15 years in data center specifically. But before that, I was actually at utilities and renewable energy development. So I've kind of watched that sector grow and get to a place where very mature and not nearly as experimental as it used to be, and now we're seeing the same evolution take place with data centers as they're getting smarter and more efficient all the time and how they use resources and how they make sure that they're finding the right places, and that that we think they have here. And we also make sure that what we're doing really aligns with the community and the community values. So as you can see, one of the things that we've really focus on is making sure that we do that and if we feel like there's a place where we need to do more outreach, that's what we're going to target some of those efforts into as we're going forward.

00:28:10 Comm. Wenholz So just a question of curiosity really. This, so that I understand you're doing is; so you're going to build the facility or you're just developing it, and then you're going to sell it to a hyper or you're going to own the facility and then lease the building and somebody else goes in and gets their own electronics?

00:28:30 Bobby Hollis The latter. So our intent is to build is to really kind of build the infrastructure. So build the building, the shell of the buildings bring all the necessary water electricity network into the building so that it's all ready and available for that, that tenant. But we are not going to be the ones that will install servers. That will be that particular customer and then they will operate that facility as well.

00:28:54 Comm. Wenholz So they lease the shell from you.

00:28:55 Bobby Hollis Exactly, yep.

00:28:59 Chair Sykes I got a question follow-up on that. As far as like, what we're dealing with and your application. Why would it matter whether you're a, hyper or you know somebody that does, what different does that make if all the findings, I mean, the impact that they could be - that they're willing to gamble.

00:29:23 Bobby Hollis Mainly the reason that I kind of alluded to that was the question came up from one of the the Commissioners before. But the application is exactly what it is. And so to your point, everything that is described as set forth in the application is what we will use to serve that customer. We can't deviate from that particular aspect.

It's just the customer type that I think are a little bit confused and there was a recent article that so.

00:29:45 Chair Sykes

It was and I didn't quite understand why that meant if that's a big deal. It didn't seem to me like it is. It's land you sell on that is...

00:29:56 Bobby Hollis

That's exactly right. The application is still exactly the same, yep. And so I can go to the next slide.

00:30:06 Dave Shiflett

So I won't go, my name Dave Shiflett. I am the director of development. I've been working on this project since 2021. When I strolled into Tamra's office and asked about the site. I've been working with Three Mile Canyon prior that on acquisition of land rights here. So, Tamra did a great summary of what the project is, what our request is, so I won't go over that again, but just to briefly reiterate, we're looking at least only 274 acres that's currently zoned EFU and doing a comprehensive map change land over or a limited overlay on top of that and changing it to general industrial. As you can tell from the some of the maps that we have we're located out by the party generation facility and it's, you know, the decommission facility, the photo that you see is is no longer accurate because that that is gone. We're hoping to replace those that facilities jobs and the economic impact that that's up there. Next slide please? As you can see this is a copy or image of the Moral County zoning map. You know, we actually share a continuous property line with PG&E on the South and you see approximately the general industrial there, you can see approximately to through the Three Mile Canyon's. Industrial zoning that's close by and then we have the space age and the other general zoning. So we we felt it was compelling that this would be a good location sandwiched in between those and that it wasn't necessarily spot zoning. So, one of the reasons over there is existing transmission right away and the capacity out of that area. With the decommission of the facility we feel that this is a good spot. This land has never been farmed, never been grazed, it's never been grazed as to anybody's reason now that we have historical data that goes back to the 50s, demonstrating that so, the soils are very poor. Otherwise, if they if it were farmable, none of us would be sitting here right now. The soils are poor, it's rocky and you're later you'll hear public testimony from the owners of the land why they haven't chosen to farm it, is because of soils is and but most importantly, there's no water available on this site there are no water leaks that came with this site. So you can't grow anything on it anyway at this time. So we have a compelling and common sense story. Thank you.

00:33:00 David Shiflett

So we've done an immense amount of due diligence on the site. We're going to impact about 190 acres of the total 275 - 274.09 acres of the land, as you can see on the map Zone A is actually a FEMA

flood plain map that should represents a one percent chance of flood. And then, as you can see down in the lower south eastern corner, you can see the the area that that are wetlands. We've done all the due diligence on the sites that you can imagine, multiple studies of wetlands. Environmental, you know, cultural resource. threatened endangered species, geotechnical all of those kind of things. We've done three different wildlife studies that you'll hear later on from Richard Peel, one of our SME's on the studies that we've done here, so this is what we feel will protect everything off to the east with that buffer. Next slide please. What makes up this site? What we're contemplating, so we're looking at a multi building campus with multiple data halls. Onsite septic system for any black water, you know toilets, sinks, those kind of things on water or on site septic system. Then stormwater retention time, what you see outlined there on the north edge. And then water storage tanks for fire protection, also potentially storing industrial water supply from our water source which would be the Port of Morrow that we'll likely have to store water on site due to the demand cycles in the time of the year, time of day when the water is needed we'll be storing water. Our point of interconnection will be the POI will be connected for us up in the northwest side corner of the project. Then there will be an evaporation plan for addressing the, what would be considered industrial water or the blow down water from the cooling systems. And then we'll have back up power supply as well. Fire protection as well on site. Next slide, please. I'll turn it over to Martin.

00:35:28 Martin Romo

Thanks, David. Good afternoon, Commissioners. Martin Romo at economic development and policy Director for Rowan. And so as we've been speaking to the project, you know we're really excited about the opportunity to help reposition what is an un-farmable and economically unproductive partial into what could be a significantly revenue generating property for, for the county here. It's very capital intensive projects so we expect that this should deploy over eight-hundred million dollars of CAP invest within the first, first three years of our development here and subsequently there should be a lot of iterative rounds of additional investment that will be captured with all the different material that goes inside of the facility. So all of that economic activity helps to help support all the federal benefits to the community here. With this type of kind of continual investment, we'll see an increased demand for service providers and suppliers and all the labor income that comes as a result of that. And this is all coupled with a low impact on the need for public services, right. These are, with the size of capital deployed in the number of full time employees on site. You see about 35 full-time operating employees. That's after hundreds and hundreds of construction jobs that will be on site while we develop and really, those 35 full time employee positions you can see grow to over 100, closer to 200 full

time equivalent space once it's fully stabilized and built out and operating over the years. And these are positions that are paying over \$75,000 on average, typically over 150% of the median wage. And with that comes additional multiplier effects, right? So every kind of new demand for additional materials we see other studies that show that for each one of these data center jobs that are FTE's under the four or five jobs are supported in the wider economy, which then of course have ripple effects and help to support a lot of the great public services that are provided here. I do want to also highlight that that eight-hundred million can get up to the one billion and getting closer to two billion overall in terms of overall impact that can be captured here locally. And also, as we were mentioning at the beginning of this presentation, we're going to be partnering with a tenant that will be one of our hyper scale tenants. And those types of operators, often times nearly at all times, will set up workforce development programs that will help find opportunities for employees that will be coming on site for the data center technicians and the like and will work with local community colleges technical colleges to set up programs if they don't have one that exists yet, or to be able to help support STAN programs in the elementary schools and middle schools and high schools to help start to prepare the local, the local student base for the jobs that are going to be in demand and continue being demand to the future. And so we suspect the value of something that would be occurring here as well with whoever our long term tenant is. I also wanted to highlight that more counties comprehensive economic element focuses on four different sectors and one of those is large industrial activity. And this plan does help to get advanced with our project by helping to build new jobs and reducing this out migration of youth, hopefully by being able to keep some of those local prepared students to, to take some of the jobs in the facility. The project also supports the greater Eastern Oregon Development Corporation's Comprehensive Economic Development Plan in that it helps to encourage industry clusters, as we know, there's already an existing data center cluster here and keeps to kind of help stimulate and and support from those activities here and again capture some of those benefits that we were describing. And then of course it does also help to encourage diversification, stability and resilience in your local economy, in the sense that this project will, will likely be leveraging one of the state's economic development programs and enter into an economic development agreement which would come before your body at a later time to be able to be considered, but would effectively create fiscal revenue streams that are secured. And it would help you to balance out in times of, for example, recession or another, you know pandemic that would happen that might kind of slow down the economy, so it helps to provide more steady and predictable sources

of revenue. Next slide, please. And as we were mentioning at the top of this presentation, we really take pride in in kind of leading with with transparency and with engagement. We've taken several steps to kind of let the community know what our intent is, what we're doing and have just good conversations with as many people as we've been able to connect with and it's really important for us because we see as becoming a permanent staple of the community and we'd like to be good neighbors from the get go. So you know, we've been having conversations with the different cities and throughout the region. County, of course, support of Morrow County, businesses in Oregon. Yeah, you know, Blue Mountain Community College and really just trying to share who we are, what we're planning to do and understand what some of the big issues that are facing the community is and what might be some ways that we can help support some of those issues and to really hear what some of the big concerns with this particular project are and how we can help to revise our plans and and continue to keep the community up to date on how we plan to rectify any concerns that come up. This just illustrates a few kind of feedback quotes that we've received from several different stakeholders we've engaged with and I'm proud to say that we've gotten a lot of a lot of good support in your packet and see some of those letters that we received from different community members showing support for this project. Next slide please. Carrying on, you know we've, we've committed all of outreach time. We continue to do to do so this week. We we will continue to, you know beyond this meeting have as many opportunities to engage and hear back here from the community and keep integrating all of the feedback that we're that we're receiving into how we proceed with this application and this development. To that end, we wanted to make sure that we're as transparent as possible and launched a website here: percherondatacenter.com. If you haven't checked it out yet, I encourage you to please do so. We've put our Q&A with a lot of big questions that people are asking that we're hearing from these meetings. You know, what is what is this thing? How will this impact acts? And we respond there and have a contact there where anybody can reach out to any member of our team and we can provide additional information. We've also from, from these different feedback sessions I've produced a series of one pagers on these topics of interest. You can see listed there, which all have been supported by a multitude of studies that David highlighted earlier and that we'll hear from our subject matter experts address specifically. So at this time I'd actually like to invite other members of our team and subject matter experts to help give you a little bit of a deeper dive into those topics.

00:42:26 Chair Sykes

I've got a question.

00:42:28 Martin Romo Sure.

00:42:29 Chair Sykes Now you mentioned the outreach - now do you have a - because we're not familiar with your company do you have a history of this somewhere else that you've done, or is this just, is this where? Where? Where is your where else, have you developed these?

00:42:52 Martin Romo So this will be, this will be the first development that I'm particularly a part of but I previously worked with other hyper, another hyperscale developer where which is not one that's present in your community at this time. And at that company we set up when we got started, we set up by deploying a community development specialist that actually lives in the community, and that's a full time job, which then becomes the person, the point person for that data center. So anybody in the Commission wanted to know what's going on at the Percheron data center, they contact that person and that person is also the person that is then the liaison with the Community College for their data center technician certificate. They deploy things like a community grants program or, you know, \$200,000 a year. That is a competitive grant. If the Public Library wants to do any event, one of that, one of the, one of the schools wants to start a new lab every year, we would issue these grants. And so the type of tenant that we're seeking for is the type of tenant that would want to have the same type of high level relations.

00:43:50 Chair Sykes I just was wondering what the history, the history of this company doing this somewhere else or if this is the first project like this?

00:43:58 Bobby Hollis It will be the third project like this. You know its only our second project overall. Our first project actually focused in this space. I joined about a year ago and Martin actually joined about six months ago and and like one of the primary focuses was exactly what he just said. Which is to start building that that muscle and start making sure that we have that in brain within our our particular approach in the community we go into.

00:44:24 Chair Sykes Right, which benefits both ways because [cross-talk] trained workforce.

00:44:25 Bobby Hollis Exactly.

00:44:29 Chair Sykes OK. That's all I got.

00:44:30 All Thank you.

00:44:43 Elaine Albrich Next slide please. Good afternoon, for the record, my name is Elaine Albrich. I'm outside legal counsel with Davis Wright Tremaine, appearing on behalf of the applicant. We're switching gears a little

bit here. Thanks to the Rowan team for the good introduction. I wanted to frame before we get into the technical discussion, the applicants' burden, Tamra mentioned it in her staff report that the applicant has to provide substantial evidence to demonstrate that we meet the applicable approval criteria for the request that we're making before you. So what we are aiming our presentation at is to demonstrate the evidence that we have provided into the record to demonstrate that we provide adequate reasons to justify the requested goal exceptions. We've evaluated other potential alternative sites and there are not reasonable. We've considered the consequences of the projects and the the potential environmental impacts associated with the project being located at the proposed site. We've evaluated the project location and its compatibility with adjacent uses. And also looked at the applicable local code provisions as it relates to, to zone changes and unlimited use overlay. And so I that's what we're going to talk to on the next section of the presentation and provide you with the underlying analysis that goes to support findings of approval under, under each of these elements. And I'll switch it over to Matt.

00:46:22 Matt Hughart

Hi, good afternoon. My name is Matt Hughart. I'm with Kittelson and Associates for transportation planning and engineering firm. We were asked to perform a series of traffic studies for this project. The first of which was a traffic study to address goal twelve, the Oregon transportation planning rule. So whenever you modify a zoning from one zone to the other, and there's a potential for that modification to impact the transportation system we have to address that potential impact and in this case going from an EFU zone property which essentially doesn't generate any trip to an industrial zone property with a data center on it. Certainly it will generate quite a bit more traffic, so we analyzed that increase in traffic, particularly on Tower Road and the intersections of Tower Rd. up to I-84. And found that there were no significant impacts associated with the traffic generated by potential future data center. We also then looked at the actual traffic that would potentially be generated by this particular tenant and this particular combination of data center buildings and estimated its traffic impacts. And it wasn't too far off from our original sort of theoretical planning exercise on the transportation planning rule, so again, no major impacts that require mitigation or modifications to the road ways. Following the Planning Commission hearing, there were some additional questions that were brought up regarding construction. So those first two studies were kind of measuring the traffic impacts post construction and during the actual operation of a particular data center site. But the Planning Commission has more of a concern on the construction related side of things. So we went back and analyzed the traffic transportation associated with construction, so construction traffic is

kind of broken down per our analysis into two phases. One is kind of site preparation, grading, getting the site ready for actual construction. So we worked with Rowan's contractors who have worked on other data center projects and help—they helped us estimate of the daily traffic impacts and the kind of trucks and passenger cars and other vehicles would be generated during that phase. And then we also then looked at the actual construction phase. So if you look at that kind of from from start to finish, it's going to run roughly from 12 to 18 months depending upon how quickly things happen. So we looked at that duration of construction traffic and finally found that the types of construction vehicles, while can be significant, they're not continuous. So on any one day you might find several construction related trips with heavy vehicle use and then on the next five days it could just be the workforce traffic traveling to and from that site. So factoring all those together, we generally found that the construction related impacts during that 12 to 18 months are generally on the minor side and can be mitigated through the produce agreement proposal that Rowan has worked out preliminarily with Morrow County. So just from the conclusion standpoint, during that construction phase, again we kind of noted that the number of transportation impacts associated with construction vehicles relatively minimal can be mitigated during that operational phase post construction. And if you're looking at about a 17 percent increase over traffic demands that are currently on Tower Road but as we noted that 17% increase is still manageable. There's still plenty of capacity on that road and at the major intersection terminals with I-84.

00:50:12 Comm. Drago

I have a question on that the 17% increase was that from existing markets today or back when the coal-fired plant was operating.

00:50:20 Matt Hughart

No, it's over today. So we took some updated accounts just this past July and that's based on the demands that we saw over that weeks long work period.

00:50:30 Comm. Drago

So definitely after the operation..

00:50:37 Matt Hughart

Any other questions? Transportation question?

00:50:41 Female

Chair, I have a question. On your operational traffic 1100, what was your formula passenger trips and how many ITE were you calculating?

00:50:54 Matt Hughart

So the variable in the—we estimate trips by use using a manual called the ITE is to transportation engineers trip generation manual. And they've gone out and studied other data center sites and the collection of those past studies informs the estimate that we used for

this particular site. And so that variable is not based on number of employees that are based on the square footage of the facility itself. So we took the proposed square footage, put that into the the demand profile from those previous studies and that's how we concluded on the daily trip those 1100 daily trips.

00:51:35 Female

OK.

00:51:39 Elaine Albrich

Any questions on traffic?

00:51:42 Comm. Drago

Set well, the daily trips. Is that a round trip or is that a one way trip?

00:51:45 Matt Hughart

That's a round trip. If you think of a daily trip, it's over a 24 hour period. So anyone going to that site for the start of their work day and then leaving, that's two trips. So that's covered.

00:51:58 Comm. Drago

During that two-three times a day.

00:52:05 Comm. Wenzholz

No, but I think it's more comment related to like juniors getting too. So you looked at the number of employees that they told us and we had 120 employees up there to the coal-fire plant. Traffic impact really shouldn't be any different than what it was with the plant operation.

00:52:26 Elaine Albrich

Thank you, we'll switch now to wildlife and habitat.

00:52:31 All

Thank you.

00:52:46 Richard Peel

Afternoon. My name is Richard Peel and I'm a senior biologist with Environmental Resource Management or ERM. And as they previously mentioned, I was the one that did the biological and ecological present on the site. So specifically what we were looking at was any listed species that were mapped to the site the any big the assessment of the big game habitat, the wetlands and floodplain on site and avoidance of those ecosystems. So as they mentioned, I conducted 3 surveys on the site. We didn't find any of those species on the site or any habitat that was specific to them. And as far as the big game habitat that we were looking at, we did find a summer range that was adequate, but we are more than 20 miles from their winter range. So we didn't find any sufficient habitat for winter range for any large game. We also assessed the wetland boundaries and found those to be—I didn't personally do that, but we we checked that and we found they were accurate and we met with fish and wildlife on site right for the last hearing and they concurred with our findings on site.

00:54:07 Comm. Sykes I think I read in here somewhere the definition of the wetland. Can you tell me what that is? At a certain amount of water? Certain distance under the soil. What is it? What?

00:54:27 Richard Peel I love talking about this stuff. Yeah, it's actually three characteristics to be a wetland. So you have to have, well vegetation. You have to sign the hydrology and you have to have a certain kind of soil. So all three of those show that they're the area has been inundated for a certain amount of time to have what the characteristics you have all three and it's it's federal standard across all the states. So and it just change the state state depending on what soils you're looking for and what vegetation you're looking for. Yeah.

00:55:07 David Weymann Hello commissioners. Thanks for being here. I'm David Weymann. I'm a 30 year soil scientist and civil engineer with ERM. I've worked a lot in Morrow County and I've had the honor to work with the industry, AG, PGE at the cardio plant and I've stood on the ground where this plant is being proposed and I'm pleased to be part of this team and I think it's a good site from the soils perspective. By way of background, we did two different studies on soils. The first one was to do a review of the soil characteristics through the NRCS looking at the soil survey map and I and the soil scientist having stood on the ground and applied my same knowledge to that piece of ground. The soils they are mapped as class 6 and 7 which have poor potential for agriculture and and plant growth. The soils are very droughty. They're shallow and they're rocky, and that's why you look at the aerial photo. You see crop circles all around this plot, but there's no crop circles on this plot. And that's because the land owners have never chosen to farm this ground because it's not good soil for agriculture. The NRCS soils map verifies that and our second review reinforced that. A second review we did in response to Planning Commission questions looked specifically at the agricultural productivity. And we did—we more or less did some of the same review. We looked at the soil types. We looked at the history of agriculture. We looked at the irrigation history, which there is none, and there will be no water rights that come with this property. So the the land use is not well suited to agriculture because of the soil characteristics and because of the lack of irrigation potential. The site is specifically in the very largely delineated Columbia Valley American Viticulture Association, AVA that's a very broad delineation of sites that have potential for viticulture. This site is not a good candidate for viticulture. One the soil type is terrible. It's droughty, it's shallow, doesn't have irrigation, and two, the AVA characteristics I have a particular characteristic of land slope and aspect. And much of the site that shaded area on the map does not meet—meets that—the shaded area meets the slope aspect, but there's none of the development will be on those lands

specifically. But even meeting the slope aspect requirement it's not a good site for viticulture because of the droughty soils and lack of irrigation. So that's more or less what this slide says. Those bullet points on this slide reinforce those points. Class 6 and 7, which are very poor soils primarily for erosion and shallow, shallow depth. There's no history of irrigation and no water rights that would come with the ground. And then we look at the capability for non irrigated agriculture and there's no history. There's very low potential for it just because of the soil characteristics, get some as mapped as the AVA, but it doesn't fit the characteristics even though it's within the very broad delineation of the AVA. And that's the summary. As a soil scientist, I'm passionate about agriculture and I'm proud to work in Morrow County and this particular plot of ground isn't well suited to agriculture. So even though it's zoned such would not take productive land out of production.

- 00:58:53 Multiple Speakers We refer to it the same way. There's two Davids, he's soil David.
- 00:58:56 Multiple Speakers Hey, you gotta keep it straight somehow. Well, we appreciate it. Thank you.
- 00:59:00 David Weymann Thank you.
- 00:59:09 Elaine Albrich Elaine Albrich, again, for the record, we're going to ask if we can switch to our consultant who's on zoom, Tess is going to—from ERM will introduce herself and then will present on the alternatives analysis.
- 00:59:26 Tess MacMorris. Just to confirm, can everybody hear me?
- 00:59:29 Elaine Albrich You sound good.
- 00:59:30 Tess MacMorris Great. Thank you so much. So, good evening. My name is Tess MacMorris with Environmental Resource Management or ERM, and I'm a land use planner. Alternative analysis the applicant developed siting criteria which was used to guide what is considered reasonable for the project, what amounts to a reasonable alternative. The applicant identified 8 siting criteria for successful project, 1) access to electrical infrastructure and power availability. 2) water supply and discharge. 3) land characteristics. 4) environmentally sensitive resources and protected areas. 5) road access. 6) fiber network connectivity. 7) Land use and zoning. And 8) financial feasibility. Next slide please. Next, the applicant identifies the land and Alternatives analysis methodology. The steps of their analysis include evaluating non resource lands in urban growth boundaries of Umatilla and Morrow County followed by suitable zones outside of urban growth boundaries of the Umatilla and Morrow counties

and then non-resource lands requiring his own change or text amendment, but no exception. And finally EFU land. Next slide please. The applicant produced a deeper dive into the alternatives analysis in response to some of the questions and comments heard in our prior hearings before the Planning Commission and to support that deeper dive, we provided the following clarifications and reminders. The Morrow County Zoning Ordinance only allows the development of a data center and MGPI and ALI zones. Data centers are allowed with the conditional use permit in the UAVM zone. The MGPI, ALI and UAVM zones were explored by the applicant, but ultimately no parcels and no zones were selected based on power capacity for your title, buildable acreage or financial feasibility of securing financing and ensuring a previously contaminated site or in proximity to a previously contaminated site. As David mentioned earlier, we also included the Limited Use Overlay District in our request to help limit to what is appropriate based on our reasons exceptions. Next slide please. In addition and the alternatives analysis, the deeper dive the applicant evaluated SAI zoned lands about 9,000 of which are actually in pivot irrigation, Army depot lands and a former mill site zoned General Industrial outside of Hepner, whether potential site was reasonable—was a reasonable alternative under the applicant alternatives analysis depended on the balancing of all of those eight criteria. Siting criteria 7 land use and zoning depended on whether there was a reasonable pathway to establish the proposed data center campus on the site, given its zoning. So the applicant basically asked was the site zoned to allow the proposed data center as a permitted or a conditional use, or was there a viable pathway or rezoning to allow the proposed use? On balance and none of the evaluated sites could on balance meet the 8 siting criteria and thus were not reasonable alternatives for the applicants consideration. Next slide please. Also, in response to comments and questions that we heard in our prior hearings, the applicant produced a memo discussing and justifying the additional goals, goal 14 analysis and exceptions. So the record demonstrates that the project parcel is located between existing industrial and utility uses, where urbanization would not really be out of place. In order to meet the Rising data center needs across all sectors, the applicant entered into a power and electrical infrastructure agreement with the connecting utility to provide that those services to the project. The data center, Economic Activity, Resource management is dependent on power service and capacity. Next slide please. Sorry about that, sorry. The existing 230 KP transmission line right away offers ready access to power supply, including renewable energy resources and new infrastructure such as Idaho Power, Boardman to Hemingway. That will run along Boardman or Bombing Range Rd. to the Longhorn substation. In addition to that,

access to new power supply, including renewable energy, is crucial to meet the project and customer commitment. That will limit the project power demand on the existing infrastructure and our existing transmission and electrical infrastructure. I believe that is the last for me. So back to David and Elaine.

- 01:04:51 Elaine Albrich Any questions from the board on the alternative analysis for Tess?
- 01:05:02 Martin Romo Right. Thank you. Next slide please. So we're working with the Port of Morrow and you'll find in your packet that there's a memorandum of understanding as well as the letter of intent to supply water to our project, who will work with the Port for four or five months now on a water supply agreement. We're starting out with a design of engineering agreement and they're working through that. We currently have survey work underway along Tower Road right of way. The port has also been in contact with Eric regarding the process of running it into the road right away. We believe that that is currently that's allowed use and that would follow report to do that so. As you can see it here would come out of the proposed water treatment facility just on the South side of the airport and follow I think it's Boardman Lane south airport or South Boardman airport lane. And then hang right and come down Tower Rd. all the way utilizing the road right way to our site.
- 01:06:12 Elaine Albrich And one important thing to note is that the goal exception request that Rowan is making authorizes the extension and service to the project parcel only, so any other parcel that would want it to be served by this line that was outside the UGB would also need to come before the county for goal 11 exception, so this is not—this is a very specific request just for this parcel service.
- 01:06:37 Multiple Thank you.
- 01:06:38 Chair Sykes I want to go back to power just for a second, you mentioned you wanted to this renewable and the rest in the Idaho—Hemingway line, is this part—is this construction so forth dependent on you connecting to a certain line since that was not even started construction, I mean or is this just like a desire?
- 01:07:07 Martin Romo No, we are—part of our Service plan is contingent upon that. We're in Pacific Power Service territory. Our queue request for power services with them and if that is part of their plan of service to provide power to us. Does that answer your question?
- 01:07:35 Chair Sykes I guess it didn't get to—does that have to be built before you will go into operation?
- 01:07:42 Multiple Yeah, yeah, yeah.

01:07:47 Speaker

Okay, that's good. Thank you.

01:07:49 Elaine Albrich

Any questions on water before we move forward? Just a couple comments to make in the record from 1000 Friends, there was some commentary about whether this was going to be pumped water or treated water, and whether we were going to have any wastewater taken away from the site. So just to clarify on the record, the ports treatment facility is for fresh water, potable water that would be delivered via the water delivery system and meant all industrial wastewater will be managed on site with appropriate DEQ permitting, so this is just a one way fresh water delivery system. Next slide, please. In conclusion, applicant's position is that we have provided sufficient evidence in the record to demonstrate that we meet the applicable approval criteria for the requested zone change and goal exception. We've provided 4 reasons to justify the requested goal exceptions. Reason one is based on the rural industrial lands rule and Reason 2 is that will have minimal impact to productive agriculture. Reason 3 is that there's comparative economic benefits, and reason 4 is that there are air and water suitability and availability of energy. We've analyzed alternative sites before selecting the project parcel. We have done I think now three rounds of analysis to further explore alternatives. We did receive the DLCDC letter yesterday that raised specific alternative sites with a level of specificity that will require the applicant to respond to each of their sites under the goal exception law. And so that's why we will be asking later on in the hearing for additional time to respond to that to make sure we get our response on the record prior to a decision and we don't think it changes the analysis that we perform, but we need to ensure that the record is defensible. And then on the next one, evaluating the environmental, economic, social and energy consequences of the project at the project parcel site that we're not having any significant adverse impacts to any of the ESEEs and finally that we have analyzed potential impacts to the surrounding properties and that the project is compatible. So with that we wanted to talk a little bit about on the next slide, applicant's proposed condition. We, you know, know what the continuance that we aren't looking for a decision here today, but we did want to talk about the proposed conditions. Some are as proposed in the ordinance, but there are a couple that are least suggest some revisions to and that's applicant's condition #5. We're requesting to use our proposed language to replace conditions 4 through 6 in the draft ordinance. The reason for that is that the water and electricity will be provided by third party provider, and so Rowan will not have any control over the permitting or construction of that work for Pacific Power and the port would have to go obtain their their own permit. So we just want to make sure that any condition language you know acknowledges and this was a concern of the Planning

Commission, acknowledges that that infrastructure development still requires permitting by the county, but yet we can't. We don't want to put that burden on Rowan because it doesn't have any control over it. So condition language 5 is intended to try to get to the intent of the Planning Commission's concern. But clarifying that the third party providers that will be obligated to get those approvals.

- 01:11:48 Chair Sykes Any questions for that?
- 01:11:53 Elaine Albrich And with that, we will reserve some time for rebuttal. Thank you.
- 01:11:56 Multiple Thank you.
- 01:12:08 Chair Sykes We've got any other components where applicants speak on this? Thanks.
- 01:12:17 Commissioner I think we do have a number of people that would like to come up and provide testimony.
- 01:12:30 Mayor Sweeney Corey Sweeney, 215 Lloyd View Drive, Hepner. I'm here on behalf of the City of Heppner as Mayor and myself and the city manager met with Rowan and Hubbel and went through the process and we'll do a plan now and we feel that this would be a benefit to the community, community members of Morrow County and to the county itself. And therefore we are in favor. Thank you.
- 01:12:58 Chair Sykes Thank you. Anybody else?
- 01:13:19 Scott Neil Hi, my name is Scott Neil. I'm real estate executive with the Three Mile Farm. So we're the—we're the landowner, obviously in favor of the project. A couple of things I would just note. One is one of our core values is a self-sustainable farm. It's a large operation, but we try to come all the way from planting to waste by product, we try to be self-sustaining and use that product all in the farm. And so part of the process to us was when these guys came to us is well where's your—where's your power coming from? Where's the water coming from? All those kinds of things. And I think they've addressed all those things. One of the power things that don't think they're very clear, because they're not actually involved, we are, is there's a substation that PGE owns just north of the old plant. And so PGE's intent is to have power come off of there to Pacific Corp is going to build another substation on our land and that will route power up to this—over to this proposal location. So they're not looking at in the main action or any sort of outside of our farmland influence to garner power like they have in other locations but not in our particular location. So I think that's important to you all to consider for public backlash and all those other things. And then secondly, I think and that's what we asked Greg to come up and talk is when

this land use plan was developed some decades ago and you could just tell the way they just drew big, you know, lines all across. You know the state, you know and so, when you came to our particular farm, you got industrial, you've got, you know, these higher zone uses, they're just kind of all over without really any knowledge of what you know, the future was they're going to hold. And so this idea that there's this farmland use on particular farm doesn't really necessarily work or apply to every single piece of farm. For instance, Space Age industrial and the and the industrial use that's just north of this is on irrigated farmland. Great farmland. That's where the EFU should have been, you know, or theoretically could have been. And so, you know, theoretically we could take farming out of production and sell it to those guys up North. We wouldn't be talking to you guys, but the land we're talking about is not good land for all the reasons you've heard and so on and so forth. So you know, maybe Greg, just a couple minutes to talk about that since you walk in.

01:15:50 Greg Harris Our water rights last developed 41,000 acres of that part. We can't go to that. That's part of our final order with water resource department.

01:15:59 Chair Sykes You could you just say your name again?

01:16:01 Greg Harris Greg Harris 29019 Grovers Lane. I've been there about 23 ½ years. We've walked that piece of property, and we've identified the area that's going to be developed gets to 41,000 and that piece of ground is probably benefiting probably between the shallow soils, rock, there's areas out there that you know, I don't want to run my equipment through it, for sure. So it's, you know, we've identified the areas that they're much better farm ground that will—some of which is zoned industrial and space safe industrial and so that's why we've chosen, you know, this opportunity came up. And pick a site, you know, that makes more sense to us and I've lost really nice farm ground that was zoned industrial to data center that's going in right now. And you know I don't want to see that happen again. So I would much rather see a data center going here, you know still like this going site that's not currently being farmed nor will ever be farmed—that take out good farm ground. Just have to be done.

01:17:20 Chair Sykes Any questions? Thanks, guys. Do we have any other proponents?

01:17:33 Commissioner We have people online.

01:17:36 Chair Sykes Okay, the people on zoom, their proponents, it's your chance to testify here. State your name and address.

01:17:46 Susan Christensen. This is Susan Christensen. Executive Director, Greater Eastern Oregon Development Corporation, PO Box 1041, Pendleton, Oregon 97801, for the record and I have provided written testimony. And today I want to make a couple of points as to why we support this project. The probably the main one is it's an opportunity to create new jobs in the community. The second point is there has been a thorough environmental review of the property as well as the soils. And as to why it's not—it's a good location, and because it's non-farmable. And then the third is there's a program that's called Get There Oregon and it's a carpool ride share app that businesses and businesses like data centers are are great examples of using this program to get your employees to and from the site and it takes the—it has the opportunity to reduce your daily trips into the site by folks, carpooling or vanpooling. Boardman Foods uses Get There Oregon, and it's been very successful for their employees. So, I wanted to point that out. Anyone has any questions about it, talk to Debbie Raddy. And as mentioned, this project fits well into our strategic plan five year—strategic plan that we update every five years and creating industrial clusters, and is identified in our plan and will remain in any updates of our plan because it makes good sense. If you have any questions, I'm available to ask—or answer.

01:20:10 Chair Sykes There any questions for Susan? Okay. Thank you, Susan.

01:20:15 Susan Christensen Thank you.

01:20:17 Chair Sykes The other proponents on zoom? We'll move on to opponents. Is there any opponents to this application that they would like to in the room that would like to speak? Any, is there any opponents on zoom that would like to speak to this?

01:20:54 Dawn Hart Dawn Hart, DLCDC Eastern Regional Representative for Oregon, and the only thing that I would excuse me, the record address of Eastern Oregon University, 1 University Blvd. Method Badgley Hall, Room 233A, La Grande, Oregon 97850. I just would like to say that we have provided 2 letters of testimony, one with an e-mail and a letter yesterday, along with some alternative sites that we're providing as alternative sites that we easily found online. Just wanted to, if you have any questions on anything that was in the letter that was framed yesterday I could answer the question. Pretty much just concerned about Goal 3, 14 and 11 and ensuring that they were adequately sufficiently reviewed, specifically the alternative sites.

01:21:52 Chair Sykes Now you're opposition, I guess your tendency to want, I guess, want the other side is your opposition to this site is because of the zoning that is under right now, even though it's never been farmed, it

won't—will never be farmed. It's still just a lack of procedural—I mean, not the fact of how the land actually doesn't need to be used and what the zoning is, that correct?

01:22:25 Dawn Hart

Correct. So we have an ORS that we did cite in the letter that calls out the process and in terms of the terms of alternative sites analysis. We, at the DLCDC, don't believe that all sites were vetted and taking a look a little deeper at property which would allow for an expansion of the urban growth boundary and/or an existing property inside the urban growth boundary that's located and they would be more ideal. The zoning for the EFU is it is the reason why they're there.

01:23:06 Tamra Mabbott

Dawn, could I, could I ask you a question? So the department does not have any concerns about the water and the extension of the public utility water. Is that correct?

01:23:19 Dawn Hart

In our second letter, we did initially state in our original e-mail and letter to the Planning Commission, so there are still some concerns there, but the letter we sent yesterday, our concerns, at least what we've emphasized were the Goal 3, 14 exceptions, so there's still a little bit, I'm not sure I can really answer, some of the information that's been provided has been absolutely great. And the thing I want to emphasize is that the DLCDC is absolutely wanting to see economic development in Morrow County. We're not against that and I don't want it to seem that way. So you know, we would just feel that there's an additional review that would be necessary to take a look at the alternative sites.

01:24:10 Tamra Mabbott

Dawn, I'm going to put you on the spot again. If I understand correctly and I'm remembering in front of the Planning Commission, John Jennings, your rural land specialist, mentioned expansion of urban growth boundary, my experience is that's pretty difficult to do and but and the example you gave in your letter. This is, this here was not an urban growth boundary within Morrow County. Are you suggesting that that is an option to expand the UGB in Morrow County?

01:24:46 Dawn Hart

Obviously we'll have to take a look at the property to see if it would be viable and work through an economical analysis, but I think the example we used—we went online to look at potential locations that have an industrial zone property within the region. Obviously not to pull away from Morrow County, but just kind of take a look at a couple different locations. I'm thinking Umatilla County has property down there. You know, there could be a potential for it, that would be ideal to look at an urban growth boundary versus having a EFU zone that's out far away from UGB to be considered for this type development.

01:25:37 Commissioner Am I to understand that we need to look at there's any place in the state that this could be cited. I mean, if we're looking at Arlington or Umatilla County, we think that we should be looking at stuff that's within our county and not having to worry about what's available the rest of the state.

01:25:53 Tamra Mabbott I think I heard Dawn say region. I think that's why they went to West Arlington, and east to Umatilla County but I was pretty excited to get on the record that they were supporting [inaudible].

01:26:14 Dawn Hart And I didn't put that in the letter talking about potentially looking at an alternative extension of the urban growth boundary. So, that's a potential.

01:26:26 Tamra Mabbott Just one last question, the bottom of that first page, the Goal 14 exception criteria in the 660-014-0040. Could you talk about that a little bit because I thought that the findings addressed the Goal 14 and I think our two experienced previous Planning Commission members understand that with Goal 14 is urbanization, so we look primarily at density, so by most measures a data center has a big footprint. So, do you want to talk about what the might mean if the applicant were to come back and address that in more detail? What more specifically are you looking for?

01:27:13 Dawn Hart Okay, you said at bottom of page two of the letter?

01:27:16 Tamra Mabbott The bottom of page 1 of your letter, "we do not believe goal 14 exception criteria found in" and it's 660-014-0040(3)(a) has been reviewed and I didn't look that up. So. If this is putting you on the spot-

01:27:39 Dawn Hart You know I am more of an Urban Planner than a County Planner so I am going to put my County Planner hat on. So there is, so basically the narrative that I provided after that potential that this type of, it's more of an Urban Development take a look at that type of use. So that—emphasized that development could be accommodations for this sites. We're taking a look at potential accommodation for the site through an extension of the need to be and or specification of development in siting urban growth boundaries. Obviously pushing towards the more urban area versus out in a rural area.

01:28:12 Tamra Mabbott So can I just ask—that means that if there are other industrial areas that are not for which a goal 14 exception has not been taken or it is not within a city or UGB, that part, we don't have to take a look at those. Is that correct? Only those areas that are, again, in a city of a

UGB or for which a goal 14 exception has been taken. Is that correct?

01:28:42 Dawn Hart In terms of alternative sites?

01:28:44 Tamra Mabbott That's right. Yeah. And that—I'm just trying to narrow the scope of that, because we do have other lands that are some like space age industrial. What do we have 6 or 9,000 acres of that. So, we don't have to look at those acreages. Is that correct?

01:29:04 Dawn Hart Yeah, I'm not sure if I can answer that. I wish my specialist was here so that she could answer that. My understanding of that OAR is that we look at providing that at least adjacent to or inside an urban growth boundary and I know—and I could probably get a response to you and the applicant after this meeting. Unfortunately, Hillary's giving testimony before another public hearing today. So, she was planning to attend.

01:29:39 Tamra Mabbott Thank you. I'm just trying to gauge expectations so that if the applicant or county builds on the record, we know the scope. So because it it's a little unclear—I mean, not that—it was well written, I just want to make sure I'm tracking correctly. Thank you.

01:30:02 Chair Sykes Any other questions for Dawn?

01:30:05 Male Speaker This is more—will be a question for Tamra. When you mentioned density, how do we define density? You know, I guess if I was thinking of density, you think of number of people, not a footprint of a facility is I guess how personally I would have thought about density. How does the state or your interpretation of density?

01:30:25 Tamra Mabbott That's a really good question and it depends on the use. So in residential density, it's usually based on acreage. So back 15 or so years ago, the state agency adopted a definition or Safe Harbor of rural density, so anything smaller than two acres is considered—can be considered urban. Anything larger than 10 acres is considered rural for residential development, and the safe harbors for industrial and commercial development—hope I remember this right, Dawn, is 4500 square feet for commercial or industrial and up above that—I know that's what we adopted in Umatilla County in order to make those goals—those zones comply. So, it really has more to do with the density of the building and the size of the parcel. And industrial and commercial, there is no average size, right? Residential is a little bit on that Safe Harbor Threshold, is a little bit more clear with two in the 10 acres. That's why Morrow County was a one acre zone. But it's really a 2 acre zone.

01:31:46 Chair Sykes Any more questions on this subject? Okay. Is there any other opponents on Zoom? Is there any opponents in the audience? Okay. And then I have on my list called call the comments from public agencies. I think we did not break yet.

01:32:09 Tamra Mabbott I would just, chair in the record, we do have information from the Board and Water Resources Department. So, as you know, as part of any land use review, we provide notice any administrative or legislative review we provide notice to state local federal agencies. We did provide review to Oregon Water Resources Department. I reached out again because they were silent, just to make sure that the water and the water right permit that the port was proposing, that it could be used for this purpose. So, your packet does contain that information. Again, I'm not advocating one way or another, but I think that was a pretty important piece, at least from the planner perspective.

01:32:54 Chair Sykes I appreciate that. And next I will call for the proponents allows to rebut the testimony of the opponents.

01:33:09 Elaine Albrich Elaine Albrich, again, for the record. Can we request with about 5 minutes—3 minute-5 minute break before we do the rebuttal?

01:33:17 Chair Sykes Call for 5 minutes break.

[Cross talk 01:33:17-01:34:03]

01:34:03 Chair Sykes We're back into order. We're on the rebuttal from the proponents.

01:34:11 Elaine Albrich Thank you, for the record. Elaine Albrich, I think we want to take a few minutes to address the DLCDC's letter and the alternative analysis since we have Tess on the phone today too and we can talk a bit about the sites that were in the letter, but we also are acknowledging that we need to put more written information responding to the DLCDC on record. We would request that we have the ability to do that by August 30th. And that would be 7 days ahead of the September 6th meeting. So then we could provide that information and then the board would have it when it's ready to deliberate on the matter. So that would be my thought on that.

01:35:01 Tamra Mabbott Just to clarify, that would mean that you're proposing they come back and continue the hearing to the September 6th board meeting to accept the evidence submitted and then deliberate?

01:35:20 Commissioner So that would be during the regular commission meeting, not a work session.

01:35:25 Tamra Mabbott Yeah. So if we're only keeping and help me out with this part, please. It could be a business item scheduling enough time because you won't be taking additional testimony. You'll just be accepting additional written record and then the board would need time to deliberate and make a decision.

01:35:44 Dan Kearns Right, you can leave the record open and then close it before the continuous hearing, just so that you have everything, the board has everything, can digest it before it reconvenes to deliberate. That's always helpful thing to do.

01:35:59 Chair Sykes DLCDC doesn't even have a chance to rebut?

01:36:03 Tamra Mabbott That's correct. They they do not. No, that's right. They have between now and August 30th to submit additional—well.

01:36:11 Elaine Albrich We still have an opportunity to do that if that's the case.

01:36:14 Tamra Mabbott Okay.

01:36:18 Elaine Albrich We don't have time to do the 7, 7, and 7.

01:36:19 Elaine Albrich Okay. Let's get the substance first. David, want to talk through some of the alternative analysis points that the DLCD brought up and-?

01:36:40 David Shiflett So when we became—looking at a number of the sites here. We look—our firm has the ability to do power flow analysis. It's proprietary work and we've looked at power all along the Columbia Gorge, what's available on substations. One of the reasons why we are where we are is as Commissioner Wenholz can confirm that anywhere along the I-84 corridor is constrained for capacity, and we while we have that information, it's proprietary and it's some of that information is not allowed to be dispersed publicly due to Homeland Security issues, transmission planning, if you will. So we looked at these sites, we've also met with Morrow, looked at the sites that they have, what they have available, what they didn't have available, more like what they don't have available because they are under contract with other entities, you know, so these are some of the things that were will bring additional data between now and the 30th to verify that. And this is at the time I mean talking specifically about the chemical depot, I looked at the chemical depot, was working, meeting with the Joint County group early on, power capacity and availability was not there at the time. Title to the property wasn't available and they only received their clear clean title—received title from the US government earlier this year. The fractional ritual brownfield, that's like the brownfield, approximately brownfield doesn't need financial needs for it. So while there are sites that are—were recommended, the vast majority don't meet our needs or our

criteria or commercial criteria. At the time. Now, there may be something that is brought up today, but I think we need to be held to the standard of at the time we were looking and entering into a contract for that.

01:39:00 Elaine Albrich

So with that we will prepare written responses to the DLCD letter to ensure that we met our obligation under the goal exception rule to respond with a certain level of specificity once someone raises particular sites as part of the alternative analysis. So, with that, I guess the question is does DLCD want to provide additional rebuttal, or could we agree to an evidentiary from the submission schedule? Go ahead.

01:39:35 Dawn Hart

Dawn Hart, for the record. Okay, so again, I apologize. Thank you for, you know, I do not have my specialist here. I would—if there was an opportunity for us to provide additional testimony, we would definitely take it. I'm not sure that's something that is typical. Dan may be able to point out if it is typical. We obviously still have an opportunity as part of your record if the decision is made and potential that we could appeal if that is potential. Dan, I don't know—is it typical to allow-?

01:40:14 Dan Kearns

Generally speaking, when the applicant submits new evidence in support of the application that gives rise to the right for people to review and respond to that, but you could also pin that down if the and I see this dealt with in a hearing context such as this, where the parties agree that, to a particular schedule and if the—what the applicant is going to submit is purely limited to this new evidence and these alternative sites, and not anything new, not, you know, a new traffic study or something like that. Then the parties will oftentimes say, okay, fine, then I don't need further response because they're just responding to what I submitted, period. So that's how that works. It can be pinned down in this hearing, but otherwise state law kind of provides for this never ending revolving door.

01:41:08 Dawn Hart

Okay. So I guess it would be—I mean we probably would not mind, however, I believe the information that was provided in the alternatives that we did provide in the letter, the attachment, what we were kind of taking a look at and just wanted to have you get those—or review those alternative areas or sites.

01:41:34 Elaine Albrich

So with that, it does sound like a treat this applicant provided written response limited just to responding to DLCD's alternative analysis questions raised in the August 15 letter. We could provide that information by August 30, 7 days ahead of the next continued meeting.

01:41:58 Tamra Mabbott Do you—just to clarify—do you want to address those as well as the DLCD or respond generally to anything already submitted in the record?

01:42:08 Elaine Albrich We will provide additional response to the 1000 Friends letter as well.

01:42:18 Tamra Mabbott Okay. I just didn't—I wanted to make sure you weren't—I know you know your business. I just wanted to make sure you weren't responding only—you kept yourself open. So, yeah. That makes sense to me.

01:42:37 Chair Sykes So okay.

01:42:40 Elaine Albrich August 30 by 5:00 PM, we'll have our response to the materials received from 1000 Friends and the DLCD submitted on August 15th and our responsibility will be the issues in those two letters.

01:43:08 Chair Sykes Do we have this down, Tamra?

01:43:10 Tamra Mabbott That's right. And then you'd continue the hearing. I'm sorry, we just started. I would have checked with you earlier, Valerie. But is it—is it an option to put it on the Board of Commissioners, either regular business or to have an afternoon session on this list?

01:43:27 Chair Sykes Or regular meeting day? I don't see why not.

01:43:32 Commissioner If, if we're at the point where we're going to take action, that's-

01:43:38 Chair Sykes We got plenty of time.

01:43:39 Tamra Mabbott Okay, that works. So that schedule it to September 6th. Sometime after 9:00 AM. In Hepner.

01:43:53 Tamra Mabbott Any other comments before we close it? Because once we close the hearing and that's the end of the record.

01:44:02 Tamra Mabbott For today, with the exception you're taking written-

01:44:06 Chair Sykes Then we'll decide. We'll make the motion to do what we're going to do. The record on this hearing will be closed once I close it.

01:44:26 Dan Kearns For today's hearing. The record would remain open according to the schedule just articulated. Then reconvene to a date certain to deliberate and decide.

01:44:40 Chair Sykes That's correct.

01:44:41 Tamra Mabbott Is the record, the open of the record only for the applicant—is that correct? And they're responding only to items that have been submitted into the record.

01:44:54 Dan Kearns That's how it's set up right now.

01:44:56 Tamra Mabbott Okay, so I just want to clarify to make sure we're all-

01:45:00 Chair Sykes If other people see this on our agenda, they could not show up and testify?

01:45:12 Dan Kearns With what you're proposing right, you don't have to take anymore oral testimony.

01:45:19 Chair Sykes That's what we wanted. We're clear on that. So that somebody says, well, I want, I want testify, well no, it's closed. Okay. Anything further that you guys want to-

01:45:34 Elaine Albrich Not unless there's any questions for us.

01:45:39 Chair Sykes We'll close the hearing, the public testimony part of hearing.

01:45:44 Commissioner So I will make a motion that will get the record open for the applicant to submit written testimony and rebuttal to the DLCDC letter and 1000 Friends letter. That'll be August 30th at 5:00 PM, they will have that submitted by and we will continue the hearing until September 6, 2023 at the Park Element Building in Hepner Oregon.

01:46:08 Tamra Mabbott At 9:00 AM.

01:46:17 Chair Sykes We move to 2nd, all in favor. All opposed. Motion carried.