

Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission Public Hearing

Thursday, July 27, 2023 6:30PM

Justice Center Media Room, Pendleton, Oregon

To participate in the hearing please submit comments **before 4PM, July 27th** to planning@umatillacounty.gov or contact the Planning Department at 541-278-6252

Planning Commission

Suni Danforth, Chair Sam Tucker
Don Wysocki, Vice-Chair John Standley
Tammie Williams Kim Gillet
Tami Green Emery Gentry

Planning Staff

Bob Waldher, Planning Director
Megan Davchevski, Planning Manager
Carol Johnson, Senior Planner
Tierney Cimmiyotti, Planner II/GIS
Bailey Dazo, Administrative Assistant

1. Call to Order

2. NEW HEARING: TYPE I LAND DIVISION, SUBDIVISION REQUEST #S-062-23: KALVIN GARTON, APPLICANT/OWNERS. The applicant requests approval to subdivide the property located on Assessor's Map 5N2722, Tax Lots 809 and 816. The applicant's proposed subdivision will create four (4) lots of at least 2 acres in size. The Land Use standards applicable to the applicants' request are found in Umatilla County Development Code 152.665, Type I Land Divisions.

3. NEW HEARING: CONDITIONAL USE REQUEST, PROPANE STORAGE AND TERMINAL, #C-1357-23: SOS FAMILY LLC, APPLICANT/OWNERS. The applicant is requesting a Conditional Use Permit (CUP) to establish a propane railcar unloading and storage yard. The proposed project site is addressed as 30833 Feedville Road and is located on Map 4N2822, Tax Lot 900, north of Feedville Road and west of 1st Street. The applicant proposes the placement of four (4) 80,000-gallon propane tanks for propane storage and distribution. Small empty tanks will be stored on the southern portion of the property in a fenced location adjacent to an existing shop building. The empty tanks will be stored at this location until transported to other locations for placement and installation (e.g. residences). The applicant received tentative approval from the Planning Division and subsequently requested a public hearing. The land use standards applicable to the applicants' request are found in Umatilla County Development Code Sections 152.322 (A)(6) and 152.616 (FF).

4. Minutes Approval; April 27, 2023 meeting & May 18, 2023

5. Other Business

6. Adjournment

216 SE 4th Street, Pendleton, OR 97801 • Ph: 541-278-6252 • Fax: 541-278-5480

Website: <https://umatillacounty.net/departments/planning> • Email: planning@umatillacounty.gov

COMMUNITY &
BUSINESS
DEVELOPMENT

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

TO: Umatilla County Planning Commission
FROM: Megan Davchevski, Planning Division Manager
DATE: July 20, 2023

CODE
ENFORCEMENT

RE: July 27, 2023 Planning Commission Hearing
Type I (Subdivision) Land Division, S-062-23
Map 5N 27 22, Tax Lots #809 and #816

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

Request

GIS AND MAPPING

The applicant requests approval of a rural residential subdivision. The proposed subdivision establishes four lots. Proposed Lot 1 includes previously created Parcel 2 of Partition Plat 2022-11 (Tax Lot 816), both Tax Lots 809 and 816 are currently bare land.

RURAL ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

According to the applicant, each undeveloped lot will have its own water source either from an individual domestic well or through the sharing of a domestic well. Individual septic systems are proposed for each lot. The applicant has not indicated if Covenants, Conditions and Restrictions will be recorded.

PUBLIC TRANSIT

Location

The properties are located south of State Highway 730 and border the Morrow/Umatilla County Line about 2.9 miles west of Umatilla City Limits.

Standards

The Standards of Approval are found in the Umatilla County Development Code Section 152.665, Type I Land Divisions. Standards for reviewing a Subdivision generally consist of complying with development code standards, Traffic Impact Analysis standards and subdivision plat requirements.

Staff have identified two standards that the Planning Commission may find are not satisfied: street connectivity and RR-2 zoning regulations (setbacks). The applicant's Tentative Plan demonstrates that the proposed roadway will end approximately 169-feet from Pleasant View Road, leaving approximately 568-feet remaining to the edge of the east property boundary which has the potential to be subdivided. Street connectivity, existing and potential, should be evaluated as provided in UCDC 152.018.

Additionally, wetlands are present on each of the 3-acre lots which greatly limits buildable areas. The Planning Commission may find that the proposed subdivision will make compliance with setbacks difficult for structures typical in a residential zone such as a dwelling, shop building and animal barn. Therefore, the Planning Commission may find that the proposed subdivision must be reconfigured to create more buildable space and so that lots are not created which require variances to setback requirements.

Memo

Planning Commission Public Hearing – July 27, 2023

Land Division Request S-062-23

Notice

Notice of the applicant's request and the public hearing was mailed on July 7, 2023 to the owners of properties located within 250-feet of the perimeter of Tax Lots 809 and 816. Notice was also published in the East Oregonian on July 15, 2023 notifying the public of the applicant's request before the Planning Commission on July 27, 2023.

Several comments were received from agencies and notified property owners and have been included in the hearing packets.

Conclusion

The proposed Conditions of Approval address road improvement and access standards, including road naming and Irrevocable Consent Agreements, site suitability for septic systems, and the survey and recording requirements with final approval accomplished through the recording of the final subdivision plat.

Decision

The decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners.

**UMATILLA COUNTY
PLANNING COMMISSION HEARING – JULY 27, 2023
LAND DIVISION REQUEST #S-062-23
KALVIN GARTON, APPLICANTS / OWNERS
PACKET CONTENT LIST**

1.	Staff Memo to Planning Commission	Pages 1-2
2.	Vicinity and Notice Map	Page 4
3.	Wetlands Map	Page 5
4.	Tentative Subdivision Plan	Page 6
5.	Staff Report & Preliminary Findings	Pages 7-16
6.	County Road “S-1” Standard	Page 17
7.	Department of State Lands (DSL) comments <i>Email dated July 10, 2023</i>	Pages 19-24
8.	Wetland Land Use Notification	Pages 25-28
9.	Comment in Opposition <i>Email from Justin Berry, letter dated July 19, 2023 with aerial maps</i>	Pages 29-36
10.	Department of State Lands (DSL) comments <i>Email dated July 19, 2023 in response to Mr. Berry’s concerns</i>	Pages 37-39
11.	Umatilla Rural Fire District comments <i>Email dated July 10, 2023</i>	Pages 40-42

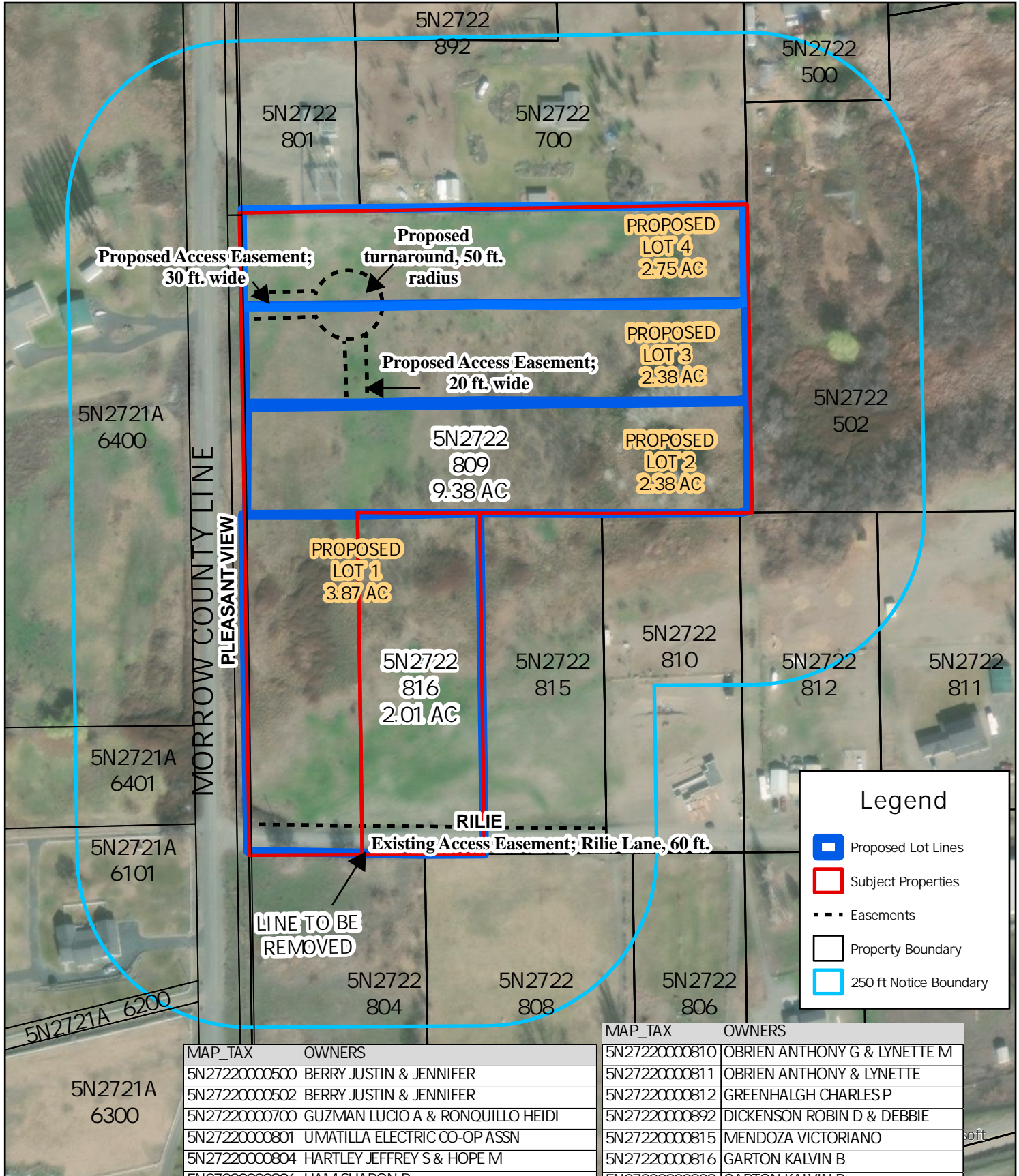
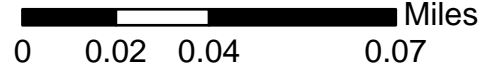
APPLICANT/ OWNER: KALVIN GARTON

S-062-23

MAP 5N 27 22 TAX LOTS 809 & 816

Notified property owners within 250 feet of Subject Parcel

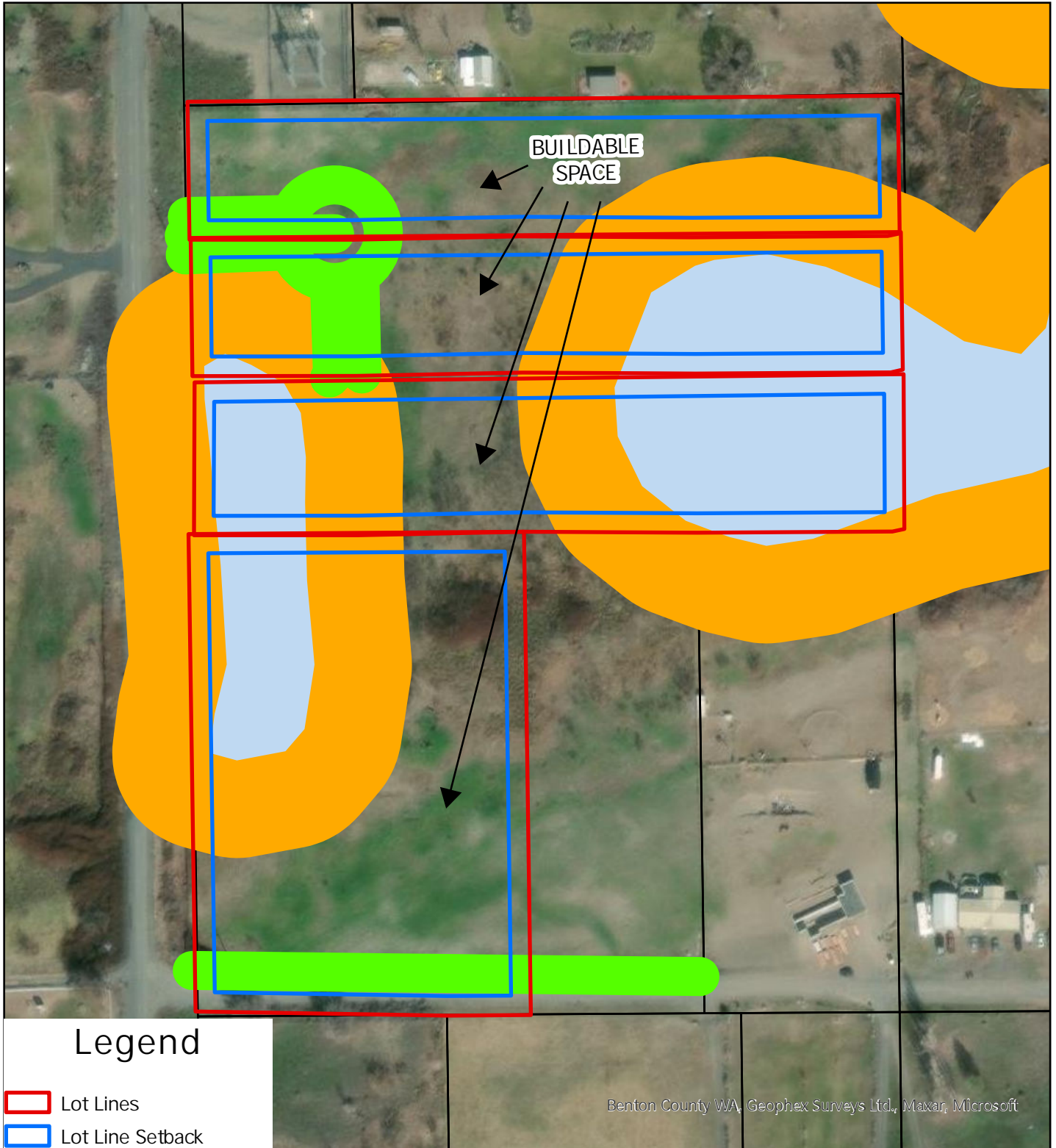
Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by T. Cimmiyotti, Umatilla County Planning Department Date: 6/29/2023



Legend

- Proposed Lot Lines
- Subject Properties
- Easements
- Property Boundary
- 250 ft Notice Boundary

MAP_TAX	OWNERS	MAP_TAX	OWNERS
5N27220000500	BERRY JUSTIN & JENNIFER	5N27220000810	OBRIEN ANTHONY G & LYNETTE M
5N27220000502	BERRY JUSTIN & JENNIFER	5N27220000811	OBRIEN ANTHONY & LYNETTE
5N27220000700	GUZMAN LUCIO A & RONQUILLO HEIDI	5N27220000812	GREENHALGH CHARLES P
5N27220000801	UMATILLA ELECTRIC CO-OP ASSN	5N27220000892	DICKENSON ROBIN D & DEBBIE
5N27220000804	HARTLEY JEFFREY S & HOPE M	5N27220000815	MENDOZA VICTORIANO
5N27220000806	HAM SHARON P	5N27220000816	GARTON KALVIN B
5N27220000808	HIGGINS ELIZABETH A & EVENS KENNETH R	5N27220000809	GARTON KALVIN B
5N2721A006200	SEELYE CASEY & REBECCA	5N2721A006101	CRUSE DANIEL
5N2721A006300	MOORE THOMAS	5N2721A006400	DUNCAN BRUCE & BARBARA
	4	5N2721A006201	GOODHEART KARI



Benton County WA, Geophex Surveys Ltd., Maxar, Microsoft

Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by T. Cimiyotti, Umatilla County Planning Department Date: 6/23/2023

GARTON SUBDIVISION
A SUBDIVISION OF PARCELS 2 & 3 OF
PARTITION PLAT NO. 2022-11

LOCATED IN THE NORTHWEST QUARTER OF SECTION 22, T5N., R27E., W.M.
 UMATILLA COUNTY, OREGON.
 MAY, 2023

"TENTATIVE PLAN"

EXISTING EASEMENTS & ENCUMBRANCES

NOTED FROM OWNERSHIP & ENCUMBRANCES REPORT BY PIONEER TITLE COMPANY, PENDLETON, OREGON, ORDER NO. 101599, DATED OCTOBER 4, 2020.

- (A)** AREA SUBJECT TO BLANKET EASEMENT TO UMATILLA ELECTRIC COOPERATIVE ASSOC. DATED 4-9-1938, BOOK 120, PAGE 463, (& BOOK 185, PAGE 610), UMATILLA COUNTY DEED RECORDS. EASEMENTS ARE GRANTED TO PLACE, CONSTRUCT, OPERATE, REPAIR MAINTAIN, RELOCATE AND REPLACE ELECTRIC TRANSMISSION OR DISTRIBUTION LINE OR SYSTEM, INCLUDING THE RIGHT TO TRIM TREES ENDANGERING OVERHEAD LINES. **SURVEYOR'S NOTE:** THE ONLY VISIBLE UEC LINE IN THE EASEMENT AREA IS THE OVERHEAD SERVICE LINE NEAR THE NORTH SIDE OF THE EASEMENT AREA.
- (B)** EXISTING 15' EASEMENT FOR INGRESS-EGRESS AND IRRIGATION LINE, DATED MARCH 27, 2001, INSTRUMENT NO. 2001-3850451, UMATILLA COUNTY OFFICE OF RECORDS. IRRIGATION PIPE IS INSTALLED IN EASEMENT.
- (C)** AREA SUBJECT TO BLANKET EASEMENT TO UMATILLA ELECTRIC COOPERATIVE ASSOC. DATED 1-25-1938, BOOK 120, PAGE 467, UMATILLA COUNTY DEED RECORDS. EASEMENT IS GRANTED TO PLACE, CONSTRUCT, OPERATE, REPAIR MAINTAIN, RELOCATE AND REPLACE ELECTRIC TRANSMISSION OR DISTRIBUTION LINE OR SYSTEM, INCLUDING THE RIGHT TO TRIM TREES ENDANGERING OVERHEAD LINES. **SURVEYOR'S NOTE:** THIS BLANKET EASEMENT INFORMATION WAS PROVIDED BY UMATILLA ELECTRIC COOPERATIVE & WAS NOT DISCLOSED IN OWNERSHIP & ENCUMBRANCE REPORT NO. 101599.

OTHER ENCUMBRANCES OF RECORD:

EASEMENTS AS SHOWN ON PARTITION PLAT NO. 1992-22.
 IRREVOCABLE CONSENT AGREEMENT, RECORDED OCTOBER 26, 1992, REEL 227, PAGE 1, UMATILLA COUNTY DEED RECORDS. (RILIE LANE.)
 EASEMENTS AS SHOWN ON PARTITION PLAT NO. 1998-54.
 IRREVOCABLE CONSENT AGREEMENT, RECORDED DECEMBER 21, 1998, INSTRUMENT NO. 1998-3420407, UMATILLA COUNTY DEED RECORDS. (RILIE LANE.)
 ROAD MAINTENANCE AGREEMENT, RECORDED SEPTEMBER 21, 2006, INSTRUMENT NO. 2006-5080061, UMATILLA COUNTY DEED RECORDS. (RILIE LANE.)
 2022 IRREVOCABLE CONSENT AGREEMENT, RECORDED IN 2022 FOR PARTITION PLAT NO. 2022-11, INST. NO. 2022-7400003.

NOTES:

OWNER OF PARCELS 2 & 3 OF PARTITION PLAT NO. 2022-11 & SUBDIVIDER:

KALVIN B. GARTON
 1328 NW KING AVE., PENDLETON, OREGON. TELEPHONE: 541-969-7358.

EXISTING CONDITIONS:

1. RILIE LANE IS A 22' WIDE GRAVEL SURFACED ROAD IN A 60' EASEMENT.
2. PLEASANT VIEW ROAD IS A 20' WIDE ASPHALT ROAD MAINTAINED BY MORROW COUNTY.
3. BURIED TELEPHONE SERVICE IN PLEASANT VIEW ROAD AND RILIE LANE.
4. PREVAILING WIND DIRECTION, SUMMER AND WINTER: FROM SOUTH OR SOUTHWEST.
5. PROPOSED SUBDIVISION IS IN UMATILLA FIRE SERVICE DISTRICT NO. 1.
6. GARBAGE PICKUP AND DISPOSAL IS AVAILABLE.
7. SUBDIVISION IS WITHIN THE WESTLAND IRRIGATION DISTRICT AND WILL REQUIRE APPROVAL FROM THE DISTRICT FOR NEW EASEMENTS AND IRRIGATION LINE EXTENSIONS.
8. THERE ARE NO KNOWN DEER OR ELK MIGRATION ROUTES, HISTORIC BUILDINGS, SCENIC VIEWS OR ARCHEOLOGICAL AREAS ON THE SUBDIVISION SITE.

PROPOSED IMPROVEMENTS:

1. THE PROPOSED PRIVATE 30' WIDE INGRESS-EGRESS & UTILITY EASEMENT & THE 50' CUL-DE-SAC ARE APPURTENANT TO NEW LOTS 2, 3 & 4. THE PROPOSED 20' INGRESS-EGRESS & UTILITY EASEMENT OVER LOT 3 IS APPURTENANT TO NEW LOT 2. A 16' GRAVEL SURFACED ROAD & GRAVELED 40' RADIUS TURN AROUND WILL BE CONSTRUCTED BY SUBDIVIDER TOGETHER WITH CULVERT AND DRAINAGE GRADING REQUIRED BY MORROW COUNTY. SUBDIVIDER WILL CONSTRUCT A 12' GRAVEL ROAD IN THE 20' INGRESS-EGRESS & UTILITY EASEMENT FROM THE CUL-DE-SAC GRAVEL TO THE NORTH LINE OF NEW LOT 2. OWNERS OF LOTS 2, 3 & 4 WILL SHARE EQUALLY IN THE FUTURE OPERATION AND MAINTENANCE OF THE GRAVELED ROAD IN THE 30' EASEMENT AND CUL-DE-SAC. THE OWNER OF LOT 2 WILL BE RESPONSIBLE FOR OPERATION AND MAINTENANCE OF THE GRAVELED 12' DRIVE FROM THE CUL-DE-SAC GRAVEL TO THE NORTH LINE OF NEW LOT 2.
2. SEWAGE DISPOSAL WILL BE BY INDIVIDUAL SEPTIC TANK/DRAINFIELD SYSTEMS CONSTRUCTED FROM APPROVED SITE EVALUATIONS.
3. DOMESTIC WATER SUPPLY WILL BE FROM INDIVIDUAL DRILLED WELLS.
4. IRRIGATION WATER LINE AND EASEMENTS WILL REQUIRE APPROVAL OF THE WESTLAND IRRIGATION DISTRICT AND LINE(S) WILL BE CONSTRUCTED BY SUBDIVIDER.
5. FIRE PROTECTION IS AVAILABLE FROM THE UMATILLA FIRE SERVICE DISTRICT NO. 1 WHICH IS CONSISTENT WITH OTHER RURAL RESIDENTIAL DEVELOPMENTS IN THE VICINITY.
6. PROPOSED DWELLING UNITS: SINGLE FAMILY DETACHED.

LEGEND

- - EXISTING TEST PITS FOR SEPTIC APPROVAL.
- - INDICATES WETLAND BOUNDARY, PER NATIONAL WETLANDS INVENTORY.
- ⊙ ⊙ ⊙ ⊙ - INDICATES EXISTING SURVEY MONUMENTS, FOUND OR SET ON PREVIOUS SURVEYS. DATE OF LAST SURVEY: APRIL, 2022, (PARTITION PLAT NO. 2022-11).
- ⊙ - INDICATES POWER POLE.
- 31g - INDICATES CONTOUR LINE AND GROUND ELEVATION AT LINE.
- #0 - SYMBOL AND NUMBER IS REFERENCE TO SEPTIC SITE EVALUATION REPORTS NUMBERED #1, #3, #4 & #5, DATED JUNE 1, 2021, ISSUED BY UMATILLA COUNTY PUBLIC HEALTH. (SEPTIC SITE EVALUATION REPORT NUMBERS DO NOT CORRESPOND WITH NEW LOT NUMBERS).

REVISED 5/23/23

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

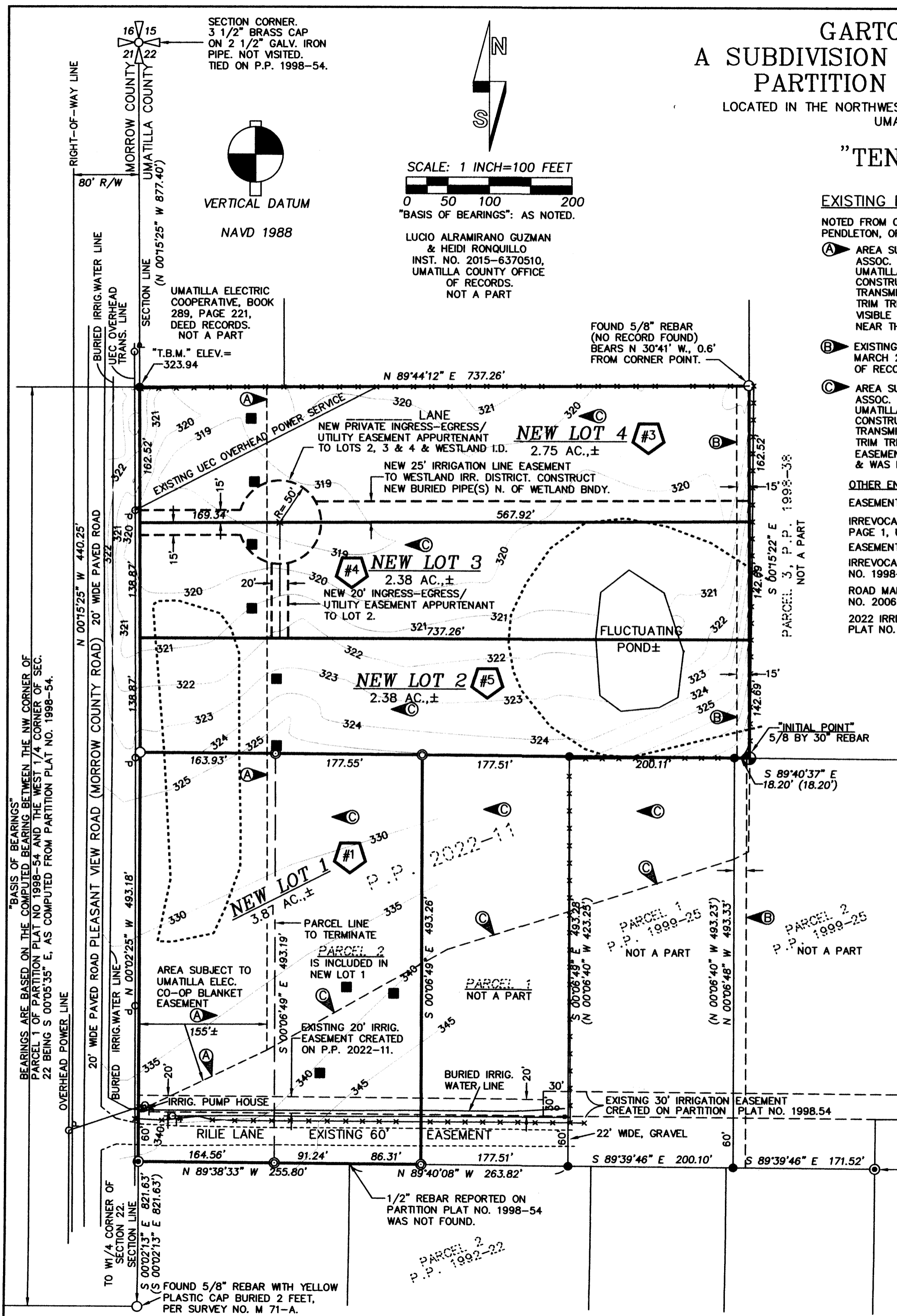
Will R. Wells

OREGON
 JULY 22, 1977
 WILLIAM R. WELLS
 1106
 RENEWS 6/30/22

WELLS SURVEYING
 200 SE HAILEY SUITE 108
 P.O. BOX 1696
 PENDLETON, OR 97801
 PHONE: (541) 276-6362

PROJECT:
**TENTATIVE PLAN FOR:
 GARTON SUBDIVISION**

DATE: 05/23	DR. BY: WRW
CK. BY: WRW	NO: 20-1770



**UMATILLA COUNTY PLANNING COMMISSION
STAFF REPORT AND PRELIMINARY FINDINGS OF FACT
GARTON SUBDIVISION REQUEST, #S-062-23
Map #5N 27 22, Tax Lots #809 and #816, Accounts #149725 and #169845**

1. APPLICANT: Calvin Garton, 1328 NW King Ave, Pendleton OR 97801
2. PROPERTY OWNERS: Calvin Garton, 1328 NW King Ave, Pendleton OR 97801
3. LOCATION: The subject property is located south of State Highway 730 and borders the Morrow/Umatilla County Line about 2.9 miles west of Umatilla City Limits.
4. PARCEL ACREAGE: Tax Lot 809 is assessed as 9.38 acres and Tax Lot 816 is assessed as 2.01 acres. The Tentative Plan survey shows the subject properties as a total of 11.38 acres.
5. REQUEST: The applicant requests approval of a rural residential subdivision. The proposed subdivision establishes four lots. Proposed Lot 1 includes previously created Parcel 2 of Partition Plat 2022-11 (Tax Lot 816), both Tax Lots 809 and 816 are currently bare land (See the applicant's tentative plan map for lot configuration, plan details and proposed access).

According to the applicant, each undeveloped lot will have its own water source either from an individual domestic well or through the sharing of a domestic well. Individual septic systems are proposed for each lot. However, the applicant has not submitted site suitability reports from County Environmental Health, indicating if the Lots 2 through 4 can be approved for individual septic systems. Proposed Lot 1 previously received site suitability as a requirement of Land Division LD-5N-881-20.

The applicant has not indicated if Covenants, Conditions and Restrictions will be recorded. Applicant provides detached single-family dwellings are proposed.

6. PROPOSED LOT ACREAGE: (Gross)

Lot 1=3.87 ac	Lot 3=2.38 ac
Lot 2=2.38 ac	Lot 4=2.75 ac

7. COMPREHENSIVE PLAN MAP DESIGNATION: Rural Residential
8. ZONING: RR-2 Zone (Rural Residential two-acre minimum parcel/lot size)
9. ACCESS: Lot 1 is served by an existing driveway from Rilie Lane. Lots 2 through 4 are proposed to have access from a new 30-foot wide access easement, as shown on the tentative plan. A 50-foot radius turnaround for emergency vehicles is planned along the shared lot line between Lots 3 and 4. An Access Permit from the Morrow County Road Department for the new lane may be required.
10. ROAD TYPE: Rilie Lane is a 60-foot wide right-of-way private lane, with 22-feet of improved gravel surface. Pleasant View Road is a two-lane Morrow County Road, with 80-feet of dedicated right-of-way and 20-feet of improved paved surface. One private lane is proposed to serve Lots 2 through 4 from Pleasant View Road.

11. EASEMENTS: Proposed Lot 1 contains the existing 60-foot right-of-way for Rilie Lane along the southern lot line. There is also an existing 20-foot wide irrigation easement that crosses the southern portion of proposed Lot 1.

Proposed Lots 2 through 4 contain an existing 15-foot wide irrigation easement allowing ingress/egress for pipe maintenance. The easement runs north-south along the west property line, the Tentative Plan notes detail that irrigation pipe is installed within the easement. The easement was created with document number 2001-3850451, recorded in County Deed Records on March 27, 2001.

Several new access/utility and irrigation easements are proposed as shown on the Tentative Plan.

12. LAND USE: The property is planned and zoned for rural residential use for rural home sites and to provide space for rural services, gardens, a limited number of farm animals and pasture. The property has been historically used as pasture.

13. ADJACENT LAND USE: The property is zoned rural residential, RR-2. Likewise, the properties to the north, east, and south of the property are zoned RR-2. According to Morrow County’s Interactive Map, properties to the west are similarly zoned Rural Residential.

14. SOILS: The properties consist of the following soil:

Unit Number, Soil Name, Description & Slope	Land Capability Class	
	Dry	Irrigated
74B: Quincy fine sand, 0 to 5 percent slopes	7e	4e
75E: Quincy loamy fine sand, 5 to 25 percent slopes	7e	6e
119A: Wanser loamy fine sand, 0 to 3 percent slopes	6w	--

15. BUILDINGS: The subject properties are currently undeveloped. The applicant provides there is an existing 6-foot by 6-foot enclosure for the irrigation well pump, located north-east of the intersection of Pleasant View Road and Rilie Lane on Lot 1.

16. UTILITIES: Electricity is provided by Umatilla Electric Cooperative (UEC).

17. WATER AND SANITATION: The applicant provides there is an existing irrigation well on proposed Lot 1 and domestic wells will be developed on the new lots. The subject properties do not currently contain septic systems, however septic systems will be required to serve the new dwellings. Proposed Lot 1 has obtained site suitability from County Environmental Health.

18. IRRIGATION: The property is located within West Extension Irrigation District (WEID). The applicant provides that the property has irrigation water rights through WEID.

19. OTHER: Before subdivisions can be accepted for recording, all property taxes must be paid

in full including, if applicable, prepayment of the current tax year. This will be noted in the conditions requiring taxes to be paid prior to recording the final subdivision plat. The property may need to be disqualified from the Farm Deferral program, and may have to pay the last 10 years of deferred taxes. It is recommended that the applicant consult with the County Taxation department, however, the disqualification is not a condition of this approval, rather, it will be addressed as due property taxes at the time of plat recording.

20. PROPERTY OWNERS & AGENCIES NOTIFIED: July 7, 2023

21. PUBLIC HEARING DATE: July 27, 2023

22. AGENCIES NOTIFIED: Umatilla County Public Works, County Surveyor, County Environmental Health, Umatilla Rural Fire District, County Assessor, County GIS/Mapping Department, Department of State Lands, Oregon State Water Resources, Umatilla Electric Cooperative, West Extension Irrigation District, Morrow County Public Works and Morrow County Planning Department.

23. COMMENTS RECEIVED: Planning received one comment from the Department of State Lands (DSL) on July 10, 2023. DSL provided that there was a determination request for tax lot 809, which was shared and provided in the Planning Commission packet. DSL also stated that a Wetland Land Use Notice (WLUN) is required for subdivisions. The WLUN was subsequently submitted by staff.

Planning staff had a verbal conversation with Chris Grant, Chief of Umatilla Rural Fire District on July 13, 2023. Mr. Grant shared concerns regarding the improved surface width of the access easement, the Fire District, in accordance with the Oregon Fire Code, would like to see a wider improved surface to accommodate for emergency vehicles. Mr. Grant subsequently followed up with written comments, emailed to Planning Staff on July 19, 2023. Mr. Grant's email includes sections from the 2022 Oregon Fire Code, demonstrating that access roads over 500 feet in length shall have an improved width of 26-feet. The Planning Commission may make findings and modify Precedent Condition #8, that the improved roadway be 26-feet wide to comply with 2022 Oregon Fire Code.

One comment in opposition of the Garton Subdivision was emailed to Planning on July 19, 2023, submitted by nearby property owner, Justin Berry. Mr. Berry's concerns relate to possible backfilling of wetlands and how that will affect his property and the already present highwater table. Mr. Berry posed several questions to the applicant regarding surface water drainage, water flows and if the proposed lots contain adequate buildable space. Included in Mr. Berry's letter are five maps which are included in the hearing packet.

Mr. Berry's comment was shared with DSL staff who provided a response on July 19, 2023. DSL's response concludes that the applicant will have to comply with State removal-fill law, which includes compliance with the Federal Clean Water Act which could require permits from Department of Environmental Quality. Both processes involve further public comment periods.

24. CRITERIA FOR APPROVAL, TYPE I LAND DIVISION "SUBDIVISION", contained in Section 152.666(6) of the Development Code.

Following are a list of the standards of approval applied to a rural residential subdivision¹. Included is information gathered from the tentative plan and the review of the proposed access, road improvements, traffic potential, and rural facilities to serve rural residential development. The standards are provided in underlined text and responses are provided in standard text.

(a) Complies with applicable elements of the Comprehensive Plan, including, but not limited to, policies listed in the public facilities and services and transportation elements of the Comprehensive Plan.

Sewage Disposal: The property owner understands individual septic systems are necessary to serve each undeveloped lot. Four of the proposed lots are smaller than four acres, and therefore, require site evaluations. Lot 1 previously received a favorable site evaluation; thus, a subsequent site evaluation is not required for Lot 1.

A precedent condition of approval is imposed that Lots 2, 3 and 4 receive a favorable site evaluation from County Environmental Health.

Domestic Water: Domestic water wells are under the authority of Oregon State Water Resources. Domestic wells are exempt wells and do not require a water right. Each exempt well allows 15,000 gallons per day of household usage including irrigation of up to one half acre of lawn and landscaping per well. The applicant provides that the future purchaser of each subdivision lot will be responsible for receiving exempt well approval and costs of drilling a well.

Irrigation Water: The applicant provides that the subject parcels have irrigation water rights through West Extension Irrigation District. Thus, the subdivision is required to meet the district's standards as a precedent condition of approval; this can be satisfied with a signature on the Final Subdivision Plat. The District may request additional conditions of approval.

A precedent condition of approval is imposed that the applicant obtain West Extension Irrigation District's signature on the Final Subdivision Plat.

Fire Protection: The subject property is within Umatilla Rural Fire District. The district provides fire protection services to the area and received notification of the applicant's subdivision proposal. The new road is planned with a 50-foot radius cul-de-sac turn-around area providing space for emergency vehicles to ingress and egress. The proposed cul-de-sac is required to be improved to the S-1 County Road Standard to accommodate large firefighting equipment by the fire protection service provider. The applicant is required, as a condition of approval, to provide confirmation from Umatilla Rural Fire District that the access easements and turn-around areas are adequate for emergency vehicles ingress and egress.

A precedent condition of approval is imposed that the applicant submit confirmation from Umatilla

¹ ORS 92.010 (16) "Subdivide land" means to divide land to create four or more lots within a calendar year.'
UCDC 152.003 "Subdivide Land. To divide land into four or more lots within a calendar year."

Rural Fire District, confirming that the access easement and turn-around area is adequate for emergency vehicles.

Access and Road Improvements: An access approach permit from Pleasant View Road for the proposed roadway must be confirmed by Morrow County Public Works.

A precedent condition of approval is imposed that the applicant obtain a County Road Access Permit from Morrow County Public Works for Pleasant View Road to serve the new access easement.

The County's Transportation Plan (TSP) requires right-of-ways within subdivisions to have a width of 60-feet, with a minimum of two, 11-foot travel lanes. The County Road Department standard is a Subdivision "S-1" standard. The S-1 standard consists of a crushed gravel surface compacted to a thickness of 8 inches. The applicant's plan proposes one (1) 30-foot access/utility private right of way and one (1) 20-foot access/utility easement to serve proposed Lot 2, with one 50-foot radius cul-de-sac for emergency vehicle turnaround.

A precedent condition of approval is imposed to update the Tentative Plan so that all access/utility easements dedicated on Garton Subdivision plat are a minimum of 60-feet wide.

A precedent condition of approval is imposed to improve the proposed road to the Subdivision 1 "S-1" road standard. A diagram of the County Subdivision "S-1" road standard is attached.

A precedent condition of approval is imposed to improve the proposed cul-de-sac to the Subdivision 1 "S-1" road standard.

The Planning Commission finds the Umatilla County Development Code §152.018 Access Management and Street Connectivity applies to the applicant's subdivision request and is addressed below.

UCDC §152.018 ACCESS MANAGEMENT AND STREET CONNECTIVITY:

(J) Street Connectivity.

(4) General Connectivity Standards

(a) Where the locations of planned streets are shown on a local street network plan, the development shall implement the street(s) shown on the plan.

The Planning Commission finds the County does not have a local street network plan within the vicinity of the subject properties. This criterion is not applicable.

(b) Where required local street connections are not shown on an adopted County street plan, or the adopted street plan does not designate future streets with sufficient specificity, the development shall provide for the reasonable continuation and connection of existing streets to adjacent developable properties, conforming to the standards of this Code.

The Planning Commission finds there is not an adopted County street plan in the vicinity. The Garton Subdivision shall provide reasonable continuation and connection of existing streets to adjacent developable properties.

The tentative plan provides the proposed roadway will end approximately 169-feet from Pleasant View Road, leaving approximately 568-feet remaining to the edge of the east property boundary.

The Planning Commission finds the property adjacent to the east of the Garton properties is developable at 14.22 acres and is also zoned RR-2. The Planning Commission may find and conclude the tentative plan shall be updated so that the proposed roadway will provide a future connection to Tax Lot 502 to the east, and is imposed as a precedent condition of approval. Tax Lot 502 shall also have legal access across the proposed roadway.

(c) Existing street-ends that abuts a proposed development site shall be extended with the development, unless prevented by environmental or topographical constraints, existing development patterns, or compliance with other standards in this Code. In such situations, the applicant must provide evidence that the environmental or topographic constraint precludes reasonable street connection.

(d) Where a street connection cannot be made due to physical site constraints, approach spacing requirements, access management requirements, or similar restrictions, a pedestrian access way connection shall be provided pursuant to § 152.648(12).

The Planning Commission finds there are no existing street-ends that abut the proposed development. The criterion is not applicable.

(e) Proposed streets and any street extensions required pursuant to this section shall be located, designed, and constructed to allow continuity in street alignments and to facilitate future development of vacant or re-developable lands.

The Planning Commission finds the property adjacent to the east of the Garton properties is developable at 14.22 acres and is also zoned RR-2. The Planning Commission may find and conclude the tentative plan shall be updated so that the proposed roadway will provide a future connection to tax lot 502 to the east.

Road Signs and Addresses: Private roads serving as access to three or more buildings² are required to be named. The applicant proposes that one private lane serve Lots 2, 3 and 4. Under current zoning regulations, each proposed lot may contain one single family dwelling for a total of three dwellings. Therefore, the road is required to be named and a road sign installed as a condition of approval.

The applicant is responsible for paying for the signs and the County Road Department is the agency that will install the signs. The sign may be installed either on the applicant's property near the County right of way, or within the County right of way, where allowed by County Public Works.

The applicant has not submitted a County Private Lane Road Naming application. A precedent condition of approval is imposed that the applicant submit a Private Lane Road Naming application with applicable fees.

² County Code of Ordinances, Addressing Chapter 93.05 – Definitions. "Building. A building designed for human occupancy, such as a residence or place of business, or other buildings as determined by the Planning Department."

A precedent condition of approval is imposed that the application road name be approved and that the approved road name be shown on the final subdivision plat.

Road Improvement Agreements: Over time additional road impacts occur and future upgrading and realignment of roads become necessary. An Irrevocable Consent Agreement (ICA) is required when there are new parcels or lots added along county roads, public roads and private lanes. The ICA is for participation in future road upgrading. The agreement runs with the property and is binding on the heirs, assigns and all other successors in interest to the owner of the property, according to the interest of the property, and does not operate as a personal contract of the owner.

Three Irrevocable Consent Agreements (ICAs) are required for the subdivision approval. An agreement for future participation in improvements to Pleasant View Road serving Lots 1 through 4, if and when, a Local Improvement District is formed for road improvements along this roadway is required. An ICA is required for Rilie Lane, served by Lot 1. In addition, an ICA is required for the roadway proposed to serve Lots 2 through 4. The proposed roadway, currently unnamed, will need to be named prior to the recording of the applicable ICA.

The Planning Commission finds the property owner(s) signing and recording the three ICA agreements fulfills the road improvement agreement requirement.

A precedent condition of approval is imposed that the property owner sign and record an Irrevocable Consent Agreement for future participation in road improvements to the 80-foot Morrow County Road, Pleasant View Road, serving Lots 1 through 4 is imposed as a condition of approval.

A precedent condition of approval is imposed that the property owner sign and record an Irrevocable Consent Agreement for future participation in road improvements to the 60-foot private lane, Rilie Lane, serving Lot 1, is imposed as a condition of approval.

A precedent condition of approval is imposed that the property owner sign and record an Irrevocable Consent Agreement for future participation in road improvements to the 60-foot unnamed road, serving Lots 2 through 4, is imposed as a condition of approval.

(b) Complies with the Statewide Planning Goals adopted by the Land Conservation and Development Commission (LCDC), until the comprehensive Plan is “acknowledged.” The Umatilla County Comprehensive Plan was acknowledged October 24, 1985, by the State Land Conservation & Development Commission (LCDC). The Plan designates the subject property and surrounding properties for rural residential use. The applicant’s proposal will create a total of four rural residential lots. This property and properties in the vicinity are designated rural residential as part of the County adopted and State acknowledged Comprehensive Plan.

(c) Complies with provision of 152.019, Traffic Impact Analysis, as applicable. A Traffic Impact Analysis (TIA) is required to be submitted with a land use application when the proposal is projected to cause an increase in traffic volume by 250 or more Average Daily Trips (ADT). A single family dwelling generates approximately 9.52 ADT on week days. The applicant’s proposal has the potential to add four dwellings, one dwelling per lot, for a total 38.08 ADT. Thirty-eight

ADT is much less than 250 ADT. Therefore, the TIA is not applied to the applicant's request.

(d) Complies with applicable provisions listed in the zoning regulations of this chapter;
The subject properties are both zoned Rural Residential – two acre minimum (RR-2).

Lot Size: All proposed lots will conform to or exceed the 2-acre minimum parcel size for the RR-2 zone.

Setbacks: All proposed lots are limited in buildable areas. The attached Wetlands Map identifies required setbacks to mapped wetlands and existing and proposed access/utility easements. Setback standards will be enforced at the time development is proposed. In the RR-2 zone, the minimum setback to property lines and access easements is 20-feet and the minimum setback to wetlands and streams is 100-feet.

The Planning Commission may find that the proposed subdivision will make compliance with setbacks difficult for structures typical in a residential zone such as a dwelling, shop building, septic system and animal barn.

The Planning Commission may find that the proposed subdivision be reconfigured to create more buildable space.

The Planning Commission may find that the proposed subdivision cannot provide buildable space adequate for accommodating rural residential amenities and must be denied.

Flood Hazard Areas: The subject parcel is not located within a Special Flood Hazard Area.

(e) Complies with the applicable provisions, including the intent and purpose of the Type I regulations listed in this chapter;

Subdivision Name: The applicant has selected Garton Subdivision as the subdivision name. The County Surveyor or the County GIS Manager must approve new subdivision names to avoid duplicate names. The applicant's subdivision name, Garton Subdivision, has been confirmed by the County GIS Manager as an acceptable subdivision name. A condition of the subdivision approval is imposed to place the approved subdivision name on the Final Subdivision Plat.

(f) The Tentative Plan conforms and fits into the existing development scheme in the area, including the logical extension of existing streets [roads] and public facilities through the tentative plan; The subject property and the surrounding properties are plan designated and zoned for rural residential development. The existing development scheme is rural residential parcels with some pasture land used as rural home sites. One access easement is proposed, which will be dedicated as a non-exclusive easement on the final Subdivision Plat and is required to be named. As determined above under UCDC §152.018, the tentative plan shall provide a road extension to Tax Lot 502 to the east, which could potentially develop in the future.

There are no public facilities such as public water and sewer systems that may be extended into the rural area and no abutting streets or roads that would be logically extended onto or through the

subject property.

(g) Complies with other specific requirements listed in Section 152.667 for approval of subdivisions within multiple use areas. The subdivision is not proposed within an adopted Comprehensive Plan multiple use designated area. Therefore, specific requirements in Section 152.667 are not applied.

DECISION: THE GARTON SUBDIVISION, #S-062-23, REQUEST COMPLIES WITH THE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE, SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

The following "Precedent Conditions" shall be completed prior to issuance of final approval signified by recording of the final subdivision plat.

1. Receive favorable site evaluations for Lots 2, 3 and 4 from County Environmental Health and submit the evaluations to County Planning.
2. Obtain a Morrow County Road Approach Permit from Pleasant View Road for the 60-ft access easement serving Lots 2 through 4. If an approach permit is not required, submit verification from Morrow County Public Works.
3. Submit a Road Naming application and applicable fees to Planning for the naming of the private road easement serving Lots 2 through 4.
4. Receive approval for the Road Naming application of the private road easement serving Lots 2 through 4.
5. Sign and record an Irrevocable Consent Agreement for Lots 2 through 4, for participation in future road improvements to the 60-ft access easement and turn around, name not yet approved. (Document provided by the Planning Department.)
6. Sign and record an Irrevocable Consent Agreement for Lots 1 through 4, for participation in future road improvements to Pleasant View Road, the 60-ft wide Morrow County Road. (Document provided by the Planning Department.)
7. Sign and record an Irrevocable Consent Agreement for Lot 1 for participation in future road improvements to Rilie Lane, the 60-ft wide private lane. (Document provided by the Planning Department.)
8. Improve the 60-ft access easement and the proposed 50-foot radius cul-de-sac turn-around to the County Subdivision "S-1" road standard. The S-1 road standard consists of a 22-ft wide, nominal compacted 8-inch crushed gravel surface road.

[Verification roadway improvements have been completed to County Subdivision (S-1) standards may be provided by a combination of photos of the road improvements and receipt copies for gravel and services by the road contractor, or by written verification from a licensed Civil (road) Engineer that County Subdivision (S-1) standards have been met.]

9. Provide confirmation from Umatilla Rural Fire District that both the easement access road and turn-around areas consist of adequate area for emergency vehicles to ingress and egress.
10. Provide verification from West Extension Irrigation District that irrigation standards have been met. This can be satisfied with a signature on the final subdivision plat.
11. Pay and/or pre-pay property taxes prior to recording the final subdivision plat map.
12. Submit a preliminary subdivision plat that meets county and state plat requirements to County Planning, County GIS, and the County Surveyor. The plat shall contain the approved road name and on the face of the plat and include the approved subdivision name, Garton Subdivision. The plat shall be updated to show that the private lane continues and provides legal access to Tax Lot 502 to the east and that the access easement is 60-foot wide.

The following "Subsequent Conditions" may consist of on-going requirements and conditions to be fulfilled following approval of the Tentative Subdivision Plan:

1. Within two years, record the final subdivision plat that meets county and state plat requirements. The subdivision name, Garton Subdivision, must be placed on the subdivision plat. The plat shall show the 60-foot wide access easement, including turnaround and name, as well as the existing and proposed irrigation water pipeline easements located on Lots 1 through 4 as represented on the tentative plan survey map. The plat shall contain West Extension Irrigation District's signature. The plat shall also show that the private lane continues and provides legal access to Tax Lot 502 to the east.
2. Obtain zoning permits from the Umatilla County Planning Department to place structures on the lots with an approved site plan showing setbacks, driveways, utilities, etc.
3. Obtain all other permits necessary for development (i.e. septic, building, etc.)

UMATILLA COUNTY PLANNING COMMISSION

Dated the _____ day of _____, 20____

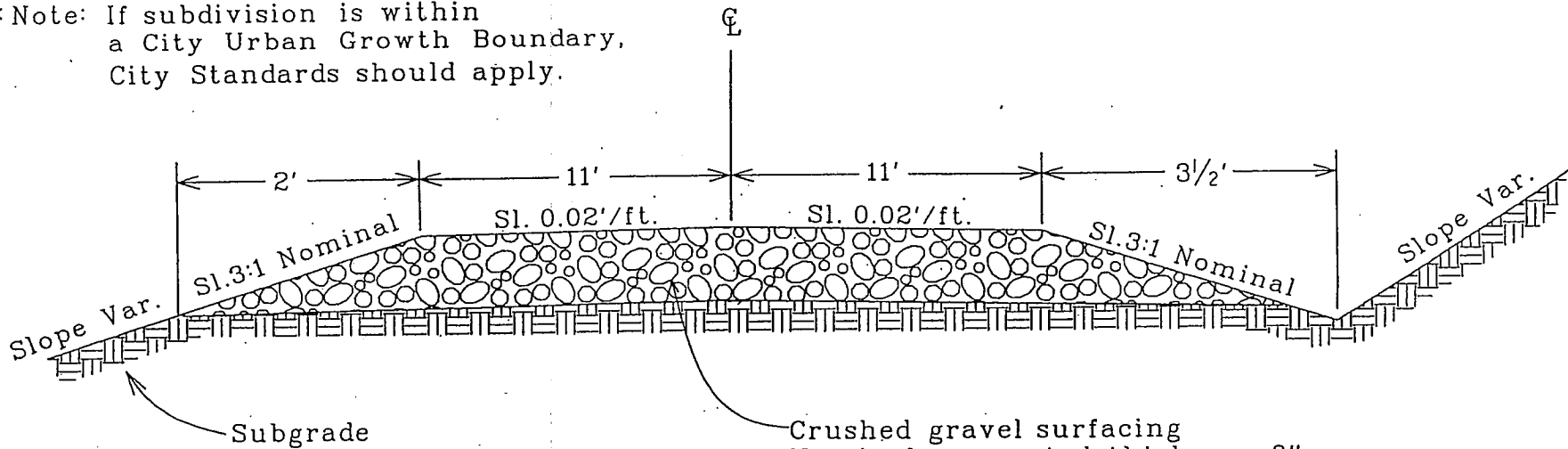
Suni Danforth, Chair
Umatilla County Planning Commission

"S-1"

(Subdivision)

To be used in cases where access is
to 4 or more parcels.

*Note: If subdivision is within
a City Urban Growth Boundary,
City Standards should apply.



* Culvert pipes to be installed in locations
determined by the Director of Public Works.
Materials & workmanship shall conform
to current ODOT Standard Specifications

* All other construction details and
specifications to conform to current
ODOT Standard Specifications and to
be approved by the Director of
Public Works.

* Any changes to surfacing width or
depths or variance from current
Oregon Department of Transportation
Standard Specifications must be
approved by the Director of Public
Works.

Crushed gravel surfacing
Nominal compacted thickness 8"
(size and grading requirements
to conform to current Oregon
Department of Transportation
Specifications).

Umatilla Co. Rd. Dept.

"S-1"

Drawn By: JG

Checked By: GR

Date: July 1997

Road Standard

INTENTIONALLY LEFT BLANK



Megan Davchevski <megan.davchevski@umatillacounty.gov>

FW:RE: 05N27E22 #809 & 816

3 messages

BROWN Jevra * DSL <Jevra.BROWN@dsl.oregon.gov>
To: "megan.davchevski@umatillacounty.gov" <megan.davchevski@umatillacounty.gov>
Cc: FITZGERALD Richard W * DSL <Richard.W.FITZGERALD@dsl.oregon.gov>

Mon, Jul 10, 2023 at 4:34 PM

Megan,

FYI, DSL did receive a determination request for ONE of these two tax lots (#809). The copy was sent to Umatilla City instead of the County, find attached.

We have not received a wetland land use notice for this project, as is required for all subdivisions that overlap with resources mapped on the SWI. If you are not familiar with the WLUN process, please go to <https://www.oregon.gov/dsl/WWW/Pages/WetlandConservation.aspx>

[Wetland land use notice](#)



Please use the online form to submit a **Wetland Land Use Notification to DSL**.

& see:

[Wetland notification statutes \(pdf\)](#)
[Wetland Land Use Notification Guidance \(pdf\)](#)

You are welcome to contact me if you have any questions,

Jevra Brown, Aquatic Resource Planner

Department of State Lands

Cell 503-580-3172 | Jevra.Brown@DSL.Oregon.gov

NOTE Division 90 Rule Update: Final Rule Language with Tracked Changes

<https://www.oregon.gov/dsl/Laws/Pages/Adopted.aspx>

Checking for wetlands and waters? – Use the STATEWIDE WETLANDS INVENTORY

-----Original Message-----

From: FITZGERALD Richard W * DSL <Richard.W.FITZGERALD@dsl.oregon.gov>

Sent: Monday, July 10, 2023 3:01 PM
To: BROWN Jevra * DSL <Jevra.BROWN@dsl.oregon.gov>

----- Forwarded message -----

From: "HOWARD Heather * DSL" <Heather.HOWARD@dsl.oregon.gov>
To: "silvergarton11@gmail.com" <silvergarton11@gmail.com>
Cc: "Umatilla (bob@umatilla-city.org)" <bob@umatilla-city.org>
Bcc:
Date: Fri, 22 Oct 2021 17:14:52 +0000
Subject: WD2021-0215 Mailout

In response to your request regarding the offsite wetland determination report, here is a link to the agency decision document, <https://docs.dsl.state.or.us/PublicReview/DocView.aspx?dbid=0&id=3780312>. Please contact Matt Unitis, Jurisdiction Coordinator, at (503) 986-5262 or matthew.unitis@dsl.oregon.gov with any questions.

Heather Howard

Support Services Specialist

Oregon Department of State Lands

775 Summer St. NE, Ste. 100

Salem, OR 97301

(503) 986-5235

www.oregon.gov/dsl

**Online Payment Portal, <https://apps.oregon.gov/ECommerce/EPS/DSL>

2 attachments



umatilla co public hearing.pdf
2647K



WD2021-0215 Mailout.eml
6K

Megan Davchevski <megan.davchevski@umatillacounty.gov>
To: BROWN Jevra * DSL <Jevra.BROWN@dsl.oregon.gov>
Cc: FITZGERALD Richard W * DSL <Richard.W.FITZGERALD@dsl.oregon.gov>

Mon, Jul 10, 2023 at 4:59 PM

Hi Jevra,

Thank you for the reminder. I just submitted the WLUN.

[Quoted text hidden]

--



Megan Davchevski

Planning Division Manager

Community Development Department

Tel: 541-278-6246 | Fax: 541-278-5480

216 SE 4th Street | Pendleton, OR 97801

<http://www.umatillacounty.gov/planning>

Please Be Aware - Documents such as emails, letters, maps, reports, etc. sent from or received by the Umatilla County Department of Land Use Planning are subject to Oregon Public Records law and are NOT CONFIDENTIAL. All such documents are available to the public upon request; costs for copies may be collected. This includes materials that may contain sensitive data or other information, and Umatilla County will not be held liable for its distribution.

BROWN Jevra * DSL <Jevra.BROWN@dsl.oregon.gov>
To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Mon, Jul 10, 2023 at 5:39 PM

Thank YOU!

Jevra Brown, Aquatic Resource Planner

Department of State Lands

Cell 503-580-3172 | Jevra.Brown@DSL.Oregon.gov

NOTE Division 90 Rule Update: Final Rule Language with Tracked Changes

<https://www.oregon.gov/dsl/Laws/Pages/Adopted.aspx>

Checking for wetlands and waters? – Use the STATEWIDE WETLANDS INVENTORY

[Quoted text hidden]

**OFFSITE WETLAND DETERMINATION REPORT
OREGON DEPARTMENT OF STATE LANDS**

775 Summer Street NE, Suite 100, Salem OR 97301-1279 Phone: (503) 986-5200

WD#: 2021-0215

RECEIVED

JUL 10 2023

UMATILLA COUNTY
PLANNING DEPARTMENT

At your request, an offsite wetland determination has been conducted on the property described below.

County: Umatilla City: Umatilla
Owner Name & Address: Calvin B. Garton, 1001 S.E. Byers, Pendleton, OR 97801
Township: 5N Range: 27 Section: 22 Q/Q: Tax Lot(s): 809


Project Name: Offsite Delineation for SFD and Well

Site Address/Location: Corner of Pleasant View Road and Rilie Lane, Umatilla OR

- The National Wetlands Inventory shows a wetland on the property.
- The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.
- It is unlikely that there are jurisdictional wetlands or waterways on the property based upon a review of wetlands maps, the county soil survey and other information. An onsite investigation by a qualified professional is the only way to be certain that there are no wetlands.
- There may be wetlands on the property that are subject to the state Removal-Fill Law.
 - A state permit is required for ≥ 50 cubic yards of fill, removal, or ground alteration in the wetlands or waterways.
 - A state permit may be required for any amount of fill, removal, or other ground alteration in the Essential Salmonid Habitat and hydrologically associated wetlands.
 - A state permit may be required for any amount of fill, removal, or other ground alteration in a compensatory wetland mitigation site.
- A state permit will not be required for project because Impacts to wetlands, if present, are estimated to be less than 50 cubic yards.
- The proposed parcel division may create a lot that is largely wetland and thus create future development problems.
- A wetland determination or delineation is needed prior to site development; the wetland delineation report should be submitted to the Department of State Lands for review and approval.
- A permit may be required by the Army Corps of Engineers: (503) 808-4373

Note: This report is for the state Removal-Fill Law only. City or County permits may be required for the proposed activity.

Comments: Rough locations outlined with X's for proposed disturbance are likely to be upland. The SE and NW parts of the tax lot are mostly likely to be upland. If disturbance is proposed within the central green swale as indicated on aerials, a delineation may be needed, as this may be jurisdictional wetland. Please call me with any further questions.

Determination by: Matt Unitis  Date: 10/ 13/ 2021

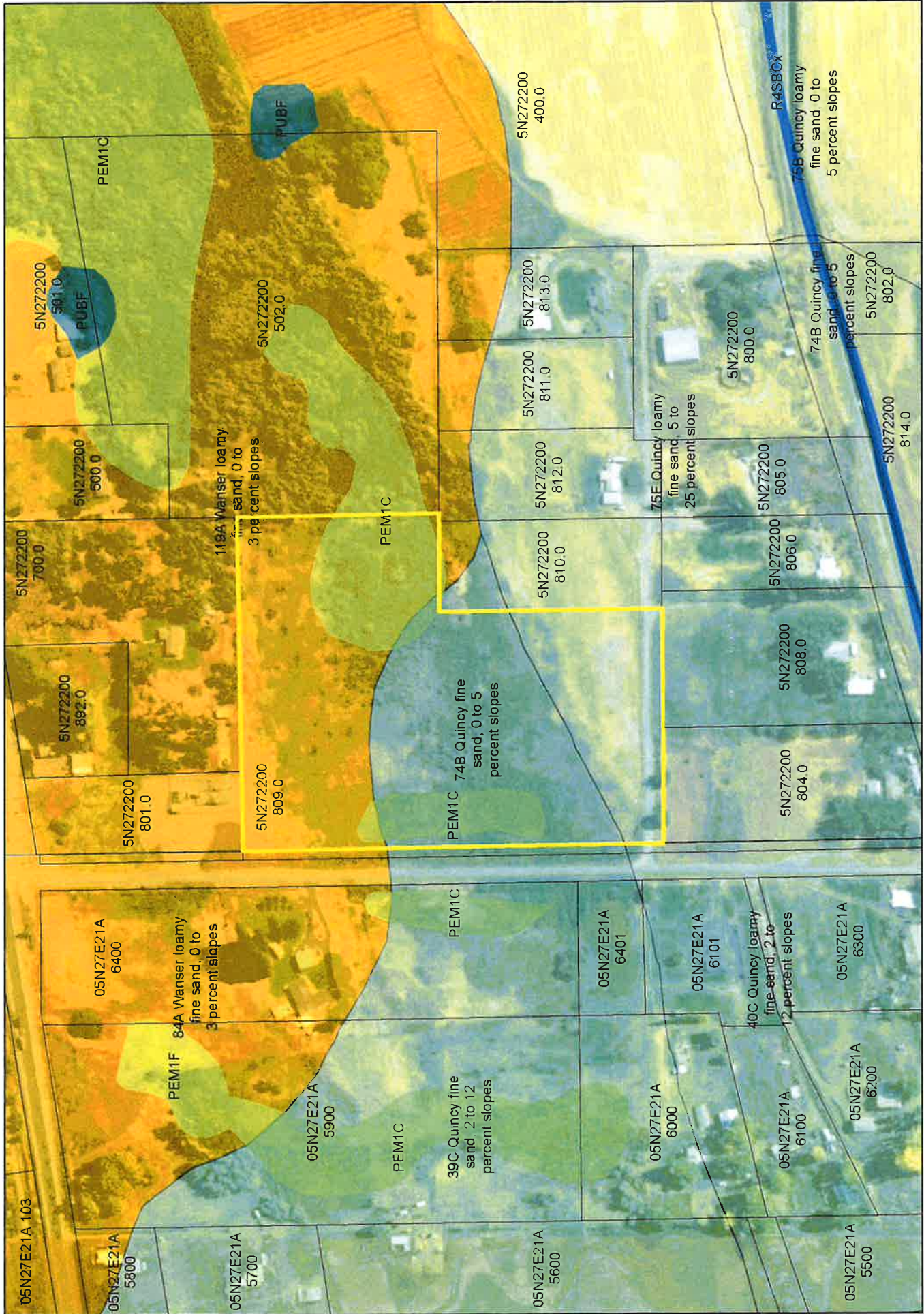
This jurisdictional determination is valid for five years from the above date, unless new information necessitates a revision. Circumstances under which the Department may change a determination and procedures for renewal of an expired determination are found in OAR 141-090-0045 (available on our web site or upon request). The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months from the above date.

This is a preliminary jurisdictional determination and is advisory only.

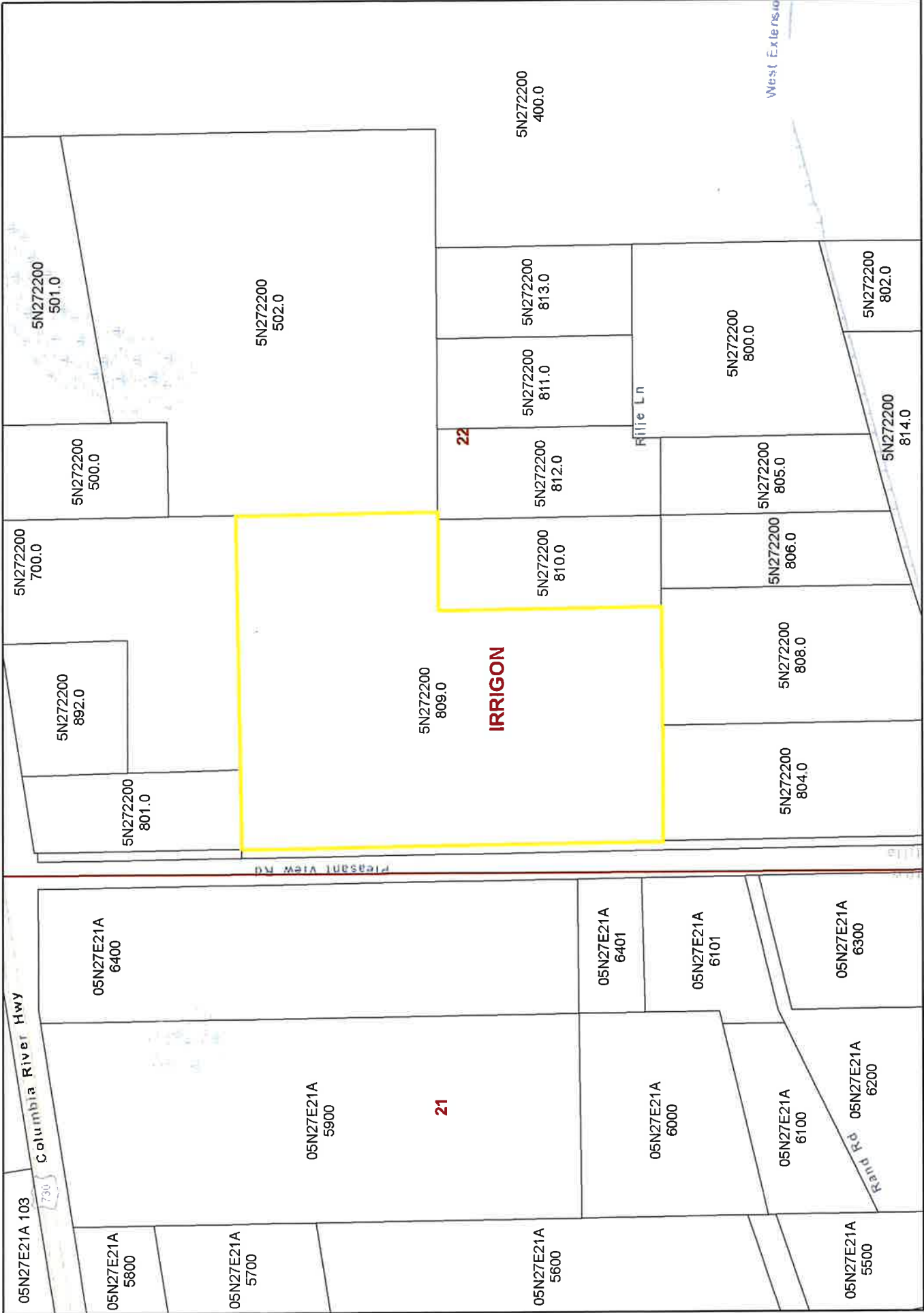
Copy To: Owner Kevin B. Garton Email: silvergarton11@gmail.com Enclosures:
 City of Umatilla Planning Department

FOR OFFICE USE ONLY

Entire Lot(s) Checked? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Waters Present <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Maybe	Request Received: 4 / 19 //2021
LWI Area: <u>None</u>	LWI Code: <u>None</u>	Latitude: <u>45.904433</u> Longitude: <u>--119.430484</u> Related DSL File #: <u>None</u>
Has Wetlands? <input type="checkbox"/> Y <input type="checkbox"/> N <input checked="" type="checkbox"/> Unk	ESH? <input type="checkbox"/> Y <input type="checkbox"/> N	Wild & Scenic? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N
State Scenic? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Coast Zone? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> Unk	
Adjacent Waterbody: <u>None</u>		



Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, JSDA, USGS, AeroGRID, IGN, and



Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, JSDA, USGS, AeroGRID, IGN, and

Wetland Land Use Notification

OREGON DEPARTMENT OF STATE LANDS
775 Summer Street NE, Suite 100, Salem, OR 97301-1279
Phone: (503) 986-5200

This form is to be completed by planning department staff for mapped wetlands and waterways.

* Required Field (?) Tool Tips

Responsible Jurisdiction

*	Municipality*	Date*
<input type="radio"/> City of <input checked="" type="radio"/> County of	Umatilla	7/10/2023

Staff Contact

First Name*	Last Name*
Megan	Davchevski
Phone* (?)	Email*
541-278-6246	megan.davchevski@umatillacounty.gov

Applicant

First Name*	Last Name*
Kalvin	Garton

Applicant Organization Name
(if applicable)

Mailing Address *

Street Address

1328 NW King Ave

Address Line 2

City

Pendleton

Postal / Zip Code

97801

State

OR

Country

United States

Phone (?)

541-969-7358

Email (?)

Is the Property Owner name and address the same as the Applicant? *

No Yes

Activity Location

Township * (?)

05N

Range * (?)

27E

Section * (?)

22

Quarter-quarter Section (?)

Tax Lot(s) *

809, 816

You can enter multiple tax lot numbers within this field. i.e. 100, 200, 300, etc.

To add additional tax map and lot information, please click the "add" button below.

Address

Street Address

Address Line 2

City

Postal / Zip Code

State

Country

County *

Umatilla

Adjacent Waterbody

Proposed Activity

Prior to submitting, please ensure proposed activity will involve physical alterations to the land and/or new construction or expansion of footprint of existing structures.

Local Case File # * (?)

S-062-23

Zoning

RR-2

Proposed

- | | |
|---|---|
| <input type="checkbox"/> Building Permit (new structures) | <input type="checkbox"/> Conditional use Permit |
| <input type="checkbox"/> Grading Permit | <input type="checkbox"/> Planned Unit Development |
| <input type="checkbox"/> Site Plan Approval | <input checked="" type="checkbox"/> Subdivision |
| <input type="checkbox"/> Other (please describe) | |

Applicant's Project Description and Planner's Comments: *

Applicant proposes a four lot subdivision, with three lots just under 3-acres in size, and the fourth lot being just under 4-acres in size.

Required attachments with site marked: Tax map and legible, scaled site plan map. (?)

Garton S-062-23 PC Public Notice.pdf

757.75KB

Additional Attachments

Date

7/10/2023



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Wetland Land Use Notice

1 message

Laserfiche_Forms@dsl.state.or.us <Laserfiche_Forms@dsl.state.or.us>
To: megan.davchevski@umatillacounty.gov

Tue, Jul 11, 2023 at 10:10 AM

Hello Megan Davchevski,

The Wetland Land Use Notice number for your Local Case File # S-062-23 is WN2023-0557, and has been assigned to:

Lynne McAllister

503-986-5300

lynne.mcallister@dsl.oregon.gov

Thank you.

Type I Land, Subdivision request #S-062-23 : Calvin Garton, Applicant

Justin Berry <j.berry8228@gmail.com>

Wed, Jul 19, 2023 at 1:38 PM

To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Not sure if this will make it in time but here are some notes for our opposition to the land division.

Sent from Mail for Windows

[Quoted text hidden]

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JUL 19 2023
UMATILLA COUNTY
PLANNING DEPARTMENT

6 attachments



Map 1.jpg
2343K



Map 2.jpg
2224K



Map 3.jpg
2362K



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PLANNING DEPARTMENT**



Map 4.jpg
3472K



Map 5.jpg
2339K



Opposition to Land Division Type I #S-062-23.docx
14K

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JUL 19 2023

July 19, 2023

UMATILLA COUNTY
PLANNING DEPARTMENT

To whom it may concern,

The following is the opposition to the Type I Land Division, Subdivision request #S-062-23: Calvin Garton, Applicant/Owners.

After receiving this notice for the Land Subdivision noted above I believe there is not enough information with the notice and supplied maps to justify. According to the Wetlands Map supplied in the notice there is not a lot of buildable land on proposed lot 2 and 3 (shown on map 5). Lot 2 and 3 consist of 2.38 acres or 103,672.8 Square Feet. The proposed buildable Square Footage on both lots 2 and 3 are close to 22,000 which is roughly only around 20 % of the overall total lot size of each. I have an issue with this because any potential buyer is most likely going to back fill these wetland areas to move the high surface water away from the lots. If the wetland area on the east side of the proposed map is back filled it will create a large unnatural Swale about 450 feet long (shown on Map 1) between our property that is the abutting lot #502. This potential swale will increase the already abundant surface water on our land (shown in maps 2 and 3). Map 2 indicates the ditch that was dug to control water flow to the north and settles in the 3 small holding ponds (map 3). Displayed on map 4 is large wetland area over $\frac{3}{4}$ an acre that has been created by the wetlands and pond on the proposed lots 2 and 3. Allowing this subdivision without properly mitigating the water disposal which is not indicated on the map should not be allowed because it has the potential to create a larger undeserved wetland issue on our property potentially making it unusable.

Further concerns from looking at the notification/Maps are:

Does the proposed turnaround meet the requirements?

What is the proposed method for surface water disposal drainage easement?

Where are the Irrigation district easements on the east side of the proposed lots 2, 3 and 4?

What is the proposed water and sewage plans for these lots?

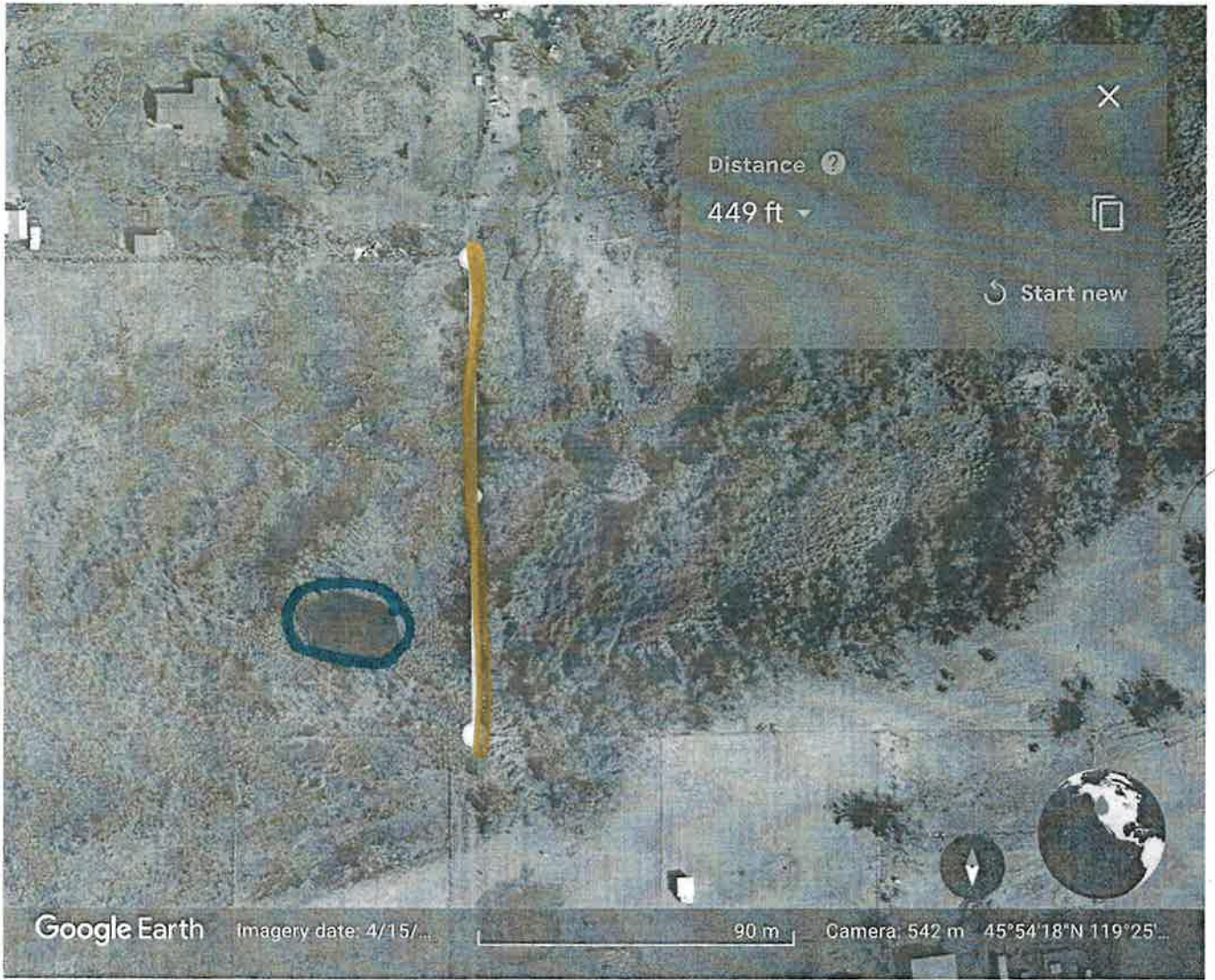
Is there enough buildable land on all proposed lots?

Where is the direction of water flow on and abutting land? 152.666 3 (a)

20 foot easement on proposed lot 3 is on the wetland setback.

Justin Berry

27298 U.S. 730 Umatilla, OR 97882



Surface Water Pond

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JUL 19 2023

UMATILLA COUNTY
PLANNING DEPARTMENT



Potential Swale

map 1



Ditch for water control

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JUL 19 2023

UMATILLA COUNTY
PLANNING DEPARTMENT

Map 2



Pond.



Culvert



ditch

Map. 3

RECEIVED

JUL 19 2023

UMATILLA COUNTY
PLANNING DEPARTMENT

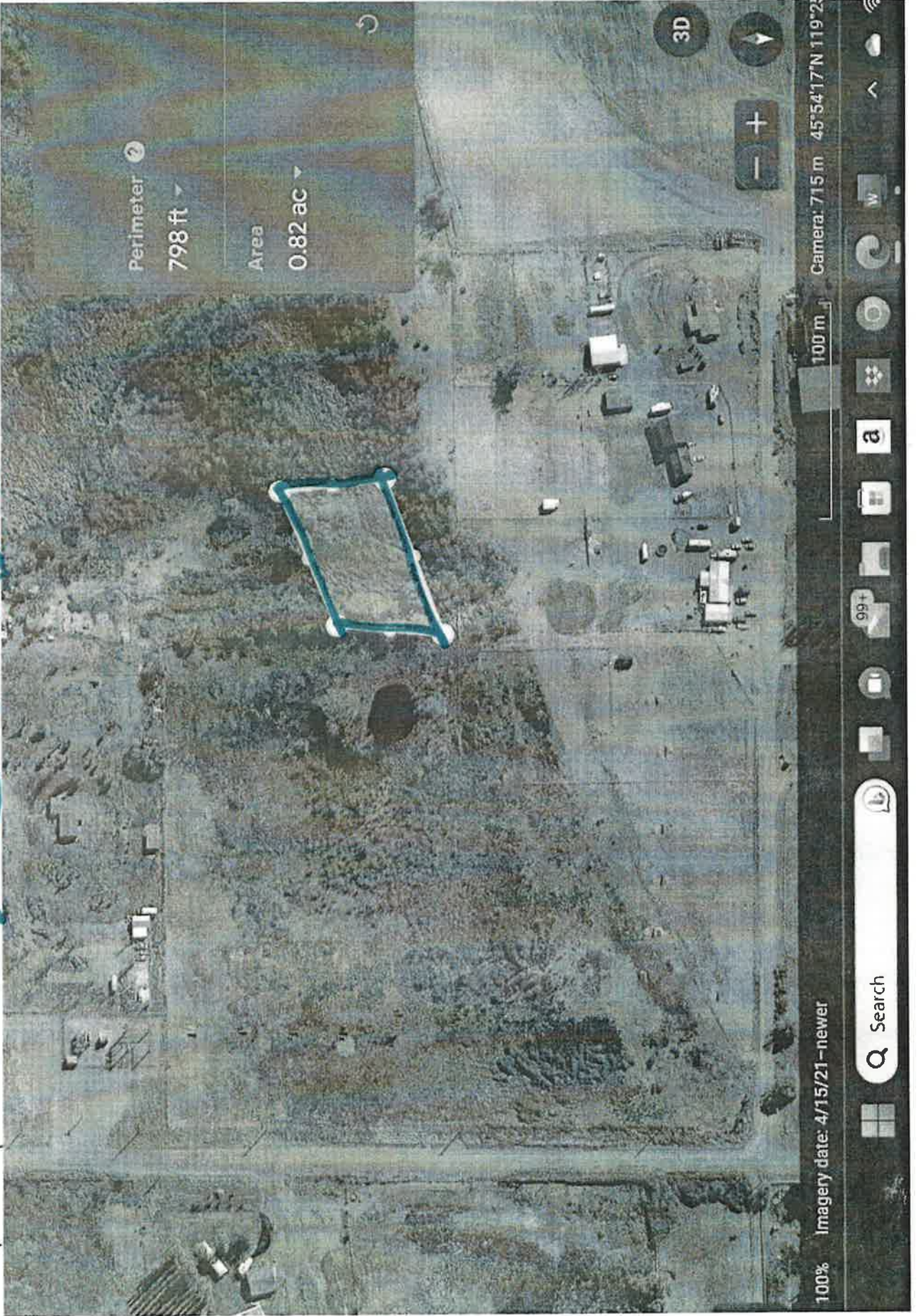
RECEIVED

JUL 19 2023
Google Earth
UMATILLA COUNTY
PLANNING DEPARTMENT

Wetland



earth.google.com



Perimeter 798 ft
Area 0.82 ac

100% Imagery date: 4/15/21 - newer

Search



Map 5
Buildable land.
Combined lot 2 & 3

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JUL 19 2023

UMATILLA COUNTY
PLANNING DEPARTMENT



Megan Davchevski <megan.davchevski@umatillacounty.gov>

FW:RE: 05N27E22 #809 & 816

Megan Davchevski <megan.davchevski@umatillacounty.gov>

Wed, Jul 19, 2023 at 7:43 AM

To: BROWN Jevra * DSL <Jevra.BROWN@dsl.oregon.gov>

Cc: FITZGERALD Richard W * DSL <Richard.W.FITZGERALD@dsl.oregon.gov>

Good Morning Jevra and Richard,

So far I have received one other comment from a nearby property owner who has expressed concerns about backfilling the wetlands and how that could affect his property and the highwater table. I have attached the email chain, this information is shared on the bottom of page two.

Would DSL like to provide clarifying information that could be shared with the decision makers?

Thank you,

Megan

[Quoted text hidden]

[Quoted text hidden]



Justin Berry, Opposed - Type I Land, Subdivision request #S-062-23 _ Calvin Garton, Applicant.pdf
651K



FW:RE: 05N27E22 #809 & 816

BROWN Jevra * DSL <Jevra.BROWN@dsl.oregon.gov>

Wed, Jul 19, 2023 at 3:14 PM

To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Cc: FITZGERALD Richard W * DSL <Richard.W.FITZGERALD@dsl.oregon.gov>, MCALLISTER Lynne * DSL <Lynne.MCALLISTER@dsl.oregon.gov>

Richard and Lynne,

This is related to wetdet WD2021-0215 for 05N27E22, tax lot 809, which has since been subdivided into tax lots 809, 815, and 816; and WN2023-0557.

Hi Megan,

I don't think that Richard was copied on all of our previous string, so I am updating him and bringing Lynne in because your WLUN #WN2023-0557 is in her review queue. Hopefully you received an email upon submittal or soon after giving you the file number and reviewer contact information. WLUN can take up to 30 days for the response.

To your question about DSL's possible comments to the opponents comments: The wetland land use notice response will describe next steps that the applicant will need to do to comply with the STATE removal-fill law. It will also note that the applicant should contact the US Corps of Engineers about compliance with the Federal Clean Water Act. Permits may be needed from DEQ for other sections of the Clean Water Act and stormwater requirements. Any one of those permits will anticipate that the project applicant handle stormwater in such a way that it does not negatively affect adjacent lots, and ultimately that is the responsibility of the applicant. If the project needs a permit from DSL or the Corps, for most permits the process includes a public comment period in which other agencies, like DEQ, are notified, and the public can voice their concerns (*see links below). Do you notify DEQ just as you notify other agencies like DSL? If the project does not need a DSL permit then contact DEQ (see what the WLUN response says – remember that even if it doesn't need a DSL permit it may need a Corps permit). The applicant should be contacting DEQ already, most construction needs some sort of construction, erosion control and stormwater permits from DEQ.

*From our home page: <https://www.oregon.gov/dsl/Pages/index.aspx> scroll down to:

Quick Actions

[Make a payment](#)

[Comment on a permit application or check application status](#)

[Check status of a wetland delineation](#)

These links work for documents in review and recently approved/issued.

I hope that this gives you and the Mr. Berry some pathways toward seeking some assurances of properly handled stormwater.

It is always the preference of the Corps and DSL that projects first attempt to avoid impacts to wetlands and waters, or to minimize impact to the greatest extent possible.

Jevra Brown, Aquatic Resource Planner

Department of State Lands

Cell 503-580-3172 | Jevra.Brown@DSL.Oregon.gov

NOTE Division 90 Rule Update: Final Rule Language with Tracked Changes

<https://www.oregon.gov/dsl/Laws/Pages/Adopted.aspx>

Checking for wetlands and waters? – Use the STATEWIDE WETLANDS INVENTORY

From: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Sent: Wednesday, July 19, 2023 7:44 AM

To: BROWN Jevra * DSL <Jevra.BROWN@dsl.oregon.gov>

Cc: FITZGERALD Richard W * DSL <Richard.W.FITZGERALD@dsl.oregon.gov>

Subject: Re: FW:RE: 05N27E22 #809 & 816

Good Morning Jevra and Richard,

[Quoted text hidden]

[Quoted text hidden]



Justin Berry, Opposed - Type I Land, Subdivision request #S-062-23 _ Calvin Garton, Applicant.pdf

651K



Garton Subdivision S-062-23

Chris Grant <chris.grant@umatillafire.org>
To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Wed, Jul 19, 2023 at 3:34 PM

Hi Megan.

Here are excerpts for the 2022 Oregon Fire Code on residential access roads.

D102.1 Access and loading.

Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an *approved* fire apparatus access road with an asphalt, concrete or other *approved* driving surface capable of supporting the imposed load of fire apparatus weighing up to 75,000 pounds (34 050 kg).

D103.4 Dead ends.

Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with [Table D103.4](#).

TABLE D103.4 REQUIREMENTS FOR DEAD-END FIRE APPARATUS ACCESS ROADS



LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0–150	20	None required
151–500	20	120-foot Hammerhead, 60-foot “Y” or 96-foot-diameter cul-de-sac in accordance with Figure D103.1
501–750	26	120-foot Hammerhead, 60-foot “Y” or 96-foot-diameter cul-de-sac in accordance with Figure D103.1
Over 750		Special approval required

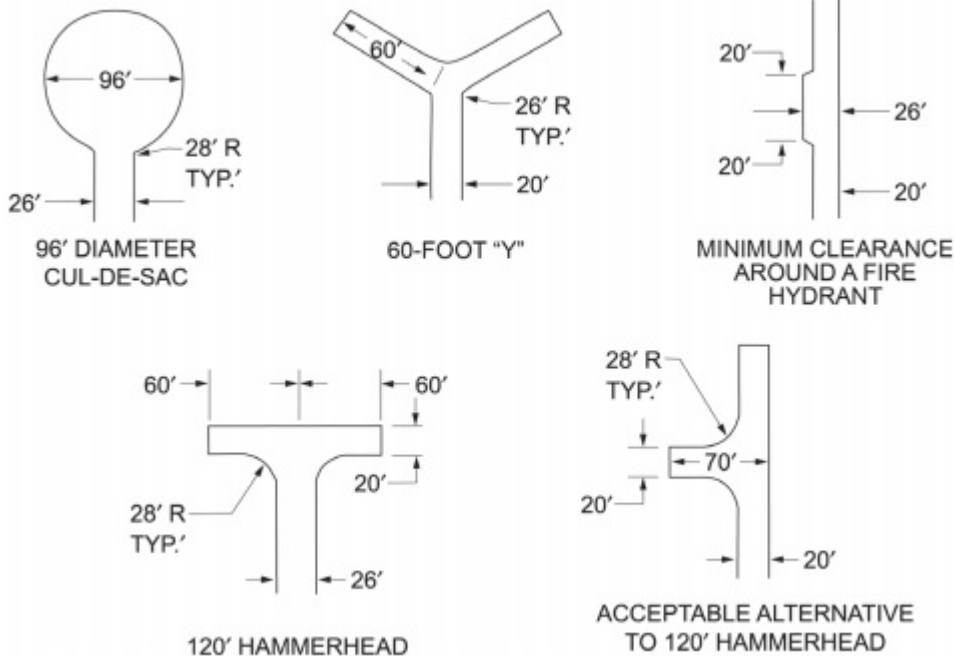


FIGURE D103.1 DEAD-END FIRE APPARATUS ACCESS ROAD TURNAROUND

D103.6 Signs.

Where required by the *fire code official*, fire apparatus access roads shall be marked with permanent “NO PARKING—FIRE LANE” signs complying with [Figure D103.6](#). Signs shall have a minimum dimension of 12 inches (305 mm) wide by 18 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the fire apparatus road as required by [Section D103.6.1](#) or [D103.6.2](#).

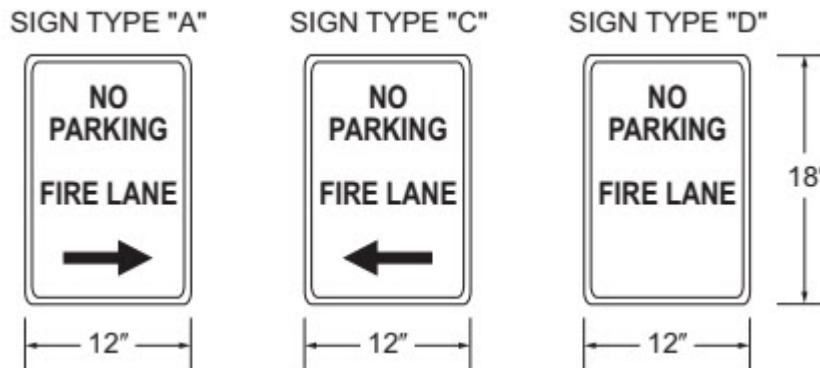


FIGURE D103.6 FIRE LANE SIGNS

apps

D103.6.1 Roads 20 to 26 feet in width.

apps

Fire lane signs as specified in [Section D103.6](#) shall be posted on both sides of fire apparatus access roads that are 20 to 26 feet wide (6096 to 7925 mm).

Thank you,

Chris Grant | Fire Chief

Umatilla Rural Fire Protection District

(541) 701-7710



From: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Sent: Wednesday, July 19, 2023 2:57 PM

To: Chris Grant <chris.grant@umatillafire.org>

Subject: Garton Subdivision S-062-23

[Quoted text hidden]

COMMUNITY &
BUSINESS
DEVELOPMENT

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

TO: Umatilla County Planning Commission
FROM: Megan Davchevski, Planning Division Manager
DATE: July 20, 2023

CODE
ENFORCEMENT

RE: July 27, 2023 Planning Commission Hearing
Conditional Use Request C-1357-23

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

Request

The applicant is requesting a Conditional Use Permit (CUP) to establish a propane railcar unloading and storage yard. The project site is located north of Feedville Road and west of South 1st Street, just outside of Hermiston city limits. The applicant proposes the placement of four (4) 80,000-gallon propane tanks, to be located on the north side of the property, for propane storage and distribution. The applicant provides propane will mainly be shipped from the subject property along existing Union Pacific Rail Road (UPRR) and utilize a spur for tankers to unload propane into the tanks. Propane will then be loaded onto trucks and shipped to fueling facilities to various geographical locations.

GIS AND MAPPING

RURAL ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

PUBLIC TRANSIT

In addition to the 80,000-gallon tanks, Applicant states small empty tanks (size not shared with Planning) will be stored on the southern portion of the property, in a fenced location adjacent to an existing shop building. The empty tanks will be stored at this location until transported to other locations for placement and installation (e.g. residences).

The proposed use may be established in the Heavy Industrial zone with a Conditional Use Permit under §152.322(A)(6) “any requested use involving the handling or storage of hazardous chemicals or flammable liquids such as fireworks, blasting agents, explosives, corrosive liquids, flammable solids, high toxic materials, oxidizing materials, poisonous gases, unstable chemicals, ammonium nitrate and liquefied petroleum gases as provided in § 152.616 (FF)”.

Background Information

The Planning Division received a Conditional Use Permit application for the applicant’s request on March 14, 2023 and payment was processed on March 27, 2023. The preliminary staff findings and public notice were mailed on May 1, 2023 and Planning received two informational comments from agencies: Oregon State Fire Marshal and Umatilla County Fire District #1. The comments did not result in additional conditions of approval. Comments and requests for a public hearing were due on May 22, 2023.

On May 23, 2023, the Planning Division Manager issued tentative approval of the Conditional Use Request with five precedent conditions of approval and nine subsequent conditions of approval. Land use approval is not finalized until a Zoning Permit has been issued, as well as all other State permits, as outlined in Precedent Conditions #4 and #5.

Memo

Planning Commission Public Hearing – July 27, 2023

Conditional Use Request C-1357-23

On June 5th, 2023, the applicant’s consultant requested, via email, that the hours of operation limited in Subsequent Condition #2 be modified to allow operation between 5:00AM and 11:00PM. Staff responded that the request should have been submitted during the 21-day comment period, and clarified that the application did not include proposed hours of operation.

On June 7th, 2023, the applicant submitted a Notice of Appeal and provided payment for the appeal. Email correspondence and the appeal packet are attached. The scheduling and notice for the July 17, 2023 Planning Commission hearing followed.

Criteria of Approval

The criteria of approval are found in Umatilla County Development Code (UCDC) Sections 152.322, 152.323, 152.325, 152.560-152.562, 152.615 and 152.616(FF).

Conclusion

The Planning Commission is tasked with determining if the application satisfies all of the criteria of approval based on the facts in the record. The Planning Commission may affirm the Planning Manager’s decision, and agree with the precedent and subsequent conditions of approval, or the Planning Commission may modify the conditions of approval.

The Planning Commission hearing is a de novo hearing and new issues may be raised. The Planning Commission’s decision, including modifications of the conditions of approval, or a decision of denial, shall be based on findings and facts in the record.

The process of approval by the County involves review by the County Planning Commission for a final decision, unless timely appealed to the Board of County Commissioners.

PLANNING COMMISSION DECISION OPTIONS

Motion for Approval as Presented

I, Commissioner _____, make a motion to approve the SOS Family, LLC request, #C-1357-23, affirming the Planning Division Manager’s decision, and imposing Precedent Conditions #1-5 and Subsequent Conditions #1-9.

Motion for Approval with Modified Conditions

I, Commissioner _____, make a motion to approve the SOS Family, LLC request, #C-1357-23, based on the Findings of Fact and Conclusions of Law in the record, with the following additional Findings of Fact: _____. The following Precedent and Subsequent Conditions are imposed: _____.

Motion for Denial Based on Evidence in the Record

I, Commissioner _____, make a motion to deny of the SOS Family, LLC request, #C-1357-23, based on evidence in the record and the following Findings of Fact: _____.

**UMATILLA COUNTY
PLANNING COMMISSION HEARING – JULY 27, 2023
CONDITIONAL USE REQUEST #C-1357-23
SOS FAMILY, LLC, APPLICANTS / OWNERS
PACKET CONTENT LIST**

- | | | |
|-----|--|-------------|
| 1. | Staff Memo to Planning Commission | Pages 1-2 |
| 2. | Vicinity and Notice Map | Page 4 |
| 3. | Applicant’s Site Plan | Pages 5-6 |
| 4. | Staff Report & Preliminary Findings | Pages 7-27 |
| 5. | Comments Received during Administrative Review
<i>Email dated May 4, 2023 from Umatilla County Fire Dist. #1</i>
<i>Email dated May 8, 2023 from Oregon Office of State Fire Marshal</i> | Pages 28-31 |
| 6. | Emails with Applicant’s Representative, Lani Hickey
<i>Emails dated June 5, 2023</i> | Pages 32-34 |
| 7. | Notice of Appeal | Pages 35-43 |
| 8. | Emails with Applicant’s Representative, Lani Hickey
<i>Emails dated June 15, 2023</i> | Pages 44-46 |
| 9. | Emails with Applicant’s Representative, Chris Koback
<i>Emails dated June 16 and June 21, 2023</i> | Pages 47-49 |
| 10. | Code Enforcement Photos
<i>Dated July 14,2023</i> | Pages 50-57 |

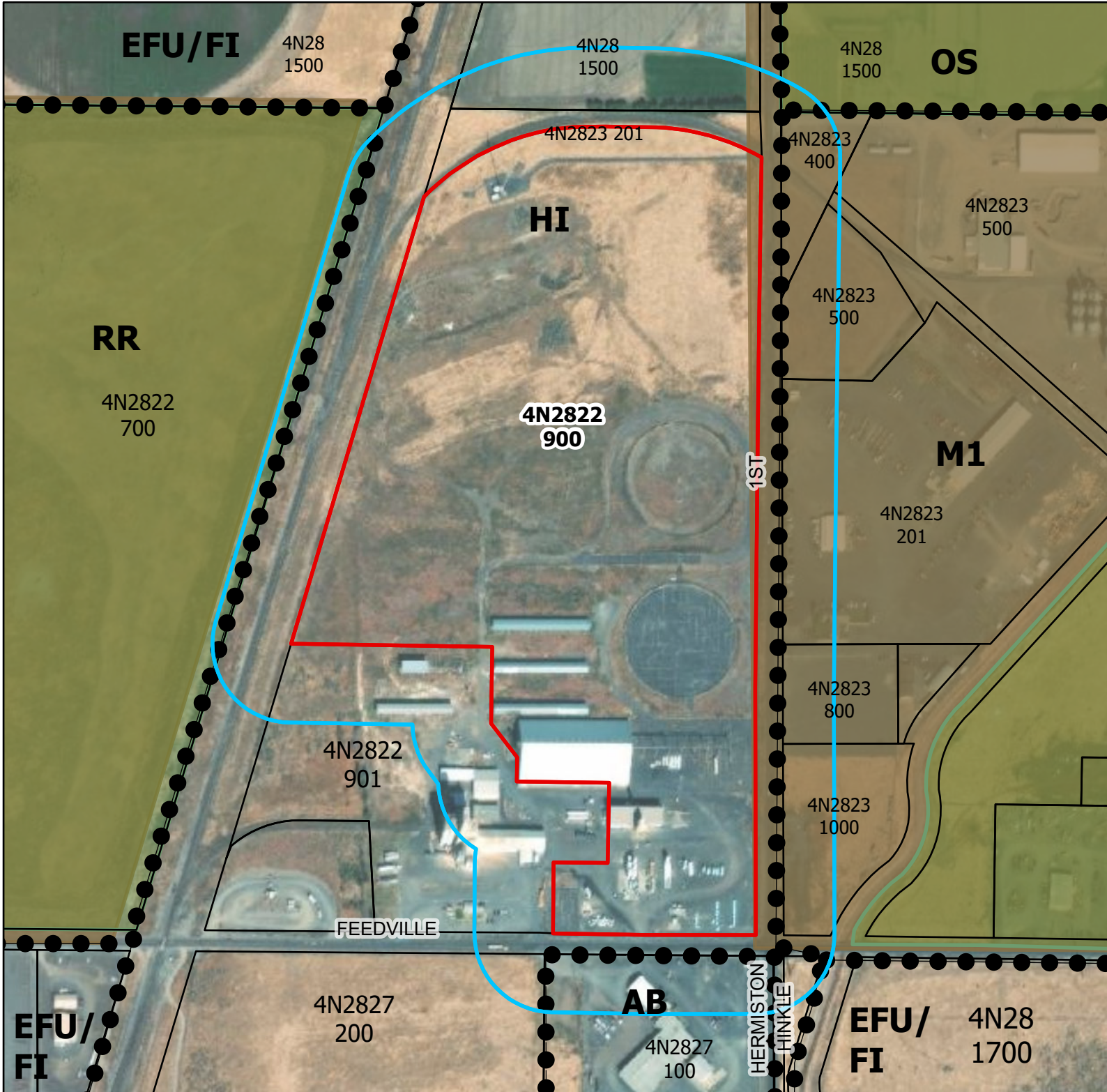
APPLICANTS/ OWNERS: SOS FAMILY LLC

#C-1357-23

MAP: 4N 28 22 TAX LOT: 900

Notified Property Owners within 250 feet of Subject Parcel

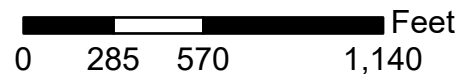
N



- Legend**
- Property Boundary
 - Zone Boundary
 - Subject Property
 - 250 ft Notice Boundary
 - City Limits
 - City UGB

map_tax	OWNER
4N28230000201	PACIFIC AG INVESTMENTS LLC
4N28230000400	MIKAMI BROS
4N28230000500	MIKAMI BROTHERS
4N28230000800	WEST UMATILLA VECTOR CONTROL DISTRICT
4N28230001000	RITOLA DANIEL & RITOLA BONNIE
4N28270000100	UMATILLA BASIN PROPERTIES LLC
4N28220000700	LANDCO 2 LLC
4N28220000800	COOK IVAN J & COLLEEN B

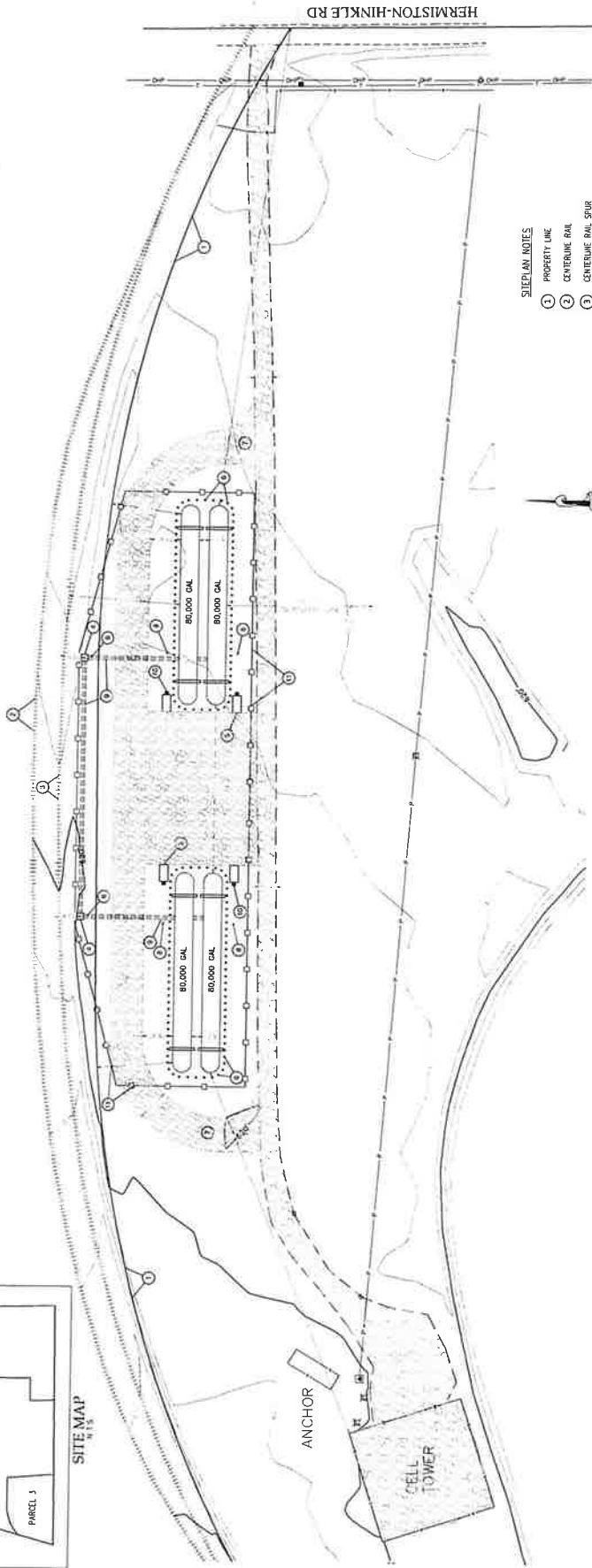
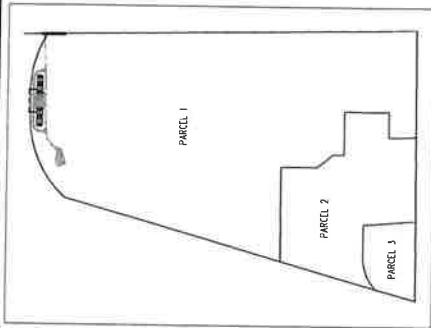
map_tax	OWNER
4N28000001700	UNION PACIFIC RR CO
4N28000001500	STATE OF OREGON
4N28000001500	STATE OF OREGON
4N28270000200	UMATILLA BASIN PROPERTIES LLC
4N28220000900	SOS FAMILY LLC
4N28220000900	SOS FAMILY LLC
4N28220000901	CHS INC



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by T. Cimmiyotti, Umatilla County Planning Department Date: 4/3/2023

**PRELIMINARY SITE PLAN
HERMISTON TERMINAL
PROPANE RAILCAR UNLOADING YARD**

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 22 AND THE
NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 4 NORTH, RANGE 28
EAST OF THE WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON



SHEETMAN NOTES

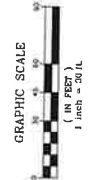
- 1 PROPERTY LINE
- 2 CENTERLINE RAIL
- 3 CENTERLINE RAIL SPUR
- 4 RAIL TONGE (2 TOTAL)
- 5 BULK LOAD HEADER (4 TOTAL)
- 6 PROTECTIVE BOLLARDS SPACED 3' FROM RAMPS & AT 4' INTERVALS (100 TOTAL)
- 7 ACCESS ROAD (WIDTH AS SHOWN)
- 8 4" LIQUID PROPANE LINE, 2" VAPOR PROPANE LINE, & 2" EMERGENCY SHUT-OFF SWITCH (6 TOTAL)
- 9 20-ABC FIRE EXTINGUISHERS (4 TOTAL)
- 10 8' HIGH CHAIN LINK SECURITY FENCE

**OWNER/
APPLICANT**
ED STAUB & SONS
1301 ESPERANSE AVE
KLAMATH FALLS, OR 97601
(541) 238-4084

JURISDICTION
UMATILLA COUNTY PLANNING DEPT.
112 N 5th ST - SUITE 200
HERMISTON, OR 97601
(541) 298-9252

CIVIL ENGINEERING FIRM
RHINE-CROSS GROUP, LLC
CONTACT: MARC CROSS, P.E., P.L.S.
309 STREET - SUITE 200
KLAMATH FALLS, OREGON 97601
PH: (541) 281-9406

PROPOSED LAND USE PROPANE RAILCAR UNLOADING YARD
EXISTING LAND USE VACANT LAND VEGETATED WITH GRASS & WEEDS
PROPOSED LAND USE VACANT LAND VEGETATED WITH GRASS AND WEEDS
EXISTING LAND USE VACANT LAND VEGETATED WITH GRASS AND WEEDS
PROPOSED PROPANE RAILCAR UNLOADING YARD LOCATED NEAR EXISTING RAIL SPUR
EXISTING USE VACANT LAND VEGETATED WITH GRASS AND WEEDS



UMATILLA COUNTY
Hermiston
Propane Terminal
OREGON

ED STAUB & SONS
Ain, Lou Mehan
1301 Esperanse Ave.
Klamath Falls, OR 97601
(541) 238-4084

R-C
RHINE-CROSS GROUP, LLC
ENGINEERING - SURVEYING - PLANNING
112 N 5th ST - SUITE 200 - P.O. BOX 59
KLAMATH FALLS, OREGON 97601
Phone: (541) 851-0405 Fax: (541) 273-9200
admin@rc-grp.com

SHEET NO. 2092
DATE: 01/12/2017
PROJECT: 17-01-001
T1 - P-042P

STAUB HERMISTON TERMINAL APPLICATION

Below is the storage location of new empty propane tanks. The new tanks are stored here until they are taken to other locations for placement.



**UMATILLA COUNTY PLANNING COMMISSION
PRELIMINARY FINDINGS AND CONCLUSIONS
CONDITIONAL USE PERMIT REQUEST, # C-1357-23
Map # 4N 28 22, Tax Lot # 900, Account # 118308**

1. APPLICANT: SOS Family LLC, 1301 Esplanade Ave, Klamath Falls OR 97601
2. OWNER: SOS Family LLC, 1301 Esplanade Ave, Klamath Falls OR 97601
3. LOCATION: The property is located south of the City of Hermiston, north of Feedville Road and west of 1st Street. Although south of the developed City, the subject property borders city limits to the west and urban growth boundary to the east.
4. REQUEST: The applicant is requesting a Conditional Use Permit (CUP) to establish a propane railcar unloading and storage yard. Applicant proposes the placement of four (4) 80,000-gallon propane tanks, to be located on the north side of the property, for propane storage and distribution. Applicant provides propane will mainly be shipped from the subject property along existing Union Pacific Rail Road (UPRR) and utilize a spur for tankers to unload propane into the tanks. Propane will then be loaded onto trucks and shipped to fueling facilities to various geographical locations.

In addition to the 80,000-gallon tanks, Applicant states small empty tanks (size not shared with Planning) will be stored on the southern portion of the property, in a fenced location adjacent to an existing shop building. The empty tanks will be stored at this location until transported to other locations for placement and installation (e.g. residences).

The proposed use may be established in the Heavy Industrial zone with a Conditional Use Permit under §152.322(A)(6) “any requested use involving the handling or storage of hazardous chemicals or flammable liquids such as fireworks, blasting agents, explosives, corrosive liquids, flammable solids, high toxic materials, oxidizing materials, poisonous gases, unstable chemicals, ammonium nitrate and liquefied petroleum gases as provided in § 152.616 (FF)”.

Background:

The Planning Division received a Conditional Use Permit application for the applicant’s request on March 14, 2023 and payment was processed on March 27, 2023. The preliminary staff findings and public notice were mailed on May 1, 2023 and Planning received two informational comments from agencies: Oregon State Fire Marshal and Umatilla County Fire District #1. The comments did not result in additional conditions of approval. Comments and requests for a public hearing were due on May 22, 2023.

On May 23, 2023, the Planning Division Manager issued tentative approval of the Conditional Use Request with five precedent conditions of approval and nine subsequent conditions of approval. Land use approval is not finalized until a Zoning Permit has been issued, as well as all other State permits, as outlined in Precedent Conditions #4 and #5.

On June 5th, 2023, the applicant's consultant requested, via email, that the hours of operation limited in Subsequent Condition #2 be modified to allow operation between 5:00AM and 11:00PM. Staff responded that the request should have been submitted during the 21-day comment period, and clarified that the application did not include proposed hours of operation.

On June 7th, 2023, the applicant submitted a Notice of Appeal and provided payment for the appeal. The applicant's provided reason of appeal is as follows: "*The subject property is zoned HI (Heavy Industrial) and the proposed use will be the Hermiston Terminal which includes (4) 80,000-gallon propane tanks.*

UCDC 152.320 The purpose of the HI Heavy Industrial Zone is designed to provide for industrial uses where potential conflicts with adjacent land uses will have minimal negative impact. The uses listed as permitted in the HI zone is to accommodate uses, that due to the nature of their operations, must have broad operating hours. Many uses listed under UCDC 152.321 are uses that traditionally operate around the clock. Limiting the applicants proposed use is not consistent with the purpose of the HI zone and places the applicant in a different position than other similar uses allowed to operate without hour restrictions. [Actual UCDC language included below for reference.]

Furthermore, the substantial evidence in the record supports only one finding: The proposed use will have minimal negative impact on adjacent land uses. The proposed facility is located with industrial lands surrounding it to the north, east, and south. To the west is the RR Track, west of the RR is currently vacant lands. The distance between the propane operations and surrounding land uses is more than +/-1000'. Operations for the terminal includes trains (which are on their own schedules) and trucks that will come to fill before leaving the site. Typically trucks can arrive very early in the morning to late in the afternoon/evening. Considering the location of the proposed project and the surrounding environment, the potential of conflicting with adjacent land uses is minimal."

Umatilla County Development Codes Sections 152.320 and 152.321, referenced in the appeal packet, are provided below. **Note that UCDC 152.321 does not apply to the applicant's request, as the proposed use is listed under UCDC 152.322 Conditional Uses Permitted.**

§ 152.320 PURPOSE.

The HI Heavy Industrial Zone is designed to provide for industrial uses where potential conflicts with adjacent land uses will have a minimal negative impact. It is designed to help the county expand and diversify its economic base. The HI Zone is appropriate for areas adjacent to major transportation facilities such as railways, major highways and waterways.

§ 152.321 USES PERMITTED.

(A) Uses permitted outright. In an HI Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.

(2) Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.

(3) Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.

(4) Landscaping as part of a transportation facility.

(5) Emergency measures necessary for the safety and protection of property

(6) Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan.

(7) Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.

(B) Uses permitted with a zoning permit. In a HI Zone, the following uses and their accessory uses are permitted upon the issuance of a zoning permit, pursuant to §152.025 and subject to the requirements of §152.323 through 152.324 of this chapter:

(1) Automobile wrecking yard;

(2) Concrete block and pipe manufacturing;

(3) Concrete manufacturing plant;

(4) Contractor's equipment storage yard;

(5) Food products manufacturing, excluding meat, fish, salt, sauerkraut, sugar, vinegar and yeast products;

(6) Grain elevator or flour mill;

- (7) Hauling, freighting and trucking yard;
- (8) Ice and cold storage;
- (9) Junkyard;
- (10) Manufacturing, repairing, compounding, fabricating, assembling, processing, treating, parking or storage, except as modified by §152.323(A);
- (11) Rendering plant;
- (12) Sand or gravel storage yard;
- (13) Signs: Type 4, 5, 8, 9, 11 as defined in § 152.546;
- (14) Tire recapping;
- (15) Utility facility;
- (16) Welding shop;
- (17) Wholesale business, storage building or warehouse;
- (18) Wood processing facilities.

5. SITUS: The subject property has the following site addresses:
30833 Feedville Road, Hermiston OR 97838, assigned to the commercial building and
2700 S. 1st Street, Hermiston OR 97838, assigned to the existing radio tower.
6. ACREAGE: Tax Lot 900 is 64.35 acres.
7. PERMITS: A number of permits have been issued on the property, the subject property previously also included tax lots 901 and 903, and historically has been known as the “Pendleton Grain Growers (PGG) Site”. Numerous permits were issued for the PGG operations. In 2021, the former PGG Site was partitioned into three parcels. The subject property contains a permitted radio tower, a permitted 122,000 square foot commercial building and several permitted hay sheds.
8. COMP PLAN: Industrial
9. ZONING: Heavy Industrial (HI)
10. ACCESS: The property is a corner lot with access available from both Feedville Road and S. 1st Street.
11. ROAD TYPE: Feedville Road is a paved County Road, Co. Rd #1000 and S. 1st Street is also a paved County Road, Co. Rd #1245.
12. EASEMENTS: The property contains several easements which were most recently captured on Partition Plat 2021-10. Existing easements include, but are not

limited to, a 50-foot BPA easement, 20-foot UEC easement, 10-foot UEC easement, 10-foot underground Pacific Power and Light easement, 10-foot Cascade Natural Gas easement, and an unknown width Columbia Basin Electric easement.

13. LAND USE: The subject property contains a permitted radio tower, a permitted 122,000 square foot commercial building and several other buildings. It has been historically used as the Pendleton Grain Growers (PGG) warehouse, office and grain storage. Applicant provides the existing buildings, including grain tower, will continue to be used for agricultural storage of crops and fertilizer.
14. ADJACENT USE: All of the immediately adjacent properties to the north and south-east are zoned Heavy Industrial. Properties to the west are within Hermiston City Limits and zoned Recreational Residential, properties to the east are within Hermiston's Urban Growth Boundary and similarly industrial. South of Feedville Road is primarily Heavy Industrial zoned, with one parcel zoned Agri-Business.
15. LAND FORM: Columbia Plateau
16. BUILDINGS: The subject property contains a permitted radio tower, a permitted 122,000 square foot commercial building and several other buildings.
17. UTILITIES: According to the applicant, Umatilla Electric Co-op provides electrical service to the subject property.
18. WATER/SEWER: The subject property is served by an existing well and septic system.
19. FIRE SERVICE: The subject property is located within Umatilla County Fire District #1.
20. IRRIGATION: The property is not located within an irrigation district.
21. FLOODPLAIN: This property is not located within a determined flood hazard area.
22. FIRST NOTICES SENT: May 1, 2023
23. FIRST COMMENTS DUE: May 22, 2023
24. HEARING: A request for a public hearing was received by Planning Staff on June 7, 2023. The Planning Commission hearing was subsequently scheduled for **Thursday, July 27, 2023 at 6:30 PM** in the Justice Center Media Room, 4700 NW Pioneer Place, Pendleton, OR.

Notice for the Planning Commission hearing was sent on July 7, 2023 and was published in the East Oregonian on July 15, 2023.

24. AGENCIES: State Building Codes, Oregon Water Resources, Oregon Department of Environmental Quality, Oregon State Police, Oregon State Fire Marshall, Umatilla County Assessor, Umatilla County Environmental Health, Umatilla County Public Health, Umatilla County Public Works, Umatilla County Emergency Management, Umatilla County Sheriff, Umatilla County Fire District #1, City of Hermiston Police, City of Hermiston, Union Pacific Rail Road, Cascade Natural Gas, Pacific Power & Light, Bonneville Power Administration (BPA), Columbia Basin Electric and Umatilla Electric Co-Op.
25. COMMENTS: During the first comment period, two comments were received, both from agencies. Umatilla County Fire District #1 provided a comment stating that in addition to the water supply requirements, the applicant will also need to apply to the Oregon Fire Marshal for plan review and installation permit.

The Oregon State Fire Marshal provided a comment similar to Fire District #1's, and stated that there is a required plan review and permitting process through the State Fire Marshal's Salem office. This permit review process is captured within precedent condition #5.

28. STANDARDS FOR APPROVAL

§ 152.322 CONDITIONAL USES PERMITTED; GENERAL CRITERIA.

(A) In a HI Zone, the following uses and their accessory uses are permitted conditionally, subject to the requirements of §§ 152.610 through 152.616, 152.323 and 152.325 and upon the issuance of a zoning permit:

(6) Any requested use involving the handling or storage of hazardous chemicals or flammable liquids such as fireworks, blasting agents, explosives, corrosive liquids, flammable solids, high toxic materials, oxidizing materials, poisonous gases, unstable chemicals, ammonium nitrate and liquefied petroleum gases as provided in § 152.616 (FF);

Applicant Response: The applicant addresses the requirements of Section 152.322(6) in Section 152.616 (FF).

Staff Response: The Planning Commission finds and concludes the applicant is requesting approval for a propane terminal and storage of propane tanks. This is an allowed use with a Conditional Use Permit in the HI Zone, UCDC §152.616(FF) is addressed below.

(B) The following general criteria shall be used to review all conditional uses listed in the HI Zone, notwithstanding any other criteria listed in this chapter for a particular use:

(1) The use will be compatible with other uses allowed in a HI Zone;

Applicant Response: The applicant acknowledges and addresses the general criteria that shall be used to review all conditional uses listed in the HI Zone, and all additional criteria related to the proposed project.

The use proposed is compatible with all other uses allowed in a HI Zone. As provided in the UCDC the procedure is outlined for approval provided the applicant shows that the use does not conflict with surrounding uses. Additionally, the applicant addresses all criteria required including the Conditional Use criteria.

Staff Response: The proposed use is a propane storage yard and railcar terminal. Other Heavy Industrial permissible uses include, but are not limited to, automobile wrecking yard, hauling, freighting and trucking yard and commercial gravel pits. The proposed use would be categorized as “handling or storage of hazardous chemicals or flammable liquids...”.

The Planning Commission finds and concludes the proposed use is compatible with other uses allowed in the HI Zone. This criterion is satisfied.

(2) The use will be in conformance with policies listed in the text of the Comprehensive Plan;

Applicant Response: The proposed project is in conformance with policies listed in the text of the Comprehensive Plan. The plan addresses the County’s primary economic activities and opportunities for economic growth and diversification and are enhanced by major energy transmission facilities, and good national/international transportation linkages.

The proposed application is addressed in the Comp Plan under 2) Land Use Planning which establishes a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions. Response – the application process set forth in the UCDC is addressed within this proposed project application. As noted above, the [county], through its land use planning process, has determined that the property is suitable for the proposed use by zoning it accordingly. 9) Economy of the State – To diversify and improve the economy of the County. Response – the applicant proposal provides for the diversity and improvement of the County economy through an increase in the tax base, employment of delivery truck drivers, and by providing propane services to the community of Umatilla County.

Staff Response: Umatilla County’s Development Code codifies the Comprehensive Plan policies. Goal 2 relates to a land use process for all decisions and allows for public involvement. This application includes a public comment period and ensures both Statewide Planning Goals 1 and 2 (and therefore the Comprehensive Plan Goal 2) are satisfied. The applicant provides the proposed use will diversify and improve the County’s economy. Applicant’s proposed use is a permissible use in the Heavy Industrial zone, and therefore complies with the County’s Comprehensive Plan policies.

The Planning Commission finds and concludes the proposed use is in conformance with the Comprehensive Plan policies. This criterion is satisfied.

(3) The use would not have an adverse impact on existing industrial uses in that it would not be incompatible with the noise, dust, vibrations and odors that may emanate from or be caused by existing adjacent industrial uses.

Applicant Response: The proposed use will not have an adverse impact on existing industrial uses. Noise will include propane trucks entering and exiting the site, the trucks will typically not be idling which keeps the noise level at acceptable decibels for surrounding uses. The noise level produced from vehicles at the site is not viewed by levels of a single event, instead they represent averages of acoustic energy over periods of time. Sufficient amount of relative quiet time is experienced for the site during a 24-hour energy average. Noise generated from the railroad will be similar to the existing uses. Trains and local tanker deliveries are already part of the system and surroundings and will not increase the noise impacts to the area.

Dust will be controlled by the placement of gravel driveways and turn around areas for the trucks resulting in minimal impacts. No vibration is expected at the site with no impacts. No odors are expected at the site again resulting in no impacts.

Staff Response: Existing uses in the vicinity include: retail farm equipment sales and a farm operation to the east, fertilizer manufacturing and sales to the south, and animal feed mill and retail to the west and south. To the north, across from the railroad tracks is an irrigated half-circle that appears to rotate between irrigated hay and irrigated wheat. To the north-east is OSU Extension which provides agricultural research supported by various farm plots.

Existing industrial uses are identified as retail farm equipment sales and fertilizer/feed production and sales. The proposed propane terminal and storage yard will utilize the existing railroad tracks and will have propane trucks entering and exiting the site. Noise produced from propane trucks would not be any different than noise produced from farm equipment, the fertilizer trucks to the south or farm equipment to the east. Vibration and odors will not occur from the proposed use. Applicant provides that dust will be mitigated with gravel driveways and turnaround areas. Nearby landowners were notified of this request and Planning received no comments regarding potential impacts.

The Planning Commission finds and concludes a precedent condition of approval is imposed requiring the driveways and turnaround areas be improved to the County P-1 Road Standard, 4 inches of nominal compacted gravel across a 16-foot wide roadway. Verification of the roadway improvements may be satisfied with a combination of gravel receipts and photos or written verification from a certified engineer stating that the standard is met. Satisfaction is pending.

§ 152.323 LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

Applicant Response: The proposed use is not prohibited and has not been declared a nuisance by statute, by action of Commissioners, or by a court of competent jurisdiction.

Staff Response: Propane tank storage and terminals have not been declared a nuisance by statute, action by the County Commissioners or by a court of competent jurisdiction.

The Planning Commission finds this criterion is satisfied.

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

Applicant Response: The proposed propane tanks/terminal will be in compliance with all environmental quality statutes and regulations of the state and federal government. All required permits and safety features will be acquired and implemented before operation of the facility begins.

Staff Response: Applicant provides the proposed propane tank storage and terminal will comply with state and federal regulations.

The Planning Commission finds a precedent condition of approval requiring all applicable state and federal permits be obtained satisfies the criterion. Satisfaction is pending.

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

Applicant Response: The proposed facility will store all materials and grounds will be maintained in a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard. No surface water is proposed with this project alleviating insect propagation and the project site will be kept orderly and maintained.

Staff Response: Applicant is proposing storage of (4) 80,000-gallon propane tanks serving as a propane terminal along the existing Union Pacific Railroad line. Applicant is also proposing the storage of new, empty propane tanks much smaller and size (size not shared by applicant). It is envisioned that these tanks will vary in size between 5-300 gallons, although may be larger due to the needs of applicant's customers. All propane will be stored in above ground propane tanks. No surface water is proposed.

The Planning Commission finds a subsequent condition of approval is imposed for the applicant to obtain all state and federal permits. The State Fire Marshall will be notified of the applicant's request and has the opportunity to provide comments. The Planning Commission finds the imposed subsequent condition of approval satisfies the criteria. Satisfaction is pending.

(D) Points of access from a public street or county road to properties in a HI Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.

Applicant Response: Feedville Road is under the jurisdiction of Umatilla Public Works and provides direct access to the south side of the tax lot. With the potential approval of the project the applicant will submit to Umatilla Public Works an Approach Permit for Hermiston-Hinkle Road (1st Street) for an additional access on the north side of the Parcel 1 allowing for a direct approach to the propane tanks location. This proposed access would be located so as to minimize traffic congestion and would direct traffic away from residential streets. The current permitted access points are located on the southwest corner and midpoint of north line of Parcel 1 providing direct access from Feedville Road. The estimated truck traffic will be 7-12 trucks/day during the peak season (winter months) with an estimated 4-8 rail cars/week. During the summer months the traffic generated by the project is estimated at 1-2 trucks/week with rail cars ordered as needed. The facility is structured mainly for heating fuel resulting in minimal summer traffic.

Staff Response: The subject property has an existing legal access point on Feedville Road. The applicant provides a new access location on South 1st Street is desired to serve the propane storage and terminal facility. This access point will be required to meet access spacing standards through approval of a County Road Approach Permit. Feedville Road is a County Road, mainly serving existing farm and industrial uses and South 1st Street similarly serves existing farm and industrial uses. Traffic contributed from the propane terminal and storage facility will be minimal and will not impact residential streets.

The Planning Commission finds a precedent condition of approval is imposed for the applicant to obtain a County Road Approach Permit from County Public Works for the proposed driveway on South 1st Street. Satisfaction is pending.

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

Applicant Response: No response.

Staff Response: The Planning Commission finds and concludes growing, harvesting or processing of marijuana is prohibited in this zone. A subsequent condition of approval is imposed to memorialize this prohibition.

§ 152.325 DIMENSIONAL STANDARDS. In a HI Zone, the following dimensional standards shall apply:

(A) Lot size. The minimum lot size shall be one acre unless written proof from the Department of Environmental Quality is provided that shows that an approvable subsurface disposal system can be located on less than one acre;

Applicant Response: The lot size is +/-64.5 acres which exceeds the one acre minimum.

Staff Response: The Planning Commission finds and concludes the subject property is more than 64 acres and far exceeds the minimum lot size of one acre. This criterion is satisfied.

(B) Minimum lot width. The minimum average lot width shall be 100 feet with a minimum of 25 feet fronting on a dedicated county or public road or state highway;

Applicant Response: The tax lot exceeds the minimum average lot width of 100' at +/-1200 feet. The portion of the tax lot fronting Feedville Road is +/-645 feet and the portion of the tax lot fronting Hermiston Hinkle (1st Street) is +/-2,500 feet meeting these criteria.

Staff Response: The Planning Commission finds and concludes the subject property is far more than 100 feet wide and has more than 25 feet of County Road frontage. This criterion is satisfied.

(C) Setback requirements. The minimum setback requirements shall be as follows:

(1) Front yard: twenty feet, except if the front yard area is used for off-street loading or parking requirements, then the front yard shall be a minimum of 40 feet; and except if the property abuts a property zoned for residential use, then the setback shall be 200 feet;

(2) Side yard: twenty feet, except if the lot abuts a property zoned for residential use, then the setback shall be 200 feet;

(3) Rear yard: twenty feet, except if the lot abuts a property zoned for residential use, then the setback shall be 200 feet;

Applicant Response: The front yard setback abutting Industrial zoned lands to the east is situated off of Hermiston-Hinkle Road. The project location is 287.4 feet, exceeding the required 40 feet.

Side yard setbacks include the north setback which abuts the UPRR spur and north of the spur lands zoned Heavy Industrial. The north setback is +50 feet exceeding the twenty foot requirement and meeting the State Fire Code requirements for 30,000-gallon propane tanks. The south side yard setback which abuts Feedville Road is +/- 2,450 feet exceeding the twenty foot requirement.

The rear yard setback located on the east side of the project site is +/-600 feet from lands zoned Rural Residential exceeding the 200 feet setback requirement. Criteria met.

Staff Response: The Planning Commission finds the applicant has identified the project site's proposed setback distances. The Planning Commission finds and concludes the project site shall represent on the Zoning Permit's site plan that setback requirements are met, this is imposed as a subsequent condition of approval. Satisfaction is pending.

(D) Stream setback. To permit better light, air, vision, stream pollution control, protect fish and wildlife areas and to preserve the natural scenic amenities and vistas along the streams, lakes or wetlands, the following setbacks shall apply:

(1) All sewage disposal installations such as septic tanks and drainfields shall be set back from the mean high-water line or mark along all streams, lakes or wetlands a minimum of 100 feet, measured at right angles to the high water line or mark. In those cases, where practical difficulties preclude the location of the facilities at a distance of 100 feet and the DEQ finds that a closer location will not endanger health, the Planning Director may permit the location of these facilities closer to the stream, lake or wetland, but in no case closer than 50 feet.

(2) All structures, buildings or similar permanent fixtures shall be set back from the high water line along all streams, lakes or wetlands a minimum of 100 feet measured at right angles to the high water line or mark.

Applicant Response: The project does not include sewage disposal such as septic tanks and drain fields and is not near any streams, lakes, or wetlands. The site is +/- 4,350 feet north of the Flood Hazard Overlay and Base Flood Elevation. The closest wetland to the proposed project is +/-4,250 southwest. This criterion is met.

Staff Response: The subject property is not near any streams, lakes or wetlands, nor located within the FEMA mapped Special Flood Hazard Area. The Planning Commission finds and concludes this criterion is not applicable.

§ 152.616 (FF) Handling or storage of hazardous chemicals or flammable liquids.

(1) The activity is compatible with the existing surrounding land uses;

Applicant Response: The proposed project is compatible with existing surrounding land uses. Land uses to the north, south, and east are all industrial with the project location zoned Heavy Industrial. These uses are all compatible. The lands to the west have recently been designated Rural Residential but there is no current residential development on that property. The applicant is complying with the Umatilla County Development Code exceeding setback requirements, complying with all Federal, State, and County regulations. Specifically, the applicant is complying with the stated requirement that no dwelling be within a quarter mile radius of the proposed use. The plain text does not permit the local government to apply that restriction to prospective uses.

Staff Response: Existing uses in the immediate vicinity include: retail farm equipment sales and a farm operation to the east, fertilizer manufacturing and sales to the south, and animal feed mill with retail to the west and south. To the north, across from the railroad tracks is an irrigated half-circle that appears to rotate between irrigated hay and irrigated wheat. To the north-east is OSU Extension which provides agricultural research supported by various farm plots.

To the west of the subject property is an undeveloped area of approximately 350 acres that the City of Hermiston has designated Recreational Residential. The applicant provides the existing railroad tracks provide a buffer to this undeveloped area and will not impact future development. Further to the south is largely undeveloped land predominately owned by Union Pacific Rail Road Co. with a portion developed as a rail switch yard and terminal. Further to the east are lands within the City of Hermiston and zoned industrial. There are some recently-approved data centers under development and the Wal-Mart Distribution Center has been in operation for a number of years, there is also a number of smaller industrial operations in the vicinity. These existing industrial uses are large employers with heavy automobile traffic, and some operations also have heavy commercial truck traffic. Typically, these existing uses do not produce dust, noise or odor.

The proposed propane terminal and storage will utilize the existing railroad tracks and will have

propane trucks entering and exiting the site. Noise produced from propane trucks would not be any different than noise produced from farm equipment, the fertilizer trucks to the south or farm equipment to the east. Vibration and odors will not occur from the proposed use. Applicant provides that dust will be mitigated with gravel driveways and turnaround areas. Nearby landowners, including the City of Hermiston, will be notified of this request. Comments received regarding potential impacts may result in additional conditions of approval.

No comments that provided impacts to existing uses have been received. The Planning Commission finds and concludes the proposed propane terminal and storage yard is compatible with the existing surrounding land uses. This criterion is satisfied.

(2) The site has adequate access to and from major transportation facilities, built to a standard that can handle the anticipated traffic generated by the use;

Applicant Response: The project site has access to the Union Pacific Rail Road by a spur on the north edge of the property. Vehicle and truck access is provided direct access by Feedville Road and Hermiston-Hinkle Road (1st) street which are paved roads under County maintained jurisdiction and maintenance. These transportation facilities provide adequate access to and from major transportation facilities and are built to a standard that can handle the traffic generated by the new project.

Staff Response: The subject property has direct access to Feedville Road and South 1st Street, both are two-lane paved and County maintained roadways. The applicant has identified that during the peak season, anticipated vehicle traffic is 7-12 trucks/day and 4-8 railcars/week. County Public Works received notice of this request and did not provide comments regarding the use of existing roadways. The Planning Commission finds and concludes Feedville Road and South 1st Street are adequate to handle the anticipated traffic generated by the propane terminal and storage facility. This criterion is met.

(3) If the site is located within a fire district, adequate firefighting equipment and water for firefighting purposes is available as determined by the fire district.

Applicant Response: The site is located within the Umatilla County Fire District 1. The fire department will advise the applicant and determine adequate firefighting equipment and water for firefighting purposes as determined by the fire department.

Staff Response: The applicant provides Umatilla County Fire District #1 will advise the applicant on identifying adequate firefighting equipment and water for firefighting purposes. However, the applicant did not provide if the site has adequate water for fire suppression, how water or other fire suppression materials may be stored for fire suppression, or what firefighting equipment, if any, will be onsite.

The Planning Commission finds a precedent condition of approval is imposed requiring the applicant to submit a fire suppression plan that includes the identification of the fire suppression source, or water source if water is used for fire suppression. The fire suppression plan shall be

provided to Umatilla County Fire District #1 for review and approval. Verification of Fire District #1's approval shall be provided to County Planning.

(4) The use is entirely fenced by a security fence of at least six feet in height and landscaping may be required;

Applicant Response: The site will be fenced by a security fence at least six feet in height and will comply with landscaping requirements as determined by the Planning Director.

Staff Response: The applicant provides a six-foot high security fence will be installed around the project site. Planning staff have identified the project site as the area where the four 80,000-gallon propane tanks are stored and appears to be approximately 1-acre in size. The storage yard for the smaller retail tanks is not included in this area.

The Planning Commission finds landscaping is not required for this or similar uses in the Heavy Industrial zone and is not necessary. The Planning Commission finds and concludes a subsequent condition of approval is imposed, requiring the applicant to install and maintain a security fence at least six feet in height satisfies the criterion. Satisfaction is pending.

(5) The site is located at least one-quarter mile away from any residential dwelling;

Applicant Response: The site is located at least one-quarter mile away from any residential dwellings. Additionally, the site is separated from any residential lands by the UPRR as an added buffer. The placement of the propane tanks will follow the *National Fire Protection Association "Separation Distances from Containers to Building, Property Lines that can be Built upon, Inter-container Distances, and Aboveground Flammable or Combustible Storage Tanks"*.

Separation between a property line, important building or other property and the nearest container which is 2,001-30,000 container size range in gallons as follows:

Property line – 50'

Between Containers – 5'

Staff Response: The Planning Commission finds the nearest residential dwelling is 3,035 feet from the propose propane terminal and storage facility, far more than the minimum one-quarter mile (1,320 feet). The City of Hermiston has some Recreational Residential zoning to the west of the subject property. The boundary for this Recreational Residential zoning is approximately 600-feet from the closest 80,000-gallon propane tank within the project area. However, at the time of application no dwellings have been sited within one-quarter mile of the project location. The property owner of this large Recreational Residential zoned property will be notified of this request and have the opportunity to provide comments. The Planning Commission finds and concludes the criterion is satisfied.

(6) Information shall be provided on what type of security will be used to protect the site from break ins and vandalism. This information shall be reviewed by the appropriate local and state police agencies;

Applicant Response: The applicant is proposing a 6' security fence and if additional security

measures are required the applicant will implement them as dictated by local and state police agencies.

Staff Response: The applicant states that a six-foot tall security fence is proposed and will implement additional security measures if requested. Comments were not received from the notified police agencies: Oregon State Police, Umatilla County Sheriff, City of Hermiston Police Department. The Planning Commission finds this criterion is satisfied.

(7) Complies with other conditions as deemed necessary provided in § 152.615.

Applicant Response: The applicant will comply with other conditions as deem[ed] necessary provided in 152.615 as noted in that section above.

Staff Response: Umatilla County Development Code Section 152.615 is evaluated below.

§ 152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS. In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

Applicant Response: The applicant acknowledges that the [county] may impose conditions on a conditional use permit approval that are reasonable and conform with the requirements in the state and federal constitution including, but not limited to, the 14th and 5th Amendments.

Staff Response: The Planning Commission finds and concludes §152.615 provides the opportunity for additional conditions to be imposed, potential restrictions are evaluated below.

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such environmental effects as noise, vibration, air pollution, water pollution, glare or odor;

Applicant Response: The applicant acknowledges 152.615(A) above.

Amended response as stated in Notice of Appeal: The Applicant is appealing the Planning Director decision in file C-1357-23 limiting its challenge to one condition of approval. Specifically, the Applicant asserts that Condition 2 limiting hours of operation from 7:00am to 7:00pm is inconsistent with UCDC 152.320 and is not supported by substantial evidence in the record. The Applicant accepts all other conditions of approval.

Applicant request for hours of operation: 24 hours/day 7 days/week which is consistent with other similar operations.

Staff Response: Applicant is proposing to utilize the existing rail line and railcar unloading infrastructure as a propane terminal and storage yard. Applicant did not provide proposed hours of operation in the initial application. Typically, propane facilities operate between the hours of 8am and 5pm Monday thru Friday. These hours of operation extend during the peak season

winter months when propane usage is higher for heating systems.

The applicant did not provide proposed hours of operation in the application. In the email from Lani Hickey, consultant Rhine-Cross Group, dated June 5, 2023, the applicant requested that the hours of operation be changed to 5am-11pm. Because the comment period had ended and a decision was signed, Subsequent Condition #2 could not be amended by staff.

The applicant is now requesting that hours of operation not be limited and that operations are permitted 24-hours a day, 7-days a week.

The Planning Commission may make additional findings of fact supporting the applicant's request.

The Planning Commission may find a subsequent condition of approval limiting the hours of operation to 7am to 7pm 7-days a week satisfies the criterion.

The Planning Commission may find that limiting the hours of operation is not required and that the criterion is satisfied.

(B) Establishing a special yard, other open space or lot area or dimension;

Applicant Response: The applicant acknowledges 152.615(B) above.

Staff Response: Applicant provides residential and commercial sized propane tanks will be stored on the property. The Planning Commission finds as a precedent condition of approval, the applicant shall install and maintain a site-obscuring fence along all sides of the retail propane tank storage yard to screen areas used as storage. State structural permits for fencing may be required. The fence location shall be shown on the site plan.

(C) Limiting the height, size or location of a building or other structure;

Applicant Response: The applicant acknowledges 152.615(C) above.

Staff Response: Applicant is not proposing any structures. This criterion does not apply.

(D) Designating the size, number, location and nature of vehicle access points;

Applicant Response: The applicant acknowledges 152.615(D) above.

Staff Response: Applicant is proposing one vehicle access point from South 1st Street. The Planning Commission finds and concludes a precedent condition of approval requiring the applicant to obtain a County Road Approach Permit satisfies the criterion.

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

Applicant Response: The applicant acknowledges 152.615(E) above.

Staff Response: South 1st Street is a paved County Road with 66-feet of right-of-way. A requirement of the 2021 land partition required the previous property owners to sign and record in County Deed Records an Irrevocable Consent Agreement for future participation in improvements to both Feedville Road and South 1st Street. These agreements run with the land. The Planning Commission finds no additional improvements or roadway width dedication are necessary for the development. This criterion does not apply.

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

Applicant Response: The applicant acknowledges 152.615(F) above.

Staff Response: Parking is evaluated below.

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

Applicant Response: The applicant acknowledges 152.615(G) above.

Staff Response: Applicant has not proposed any signage. Future signage requires zoning permit approval and must comply with sign regulations in UCDC 152.545-152.548, this is memorialized as a subsequent condition of approval.

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

Applicant Response: The applicant acknowledges 152.615(H) above.

Staff Response: Applicant has not proposed outdoor lighting. The Planning Commission finds and concludes a subsequent condition requiring any future outdoor lighting be shielded from neighbors satisfies the criterion.

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance.

Applicant Response: The applicant acknowledges 152.615(I) above.

Staff Response: The Planning Commission finds landscaping is not required for this or similar uses in the Heavy Industrial zone and is not necessary. As stated above in (B), the applicant is required to provide site-obscuring fencing around the small tank storage yard.

(J) Designating the size, height, location and materials for a fence;

Applicant Response: The applicant acknowledges 152.615(J) above. Note that the applicant is proposing a 6' screened/security fence around the project location.

Staff Response: Applicant is proposing a screened fence 6-feet in height around the project area. The Planning Commission finds and concludes a subsequent condition of approval requiring a 6-foot security fence be installed around the project area satisfies the criterion.

(K) Protecting and preserving existing trees, vegetation, water resources, air resources, wildlife habitat, or other natural resources;

Applicant Response: Applicant acknowledges 152.615(K) above. Currently there are no existing trees, vegetation, water resources, wildlife habitat or other natural resources located within the project area. Air resources will be protected by Federal, State, and County regulations.

Staff Response: The subject property does not have existing trees, vegetation, water resources, wildlife habitat or other natural resources. Air quality is regulated by Oregon Department of Environmental Quality (DEQ) and DEQ may require the applicant to obtain permits. The applicant is required to obtain all applicable State and Federal permits. DEQ received notice of this request and did not provide comment. Satisfaction of this criterion is pending DEQ permit approval.

(L) Parking area requirements as listed in § 152.560 through §152.562 of this chapter.

Applicant Response: Applicant acknowledges 152.616(L) above. The project does not require parking spaces but does require turn-around areas for vehicles and trucks.

Staff Response: Parking requirements are evaluated below.

27. § 152.560 OFF-STREET PARKING REQUIREMENTS

(A) Each use shall provide the following minimum off-street parking spaces. Each parking space shall be a minimum of nine feet wide and 20 feet in length.

Applicant Response: No response.

Staff Response: The Planning Commission finds and concludes a subsequent condition of approval requiring each parking space to meet the minimum size requirements of 9-feet in width and 20-feet in length satisfies the criterion.

(B) Off-street parking requirements.

(9) Commercial uses: one space per 200 square feet of public space, plus one space per employee.

Applicant Response: The proposed project does not include any public space and there could be up to 4 employees periodically onsite at the project location. Trucks will enter the site to load and depart. All records are kept electronically.

Staff Response: The proposed use is a propane terminal, utilizing existing railroad infrastructure, and a propane storage yard. There will not be an office space and therefore there will be no public space. Applicant provides up to four employees will be periodically onsite. The Planning Commission finds and concludes a condition of approval requiring the site plan to include a minimum of four parking spaces satisfies the criteria.

(C) Bicycle parking requirements.

(1) Applicability. Bicycle parking spaces are required for new development, or changes of use, under the following conditions:

(a) A site with 10 or more off-street vehicle parking spaces.

(b) All properties zoned RSC or LI that have frontage on Highway 395.

(2) Exemptions. This section does not apply to single-family and duplex housing, home occupations, and agricultural uses.

(3) Standards. A minimum of two bicycle spaces for the first 10 motorized vehicle parking areas is required, plus one additional bicycle space for each additional 10 motorized vehicle parking spaces thereafter.

(4) Design. Unless otherwise identified in (3), bicycle parking shall consist of staple-design steel racks or other County-approved racks, lockers, or storage bins providing a safe and secure means of storing a bicycle.

(5) Location. For institutional, employment, and commercial uses, the designated area for bicycle parking shall be within 50 feet of a public entrance.

(6) Hazards. Bicycle parking shall not impede or create a hazard to pedestrians or vehicles, and shall be located so as to not conflict with vision clearance standards of Section § 152.011.

Applicant Response: The submitted project does not propose 10 or more off-street vehicle parking space. The proposed project is located on lands zoned Heavy Industrial (HI).

Staff Response: The proposed propane terminal and storage yard requires a total of four parking spaces, is zoned Heavy Industrial and does not have frontage on Highway 395. The Planning Commission finds and concludes bicycle parking is not required and therefore this criterion does not apply.

28. § 152.561 OFF-STREET LOADING REQUIREMENTS

(A) Passengers. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

(B) Merchandise. Off-street parking areas used to fulfill the requirements of this chapter shall not be used for loading and unloading operations except during periods they are not required for parking.

Applicant Response: N/A to this project. No passenger vehicles for the purpose of loading and unloading children is proposed with this application... Applicant acknowledges (B) and no off-street parking is proposed with this project, therefore no loading and unloading will be conducted in any off-street parking areas.

Staff Response: This conditional use request is not for a school, nor will it involve the loading/unloading of children. Off-street parking areas shall not be used for loading or unloading purposes.

The Planning Commission finds and concludes the subsequent condition of approval that off-street parking areas shall not be used for loading or unloading purposes is imposed and satisfies the criteria.

29. § 152.562 ADDITIONAL OFF-STREET PARKING AND LOADING REQUIREMENTS

(7) Except for parking to serve a single-family residential use, parking and loading areas must meet State Building Code Accessible Parking requirements

Applicant Response: Applicant acknowledges loading areas must meet State Building Code Accessible Parking requirements.

Staff Response: The Planning Commission finds and concludes the subsequent condition of approval that the proposed parking spaces must meet Oregon State Building Code Accessible Parking requirements is imposed.

DECISION: APPROVAL

BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UMATILLA COUNTY PLANNING COMMISSION APPROVES THE SOS FAMILY CONDITIONAL USE REQUEST, UPON COMPLETION OF THE CONDITIONS LISTED BELOW.

Precedent Conditions:

1. Obtain a County Road Approach permit for the driveway location on South 1st Street.
2. Improve all driveways and turnarounds to the County P-1 Road Standard. The County P-1 Road Standard consists of an improved roadway width of 16-feet with 4 inches of nominal compacted gravel. [Verification of the roadway improvements may be satisfied with a combination of gravel receipts and photos or written verification from a certified engineer stating that the standard is met.]
3. Submit a fire suppression plan that includes the identification of the water suppression source. The fire suppression plan shall be reviewed, and approved by Umatilla County Fire District #1. Submission of the District approved fire suppression plan will satisfy the condition.
4. Obtain a County Zoning Permit for establishing the propane terminal and storage yard. An approved site plan shall be included showing the location of the facility, propane tanks, water suppression tank (if necessary), screened fencing, fenced storage yard area, utility locations, setbacks, driveway access, and size and location of the four improved parking spaces. Parking spaces shall be at least 9-feet in width and 20-feet in length.

5. Obtain all necessary applicable State permits (Fire Marshall, DEQ, electrical, plumbing, parking space approval, etc.).

Subsequent Conditions: The following subsequent conditions will continue to apply to the approval of SOS Family operation until such time the operation ceases or becomes out of compliance of the Conditional Use Permit.

1. The approval of this request will be for a two-year period and requires an annual renewal each year following the two-year approval. Renewal is subject to county review and the applicable renewal fee. To renew, the applicants/property owners must confirm (by letter) to the County Community Development Department that the business is still in operation and in compliance with this conditional use permit.
2. Hours of operation are limited to 7am to 7pm 7-days a week.
3. Outdoor lighting shall be limited and shielded from nearby uses.
4. Off-street parking areas shall not be used for loading or unloading purposes, nor for the storage of vehicles or materials used to conduct business.
5. Install and maintain a site-obscuring fence along all sides of the retail propane tank storage yard.
6. Install and maintain a security fence at least six feet in height around the entire project area surrounding the four 80,000-gallon propane tanks.
7. Parking spaces must meet State Building Code Accessible Parking requirements.
8. Future signage requires zoning permit approval and must comply with sign regulations in UCDC 152.545-152.548.
9. Growing, processing, or harvesting of marijuana is prohibited.

UMATILLA COUNTY PLANNING COMMISSION

Dated _____ day of _____, 20____

Suni Danforth, Chair

**COMMENTS RECEIVED DURING
ADMINISTRATIVE REVIEW**



Megan Davchevski <megan.davchevski@umatillacounty.gov>

#C-1357-23

2 messages

Scott Goff <sgoff@ucfd1.com>

Thu, May 4, 2023 at 11:16 AM

To: "megan.davchevski@umatillacounty.gov" <megan.davchevski@umatillacounty.gov>

See attached Comments.

Scott A. Goff

Division Chief/Fire Marshal

Umatilla County Fire District #1



sgoff@ucfd1.com

(541) 667-5134

320 S. 1st St.

Hermiston, OR 97838

ucfd1.com

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 **LPG Feedville.pdf**
132K

Megan Davchevski <megan.davchevski@umatillacounty.gov>

Thu, May 4, 2023 at 12:12 PM

To: Scott Goff <sgoff@ucfd1.com>

Thank you Scott!

[Quoted text hidden]

--

Megan Davchevski

Planning Division Manager

Community Development Department



Tel: 541-278-6246 | Fax: 541-278-5480



Umatilla County Fire District #1

320 S. 1st Street

Hermiston, OR 97838

541-567-8822 Bus | ucfd1.com

541-564-6463 Fax | fire.district@ucfd1.com

05/04/2023

Megan Davchevski, Planning Division Manager

Re: #C-1357-23 Conditional Use Request

Megan,

In addition to the fire department water supply issue noted under 152.616(FF) (3), The applicant will also need to apply to the Oregon Fire Marshal's Office for plans review and permit for the installation of the proposed LPG bulk storage tanks. The application is available on the Oregon Fire Marshal's Office website.

There are already small tanks being stored on the property.

Respectfully,

A handwritten signature in black ink that reads "Scott A. Goff".

Scott A. Goff, Fire Marshal

RECEIVED

MAY 04 2023

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Fire District # 1 is devoted to protecting the communities we serve by providing the highest quality of compassionate and professional services.



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Conditional Use Request C-1357-23

Stuart, Kyle B <Kyle.Stuart@osp.oregon.gov>

Mon, May 8, 2023 at 4:04 PM

To: "megan.davchevski@umatillacounty.gov" <megan.davchevski@umatillacounty.gov>

Megan,

I'm sending this email in response to the Conditional use request that was mailed to our Pendleton office for four 80,000 Gal propane tanks to be installed in Hermiston Oregon. My only comment at this time is to please remember that this project will need to go through the plan review and permitting process though our Salem office prior to approval. Please let me know if you have any questions, thank you.

Kyle Stuart

Deputy State Fire Marshal

Oregon Office of State Fire Marshal

Fire and Life Safety Services

971-372-9480

Kyle.Stuart@osp.oregon.gov

**EMAILS WITH APPLICANT'S REPRESENTATIVE
DATED JUNE 5, 2023**



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Hermiston Terminal

4 messages

lani@rc-grp.com <lani@rc-grp.com>
To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Mon, Jun 5, 2023 at 8:40 AM

Hi Megan,

Hope all is going well.

I had a question about the hours of operation and the client was wanting to see what we need to do to change them. Ideally if they could have hours of operation from 5:00 a.m. to 11:00 p.m. that would work much better for their operation. Could you please let me know what we need to do to modify that condition and what process.

Thank you very much.

Lani

541-591-0211

From: Megan Davchevski <megan.davchevski@umatillacounty.gov>
Sent: Wednesday, May 31, 2023 4:02 PM
To: lani@rc-grp.com
Subject:

Hi Lani,

See attached.

--

Megan Davchevski

Planning Division Manager

Community Development Department



Tel: 541-278-6246 | Fax: 541-278-5480

216 SE 4th Street | Pendleton, OR 97801

<http://www.umatillacounty.gov/planning>

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 **SOS Family Signed Findings and Decision Letter.pdf**
1528K

Megan Davchevski <megan.davchevski@umatillacounty.gov>

Mon, Jun 5, 2023 at 4:44 PM

To: lani@rc-grp.com

Cc: Carol Johnson <carol.johnson@umatillacounty.gov>, Doug Olsen <doug.olsen@umatillacounty.gov>

Hi Lani,

That request would have been more appropriate to be received during the 21-day comment period.

I do not have the file with me (I am remote this week at a training), however, from my recollection, proposed hours of operations were not included in the application narrative. Therefore, in accordance with UCDC 152.615, hours were limited based on research conducted of similar operation's hours. As provided on page 12 of the findings, the allowed hours of operation are much more generous at 7am-7pm 7-days a week, than of typical propane terminals which operate 8am-5pm Monday through Friday.

Thank you,

Megan

[Quoted text hidden]

Doug Olsen <doug.olsen@umatillacounty.gov>

Mon, Jun 5, 2023 at 4:45 PM

To: megan.davchevski@umatillacounty.gov

I am out of the office until June 12, 2023.

--

Douglas R. Olsen

Umatilla County Counsel

216 SE 4th Street

Pendleton, OR 97801

Phone: 541-278-6208

Fax: 541-278-6372

Email: doug.olsen@umatillacounty.gov

Website: umatillacounty.gov



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Megan Davchevski <megan.davchevski@umatillacounty.gov>

Tue, Jun 6, 2023 at 9:11 AM

To: Robert Waldher <robert.waldher@umatillacounty.gov>

APPLICANT'S NOTICE OF APPEAL



Bailey Dazo <bailey.dazo@umatillacounty.gov>

Request for Public Hearing #C-1357-23, SOS Family LLC

1 message

'Lou Milani' via Planning <planning@umatillacounty.gov>

Wed, Jun 7, 2023 at 8:36 AM

Reply-To: Lou Milani <lou.milani@edstaub.com>

To: planning@umatillacounty.gov

Cc: Brad Staub <brad.staub@edstaub.com>, Lani Hickey <lani@rc-grp.com>, Jared Staub <jared.staub@edstaub.com>, Marc Cross <marc@rc-grp.com>

Please see our attached Notice of Appeal for Land Use Request file #C-1357-23 Conditional Use Permit
If additional information is required, please contact us.

We understand that there is a fee of \$250 due upon this submission.

Please send the link for remote payment to lou.milani@edstaub.com

Thank you,
Lou Milani

Lou Milani
Construction Coordinator
Ed Staub & Sons Petroleum
Washburn Way
541-238-4084

lou.milani@edstaub.com

www.edstaub.com | www.myfastbreak.com



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 **Hermiston Appeal 6723.pdf**
389K

Umatilla County

Department of Land Use Planning

216 SE 4th ST. Pendleton, OR 97801. (541) 278-6252



Notice of Appeal

Process taken from UCDC 152.766

APPEALS

(A) An appeal from a ruling of the Planning Director. An appeal of an administrative review decision or a ministerial action on a land use request made by the Planning Director or authorized agent shall be made to the Planning Commission. Such appeals must be made within 15 days of the date of the ruling or decision.

(B) An action or ruling of the Planning Commission pursuant to this chapter may be appealed to the County Board of Commissioners within 15 days after the Planning Commission has signed its findings of facts and conclusions of law.

(1) If the appeal is filed it shall be in writing stating the reasons for appeal pursuant to the criteria for review.

(2) The County Board of Commissioners shall receive the written findings of the decision and the minutes from the Planning Commission hearing and shall hold a public hearing on the appeal.

(3) The Board may amend, rescind, affirm or remand the action of the Planning Commission.

(C) All appeals shall be made in writing, accompanied by the appropriate fee, and shall state the reasons for the appeal and the alleged errors made on the part of the Planning Director or authorized agent or the Planning Commission. If the decision being appealed utilized criteria for review established elsewhere in this chapter, the reasons for the appeal shall be stated pursuant to these criteria.

(D) All appeals shall be on a de novo basis. The body hearing the appeal shall be able to receive any additional testimony presented by the applicant or proponent.

E) Appeals of a Board of Commissioners decision shall be made to the Land Use Board of Appeals within 21 days of the date of the decision. Such appeals shall not be based on issues that are not raised at the local hearings with "sufficient specificity" as to afford the decision-makers and parties involved an opportunity to respond to the issue.

FILING FEE

Filing of an Appeal - \$800.00

(Effective July 1, 2007 via Ord. #2007-06)

It is the responsibility of the applicant to submit a complete application with all necessary attachments. Planning staff can refuse an incomplete application.

Version: February 20, 2009
File Location: H:\shared\FORMS_Master\Appeal_Notice.doc

RECEIVED

JUN 07 2023

UMATILLA COUNTY
PLANNING DEPARTMENT

Section 1: Request and Description of Application

This information deals with the Land Use Request Application that an Appeal is being filed against.

THE REQUEST IS FOR... *(Check the one that applies)*

- an Appeal to the Planning Commission from a decision of the Planning Department
 an Appeal to the Board of Commissioners from a decision of the Planning Commission

DESCRIPTION OF THE LAND USE REQUEST APPLICATION IN QUESTION:

- Land Use Request Application File Number: #C-1357-23
- Type of Land Use Request Application: Conditional Use Permit
- Decision-Making Body: Planning Director or Planning Commission
- Date of Decision (date on Findings): May 23, 2023
- Date you received notice of the decision or learned of the decision: 5-31-2023

Section 2: Contact Information

Name of Appellant(s): SOS Family LLC

Address: 1301 Esplanade Avenue

City, State, Zip: Klamath Falls, OR 97601

Telephone Number & Email
Address: 541-238-4084 lou.milani@edstaub.com

Date of Submittal for the Appeal: June 6, 2023

Section 3: Basis of Appeal

Complete only when appealing a decision made by the Planning Department or Planning Commission.

The Appeal is based on the belief that certain policies and/or procedures of the Comprehensive Plan and/or provisions of the Development Code were not properly administered or followed. Please specify the chapter, section and page numbers of the Comprehensive Plan and/or Development Code where the policies and/or procedures are found; as well as a narrative explaining the issues that the Appeal is based upon (*use additional pages if necessary*):

The Applicant is appealing the Planning Director Decision in File C-1357-23 limiting its challenge to one condition of approval. Specifically, the Applicant asserts that Condition 2 limiting hours of operation from 7:00am to 7:00pm is inconsistent with UCDC 152.320 and is not supported by substantial evidence in the record. The Applicant accepts all other conditions of approval.

Applicant Request for Hours of Operation: 24 hours/day 7 days/week which is consistent with other similar operations.

Reason for Appeal:

The subject property is zoned HI (Heavy Industrial) and the proposed use will be the Hermiston Terminal which includes (4) 80,000-gallon propane tanks.

UCDC 152.320 The purpose of the HI Heavy Industrial Zone is designed to provide for industrial uses where potential conflicts with adjacent land uses will have minimal negative impact. The uses listed as permitted in the HI zone is to accommodate uses, that due to the nature of their operations, must have broad operating hours. Many uses listed under UCDC 152.321 are uses that traditionally operate around the clock. Limiting the applicants proposed use is not consistent with the purpose of the HI zone and places the applicant in a different position than other similar uses allowed to operate without hour restrictions.


Furthermore, the substantial evidence in the record supports only one finding: The proposed use will have minimal negative impact on adjacent land uses.

The proposed facility is located with industrial lands surrounding it to the north, east, and south. To the west is the RR Track, west of the RR Track is currently vacant lands.

The distance between the propane operations and surrounding land uses is more than +/-1000'. Operations for the terminal includes trains (which are on their own schedules) and trucks that will come to fill before leaving the site. Typically trucks can arrive very early in the morning to late in the afternoon/evening. Considering the location of the proposed project and the surrounding environment, the potential of conflicting with adjacent land uses is minimal.

Section 4: Certification

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X  _____ 06/06/2023 _____
Signature of Appellant Date
Brad Staub / SOS Family LLC
Printed Name of Applicant

X _____ _____
Signature of Appellant Date


Printed Name of Applicant

X _____ _____
Signature of Appellant Date

Printed Name of Applicant

X _____ _____
Signature of Appellant Date

Printed Name of Applicant

Office Use Only	
Date this paperwork was received:	6/7/2023
Accepted by:	 Terney Cimmijotti <i>Signature of Planning Staff & Printed Name</i>
Fee Paid? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Receipt Number: 21987

Umatilla County

Department of Land Use Planning



216 S.E. 4th Street • Pendleton, OR 97801
Ph: 541-278-6252 • Fax: 541-278-5480

Receipt

Fee Receipt Number: 21987 Permit Number: C-2357-23
Transaction Date: 6/7/2023
Transaction Time: 12:54:15 PM
Payor: Ed Staub and Sons Petroleum Inc.
Paid in Cash: \$0.00
Paid via Check: \$0.00 Check# Bank#
Paid via EFT: \$250.00
Comments:
Request for Public Hearing; #C-1357-23, SOS Family LLC/ Lou Milani

Fee Description	Quantity	Fee	Total
Request For Hearing	1	\$250.00	\$250.00

Total: \$250.00
Amount Received: \$250.00
Amount Paid: \$250.00
Change: \$0.00
Amount Left Owing: \$0.00



Tierney Cimmiyotti <tierney.cimmiyotti@umatillacounty.gov>

Umatilla County Dept. of Land Use Planning

1 message

Wed, Jun 7, 2023 at 1:09 PM

Intellipay <noreply@intellipay.com>

To: "Umatilla County Dept. of Land Use Planning" <tierney.dutcher@umatillacounty.net>

Umatilla County Dept. of Land Use Planning

Payment Receipt

Ed Staub and Sons Petroleum Inc.
1301 Esplanade Ave
Klamath Falls OR 97601
5412384084
lou.milani@edstaub.com

Your payment was successfully processed.

Thank you. Your payment has been received.

Invoice:	C38172989
Payment Amount:	\$250.00
Service Fee:	\$6.23
Payment Total:	\$256.23
Payment Date:	06/07/2023
Card Number:	4..1551
Name on Card:	Lou Milani
Card Type:	Visa Card
Authorization Code:	034343
Reference Number	C38172989P62083928
Comments:	#C-1357-23,SOS Family LLC
Payment Origin:	Online Payment Terminal
Agent:	Online Payment Page
Merchant#:	M3942

Thank you,
Umatilla County Dept. of Land Use Planning
Support: 541-278-6248Email: tierney.dutcher@umatillacounty.net

* The service fee is non-refundable.



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Received; Request for Public Hearing; #C-1357-23, SOS Family LLC

Tierney Cimmiyotti <tierney.Cimmiyotti@umatillacounty.gov>
To: lou.milani@edstaub.com, lani@rc-grp.com
Cc: Planning Department <planning@umatillacounty.gov>

Wed, Jun 7, 2023 at 1:34 PM

Lani & Lou;

We have received your form requesting a public hearing for an appeal of #C-1357-23, SOS Family LLC. We have also received your \$250.00 payment, see attached receipt.

Megan Davchevski, Planning Division Manager, will be in touch next week when she returns from training to discuss next steps and answer any additional questions you may have.

Thank you,



Tierney Cimmiyotti
Land Use Planner

Umatilla County, Land Use Planning

Tel: 541-278-6248 | Fax: 541-278-5480

216 SE 4th Street | Pendleton, OR 97801

<http://www.umatillacounty.gov/planning>

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 **Umatilla County_Receipt_Request for Public Hearing.pdf**
72K

**EMAILS WITH APPLICANT'S REPRESENTATIVE
DATED JUNE 15, 2023**



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Hermiston Terminal Tanks

3 messages

lani@rc-grp.com <lani@rc-grp.com>

Thu, Jun 15, 2023 at 4:16 PM

To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Cc: Brad Staub <brad.staub@edstaub.com>, Lou Milani <lou.milani@edstaub.com>, Marc Cross <marc@rc-grp.com>

Hi Megan,

Wanted to let you that four (4) 80,000-gallon tanks will be arriving at the Staub Hermiston site so don't be alarmed when you see them. They are empty and will not be put in use until land use approval and OSFM approval are received.

Thank you and if you have any questions, please do not hesitate to contact us.

Lani

541-591-0211 cell

Lani Hickey

Land Use Planner

Rhine-Cross Group, LLC

112 N 5th St-Suite 200

Klamath Falls, Oregon 97601

(541) 851-9405

Megan Davchevski <megan.davchevski@umatillacounty.gov>

Thu, Jun 15, 2023 at 4:19 PM

To: lani@rc-grp.com

Cc: Brad Staub <brad.staub@edstaub.com>, Lou Milani <lou.milani@edstaub.com>, Marc Cross <marc@rc-grp.com>, Code Enforcement <ceo@umatillacounty.gov>, Planning Department <planning@umatillacounty.gov>

Hi Lani,

The tanks should not be stored at this location until the site has received final approval (signified by approval of the zoning permit).

Thank you,

Megan

[Quoted text hidden]



Megan Davchevski

Planning Division Manager

Community Development Department

Tel: 541-278-6246 | Fax: 541-278-5480

216 SE 4th Street | Pendleton, OR 97801

<http://www.umatillacounty.gov/planning>

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Brad Staub <brad.staub@edstaub.com>

Thu, Jun 15, 2023 at 4:58 PM

To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Cc: Code Enforcement <ceo@umatillacounty.gov>, Lou Milani <lou.milani@edstaub.com>, Marc Cross <marc@rc-grp.com>, Planning Department <planning@umatillacounty.gov>, lani@rc-grp.com

[Quoted text hidden]

--

Brad Staub

Ed Staub & Sons Petroleum

541-281-2150

brad.staub@edstaub.com

www.edstaub.com | www.myfastbreak.com



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**EMAILS WITH APPLICANT'S REPRESENTATIVE
DATED JUNE 16 AND JUNE 21**

**Megan Davchevski** <megan.davchevski@umatillacounty.gov>**C-1357-23/Staub**

1 message

Chris Koback <chris@hathawaylarson.com>

Fri, Jun 16, 2023 at 1:11 PM

To: "megan.davchevski@umatillacounty.gov" <megan.davchevski@umatillacounty.gov>

Cc: "lani@rc-grp.com" <lani@rc-grp.com>

Ms. Davchevski:

I have been assisting and advising the applicant on its conditional use application in the above referenced file. I am writing to explain the circumstances surrounding the clean, empty storage tanks that are being delivered to the site and to request that the County Planning Director consider granting a temporary permit to allow them to remain on site pending the outcome of the current appeal.

The four storage tanks must be moved from their current location. They could not remain there. The relocation has been planned for months. The applicant diligently pursued its conditional use permit to fit into the schedule so there would be a new location at which to store the tanks. The conditional use approval allowed the storage tanks to be on the property and was issued well before the tanks were to be delivered. As you know, the applicant appealed the decision but only to seek a modification to one condition. The applicant accepted all other aspects of the decision. As we understand, if not for the appeal, the CUP approval would be final and there would not be any issue storing the tanks on the property.

Under the circumstances, the applicant is respectfully requesting that the Planning Director issue a temporary development permit to allow the storage tank to remain pending the appeal. There are two primary reasons, the applicant believes a temporary permit is warranted. First, because the appeal is limited to one condition and there are no other appeals, it seems highly probable that the approval for the underlying use will remain in place. The only issue is the hours of operation. That will not affect the applicant's ability to store the tanks on site. In other words, the appeal will not impact the right to have the tanks there.

Second, it imposes an unreasonable hardship on the applicant if a temporary permit is not issued. As we noted the planning for the relocation took place a long time ago. It was based, in part, on the anticipation of a final approval. There is no other location upon which to store the tanks. The applicant has incurred \$164,000 to get the tank loaded and to the site. If the applicant has to have the tanks taken to another location (one that currently does not exist) it will have to pay to unload the tanks, and then, after the appeal is completed, reload them to come back to the site. The applicant expects that that will double the cost at least.

In light of the fact that shortly the appeal will be concluded, and the applicant will have the permit necessary to keep the tanks on the site, and the undue hardship that will result if they cannot be stored there pending the appeal, the applicant respectfully request a temporary permit to store the tanks on site pending the appeal. Thank you.

Chris Koback | Partner

Hathaway Larson LLP

1125 NW Couch St., Ste. 550, Portland, OR 97209

78 NW Kearney Ave., Ste. 100, Bend, OR 97703



Megan Davchevski <megan.davchevski@umatillacounty.gov>

C-1357-23/Staub

Megan Davchevski <megan.davchevski@umatillacounty.gov>

Wed, Jun 21, 2023 at 10:55 AM

To: Chris Koback <chris@hathawaylarsen.com>

Cc: "lani@rc-grp.com" <lani@rc-grp.com>, Doug Olsen <doug.olsen@umatillacounty.gov>, Gina Miller <gina.miller@umatillacounty.gov>, Planning Department <planning@umatillacounty.gov>

Good Morning Chris,

Since the applicant has appealed the decision the tentative approval is essentially on hold. Regardless of the appeal, the use could not begin until after issuance of a zoning permit, which finalizes the approval. This includes storage of the propane tanks. Thus, storage of the propane tanks prior to obtaining zoning permit approval would be a violation of the County's Development Code.

The appeal will be scheduled before the Planning Commission on July 27th. I would like to highlight that other issues may rise at the Planning Commission hearing which could affect the decision, and anyone from the public may also comment on other issues as proponents or opponents.

Please let me know if you have any other questions.

Kindly,

[Quoted text hidden]

[Quoted text hidden]

**CODE ENFORCEMENT PHOTOS
DATED JUNE 14, 2023**

SOS FAMILY PHOTOS

2 messages

Gina Miller <gina.miller@umatillacounty.gov>
To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Fri, Jul 14, 2023 at 3:26 PM

Hey Megan,
These were taken from Hinkle Rd across from Mikami Bros.
Thanks,
Gina

--

Gina Miller, CEP

**Code Enforcement Officer / Program
Coordinator**

Umatilla County Department of Land Use
Planning

[216 SE 4th Street](#)
[Pendleton, OR 97801](#)

Ph: 541-278-6300 | Fax: 541-278-5480

Email: gina.miller@umatillacounty.gov

<http://www.umatillacounty.gov/planning>

Visit the County's website for application forms,
planning documents, and other helpful
information.



8 attachments



14JULY2023 SOS FAM HINKLE RD BY MIKAMI (5).jpg
2564K

PHOTO 1

TANKS ARE PLACED ACROSS STREET FROM MIKAMI BROTHER SIGN



PHOTO 2



PHOTO 3



PHOTO 4



PHOTO 5



PHOTO 6



MEETING MINUTES

**LAND DIVISION REQUEST #LD-2N-208-23: JEREMY PARKER,
APPLICANT/ JEREMY PARKER & DANIELLE SACKETT, OWNERS.**

The applicant requests to replat Lots 6 and 7, Block 2 of Stewart's Addition Subdivision into one lot. The subject properties are located south of Pendleton, just north-west of McKay Reservoir and Dam. The applicant's proposed replat reconfigures Lots 6 and 7 and eliminates the shared lot line. The land use standards applicable to the applicant's request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions.



**LAND USE DECISION REQUEST #LUD-293-23: DAN & TONJA
PEARSON, APPLICANT/ OWNER.**

The applicant requests to convert an existing temporary hardship dwelling to a farm-relative dwelling. The subject property is zoned Exclusive Farm Use. The property is located at 79089 S Cold Springs Road, Pendleton, OR, in Township 4N, Range 31E; Tax Lot 2201. The land use standards applicable to the applicant's request are found in Umatilla County Development Code Section 152.059(K)(7) which codified OAR 660-033-0130(9)(a).

UMATILLA COUNTY PLANNING COMMISSION HEARING

April 27, 2023

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, April 27, 2023 6:30 pm

** ****

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Don Wysocki, Vice Chair, Sam Tucker, John Standley, Emery Gentry, Jodi Hinsley, & Tammie Williams

COMMISSIONERS Tami Green

PRESENT VIA ZOOM:

PLANNING STAFF: Megan Davchevski, Planning Division Manager, Tierney Cimmiyotti, Planner II/GIS & Bailey Dazo, Administrative Assistant

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NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. RECORDING IS AVAILABLE AT THE PLANNING OFFICE

CALL TO ORDER

Chair Danforth called the meeting to order at 6:32 pm and read the Opening Statement.

NEW HEARING

LAND DIVISION REQUEST #LD-2N-208-23: JEREMY PARKER, APPLICANT / JEREMY PARKER & DANIELLE SACKETT, OWNERS. The applicant requests to Replat Lots 6 and 7, Block 2 of Stewart’s Addition Subdivision into one lot. The subject properties are located south of Pendleton, just north-west of McKay Reservoir and Dam. The applicant’s proposed replat reconfigures Lots 6 and 7 and eliminates the shared lot line. The land use standards applicable to the applicant’s request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions.

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. There were none. Chair Danforth called for the Staff Report.

STAFF REPORT

Megan Davchevski, Planning Manager, presented the Staff Report. The Applicants/Owners Jeremy Parker and Danielle Sackett request to replat Lots 6 and 7, Block 2 of Stewart’s Addition Subdivision into one lot. The subject properties are located south of Pendleton, just north-west of McKay Reservoir and Dam. The applicant’s proposed replat reconfigures Lots 6 and 7 and eliminates the shared lot line. The land use standards applicable to the applicant’s request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions. Mrs. Davchevski stated the applicants request and the public hearing notice was mailed on April 7, 2023 to the owners of properties located within 250 feet of the perimeter of Lots 6 and 7. The notice was published in the East Oregonian on April 15, 2023 notifying the public of the applicants request before the Planning Commission on April 27, 2023. She also noted the criteria of approval are found in the Umatilla County Development Code Section 152.697(C), Type III Land Divisions. Standards for reviewing a replat generally consist of complying with development standards and survey plat requirements.

Mrs. Davchevski finalized the Staff Report by stating the Planning Commission is tasked with determining if the application satisfies all the criteria of approval based on the facts in the record. The proposed Conditions of Approval address the survey and recording requirements with final approval accomplished through the recording of the final survey plat. The decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners.

Chair Danforth referred to page eight in the Planning Commission hearing packet and asked why Precedent Condition of Approval number three requires that the applicant pay and possibly pre-pay property taxes to the Umatilla County Tax and Assessment Department? Mrs. Davchevski replied that it is due to the Tax and Assessment Department's timeline for working land divisions and when tax statements are mailed in November. She stated that she believes after July 1st you have to pre-pay taxes for the next year to work the Land Division, but further clarification can be received from the Tax and Assessment Department.

Chair Danforth asked if the applicants were present? Staff advised that the applicants were not present. Mrs. Davchevski responded that the hearing notice was mailed to the applicants and there was no response. Mrs. Davchevski advised she spoke with the applicants and they did not indicate if they planned to attend or not. Chair Danforth called for proponents and opponents. Mrs. Davchevski stated she received one phone call from a nearby property owner on April 20, 2023 indicating that they had no issues with the applicant's request. Chair Danforth called for testimony from public agencies. There was none.

Chair Danforth called for rebuttals, there were none. She asked if there were any requests for hearing to be continued or the record to remain open, there were none. Commissioner Williams asked if the property is being well kept or if it is an eyesore? Chair Danforth clarified that they are reviewing the replat request at this time, not the Land Use Decision scheduled for later in the agenda. Commissioner Williams said she was confused and retracted her question. Chair Danforth closed the hearing for deliberation.

DELIBERATION

Commissioner Tucker stated that in comparison to other hearings recently this one may be less controversial. They are just making one lot out of two, and no objections were made. Commissioner Tucker made a motion to approve Type III Land Division, Replat Request, #LD-2N-208-23; Jeremy Parker Applicant, and Jeremy Parker and Danielle Sackett Applicant/Owners. Commissioner Gentry seconded the motion. Motion passed with a vote of 8:0.

NEW HEARING

LAND USE DECISION REQUEST #LUD-293-23: DAN & TONJA PEARSON, APPLICANT/OWNER. The applicant requests to convert an existing temporary hardship dwelling to a farm-relative dwelling. The subject property is zoned Exclusive Farm Use (EFU). The property is located at 79089 S Cold Springs Road, Pendleton, OR, in Township 4N, Range 31E; Tax Lot 2201. The land use standards applicable to the applicant's request are found in Umatilla County Development Code Section 152.059(K)(7) which codified OAR 660-033-0130(9)(a).

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. Commissioner Standley stated that he is familiar with the family and has known Mr. Pearson's father-in-law, Monty Hixson, for fifty years. He stated that he has done business with him and Mr. Pearson Sr. has hunted coyotes on his property. He added that he has discussed this process years

in between his service on the Planning Commission. At the time, Mr. Pearson Sr. was asking questions and trying to seek some facts and advice, Commissioner Standley recommended he work with the Planning Department or get a land use attorney. He stated that he wasn't sure if that would disqualify him from voting on this matter or not. Commissioner Standley also added that he has been to the property to purchase and look at equipment at an estate sale Mr. Pearson Sr. had in the previous years. Chair Danforth asked Commissioner Standley to abstain from voting on this matter. Commissioner Standley agreed to abstain. Chair Danforth called for the Staff Report.

STAFF REPORT

Megan Davchevski, Planning Manager, presented the Staff Report. Mrs. Davchevski stated the applicant is requesting approval to convert an existing temporary hardship dwelling to a farm relative dwelling. The property contains an existing single-family dwelling (primary farm dwelling) a 2001 Marlette manufactured home (temporary hardship dwelling), 3,100 square foot barn and several outbuildings. She further explained that the applicant, Dan Pearson, is requesting that his son, Tyler Pearson, live in the previously approved temporary hardship dwelling (2001 Marlette) to assist with operating the equine boarding and training facility. Mrs. Davchevski said the temporary hardship home was approved in 2000. At that time, the property was owned by Monty Hixson (applicant's step-father) and the hardship home was approved for Mr. Hixson's parents, George and Evelyn Hixson, who required care provided by Monty.

Mrs. Davchevski added that in 2017, Dan and Tonja Pearson purchased the property from Monty Hixson, applicant's step-father, and began living in the primary dwelling while providing care to Evelyn Hixson. She added that Evelyn continued to live in the hardship dwelling until late 2021. The Planning Department was contacted on November 10, 2021 by Mr. Pearson, who stated that Evelyn would soon need to be moved to assisted living. She said that Planning Staff informed Mr. Pearson that the temporary hardship home would need to be removed once Evelyn no longer lived in the home, in accordance with the original Conditional Use Permit approval granted in the year 2000.

Mrs. Davchevski further explained the background of this request, stating that on December 28, 2021, Dan Pearson contacted Planning Director, Robert Waldher, and requested information on how to keep the hardship home on the property. Mr. Waldher expressed concerns regarding whether there was a commercial farming operation occurring on the property. Mrs. Davchevski said Mr. Pearson and his representatives have communicated many times with Planning Staff. Staff had specific concerns if there was a commercial farming operation occurring on the 27.26-acre property, and whether the farm operator or farm relative spent a majority of their working hours on the commercial farm operation. She explained that staff questioned if the existing farm operation warranted additional farm help to the level of requiring a farm relative dwelling.

Mrs. Davchevski said that Planning Staff received the Land Use Decision application from Mr. Pearson on December 30, 2022. Upon request from staff, Mr. Pearson provided additional information and 2021 tax documents on January 11, 2023. The application was processed, and the Preliminary Findings were mailed for a 21-day comment period on January 30, 2023. No comments were received.

Mrs. Davchevski explained that on February 17, 2023 the Planning Department accepted a request for a public hearing from the applicant, Dan Pearson. In the request for a public hearing the applicant stated he intends to demonstrate at the public hearing that he is operating a commercial farming operation. The

applicant also stated his belief was that the County is not required to apply the \$40,000 income requirement as a safe harbor for approving a relative farm help dwelling. The applicant believes the requirement is to demonstrate that there is an “existing farm operation.” Additional documentation regarding the commercial intensity of the farm operation was not included in the request for a public hearing.

Mrs. Davchevski explained that on April 14, 2023, the applicant provided four letters to be included in the record and Planning Commission Packets. The letters were from: Pake and Bailey Sorey, Tom and Wendy Sorey, Kelsy and Kristan Garton, and one unknown writer.

Mrs. Davchevski noted that the criteria of approval are found in Umatilla County Development Code (UCDC) Section 152.059(K)(7) which codifies Oregon Administrative Rule (OAR) 660-033-0130(9)(a). She provided that during administrative review, Planning Staff found criteria (7)(a) has not been met:

“(7)(a) A relative farm help dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. A “relative” means a child, parent, stepparent, grandchild, grandparent, step-grandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator’s spouse and is subject to the following criteria.”

Mrs. Davchevski explained that “commercial farming operation” is not defined in Oregon Administrative Rule, Revised Statute or in the County’s Development Code. Staff used a combination of Land Use Board of Appeals (LUBA) “safe harbors” for determining if a farm operation qualifies as a “commercial” farm operation. The “safe harbor” used by staff in the Preliminary Findings of Fact was that the farm operator must devote a majority of his or her working hours to operating a farm on the subject property, and that the farm operation meets or exceeds the income requirement to qualify for a primary farm dwelling.

Mrs. Davchevski further explained the Planning Commission is tasked with determining if the application satisfies all the criteria of approval based on the facts in the record. The Planning Commission may agree with Planning Staff’s “safe harbor” determination or may determine a different method for determining how a farm operation qualifies as a “commercial” farm operation.

Mrs. Davchevski concluded the Staff Report by adding the process of approval by the County involves review by the County Planning Commission for a final decision, unless timely appealed. She stated if approved, a set of Precedent and Subsequent Conditions of Approval must be imposed and staff has identified the appropriate Conditions of Approval in the Preliminary Findings of Fact in the case of an approval.

Commissioner Williams asked if the request was approved, would staff require a new Conditional Use Permit? Mrs. Davchevski directed the Planning Commissioners to the back of the hearing packet on Page 16, subsection B. If the applicant satisfies all the criteria in UCDC 152.059(K)(7)) for establishing a farm relative dwelling, the following conditions of approval apply:

“Precedent Conditions:

1. *Sign and record a Covenant Not to Sue Document in the Umatilla County Deed Records.*

Subsequent Conditions:

1. *Obtaining a County Zoning Permit for the conversion of the temporary hardship dwelling to a farm relative dwelling. (Land use approval for the farm relative dwelling is valid for four years from the date of the signed final finding. An approval extension for an additional two years may be obtained*
2. *prior to the expiration of the four-year approval date.”)*
3. *Obtain applicable septic permits from County Environmental Health.*
4. *If the farm relative dwelling is financed, the secured party may foreclose on the homesite.”*

Commissioner Tucker asked if this home was originally approved to provide assistance to an elderly person? Now, if approved today, is it being approved because the elderly people will not be there, or assistance is no longer needed? He also asked what the long-term effects would be, if the applicant would have to remove the dwelling once the criteria no longer apply, or if the son decides to move out. Would the dwelling have to be removed or is it approved for eternity?

Mrs. Davchevski responded that it was originally approved for the help of an elderly couple and was to be removed once the need was no longer there. She added that if the application were to be approved the dwelling would be a homesite as long as it stood. Mrs. Davchevski clarified that there would be no requirement for it be reapproved if the son decided to move.

Chair Danforth commented that there were two people waiting in the Zoom waiting room. Staff allowed Tonja Pearson and Suzie Reitz into the Zoom meeting. Chair Danforth asked Commissioner Green (present via Zoom) if she had any comments or concerns. Commissioner Green responded that she had none.

Commissioner Gentry asked if the \$40,000 income requirement is the County’s way of identifying if the farm can be classified as a commercial farm? Mrs. Davchevski responded that if someone came in to the Planning Department and wanted to establish a primary farm dwelling on a bare piece of land, state statute requires that the gross farm income be at least \$40,000 from the sale of farm products. Income could be generated by livestock or crops produced by the farm. Commissioner Gentry asked if there was something in place that referenced an acreage in LUBA case law. Mrs. Davchevski responded no. The LUBA decision quantified a commercial farm operation as satisfying the \$40,000 income requirement and the farm operator spent most of their working hours on the farm.

Chair Danforth asked if staff have found a business record for the applicant? Mrs. Davchevski responded that she researched the Oregon Secretary of State website and did not locate a business record. She also went on Google Earth where sometimes businesses pop up and did not locate a business name associated with the applicant or property. Commissioner Williams responded that she did not understand, was staff trying to find a Limited Liability Company (LLC)? Mrs. Davchevski said she was trying to find business documentation for the applicant. Commissioner Williams replied that an individual does not have to have a Limited Liability Company (LLC) to have a business. Chair Danforth responded that business owners could have a Doing Business As (DBA) or a Limited Liability Company (LLC). Commissioner Williams replied if the applicant is reporting what he is earning, it is still considered a business. Commissioner Tucker clarified that there is no statutory requirement or rule that an applicant must have a Doing Business As (DBA) or Limited Liability Company (LLC) and noted that it is good information to know. However, it does not determine the outcome of this hearing.

Commissioner Gentry asked how did the small EFU zoned parcel qualify for the first homesite approval? Mrs. Davchevski responded that she did not research how the home was originally approved, however, her guess is that it was built before 1972, which was when Umatilla County adopted the first Zoning Code. She did find the Zoning Permit that established the 1980 home and it was a replacement dwelling, the previous dwelling was destroyed by fire.

Commissioner Williams asked what ordinances require an applicant to spend more working hours on the farm than another job? Mrs. Davchevski responded that the requirement was established in several LUBA decisions. Chair Danforth asked if anyone had any other questions. Commissioner Wysocki asked if the property is in farm deferral? Mrs. Davchevski responded that she was unsure and stated that would be a great question for the applicant.

APPLICANT TESTIMONY: Applicant, Dan Pearson, PO Box 433, Pendleton OR 97801 & applicant's son, Tyler Pearson, PO Box 433, Pendleton OR, 97801.

Mr. Pearson Sr. stated that he brought pictures (Exhibit A) to tonight's hearing. Staff pulled up the property on the Umatilla County Interactive Map. Mr. Pearson Sr. demonstrated the driveway location. He stated the first picture he provided is directly across from the driveway and the other photos are east of the property. He further explained, his property, south of the road is not being used at this time to board horses because the fence is in bad condition. He explained the south section across from the road of his property has been a pasture for as long as he can remember. Mr. Pearson added that prior to buying the property, his wife, Tonja Pearson, went to Umatilla County Records Department to see if the manufactured home had any title restrictions prior to buying it. Mr. Pearson Sr. found none.

Mr. Pearson Sr. noted that his son, Tyler Pearson, is a horse person and has been around them since he was young. Mr. Pearson Sr. is not a horse person. He shared that the Pearson family thought it would be a good opportunity for his son to build a business using the property. Mr. Pearson Sr. stated he bought the property from his step-dad in 2017 with intentions to board and train horses. He added that Doug Stewart, a family friend, owns a horse business in Jefferson, Oregon, and offered to show the Pearson's how he operates his business. Mr. Pearson expressed that from cleaning stalls to riding horses, his son spends close to 40 hours a week on the farm but not necessarily a 40-hour work week. The Pearson family has a sense of pride in training horses and maintaining the property. Mr. Pearson Sr. believes that within 5 years, they could be considered a commercial farm operation, but at this point they are building themselves to get to that status.

Chair Danforth thanked Mr. Pearson Sr. for his testimony and asked Mr. Pearson Jr. if he wanted to add anything else to the record. Mr. Pearson Jr. said that he helps his father eight to ten hours a week just with maintenance and cleaning the property and Mr. Pearson Jr. stated he works with each horse on average, eight hours a week per horse. He expressed that Mr. Pearson Sr. covered a lot of the information about the property and he has nothing further to add. Chair Danforth asked if the Commissioners had any questions for the applicant? Commissioner Wysocki asked when working with the horses, what services does the applicant offer the patron? Mr. Pearson Sr. replied they are feeding, boarding, and exercising each of the horses for an hour a week to keep them in shape for competition. He further explained that his son boards and trains horses for a client while they are working in Alaska. Commissioner Wysocki asked if the applicant has a gentleman's agreement or do they have a contract? Mr. Pearson Sr. replied they do have a contract; the agreed-to rate is \$35.00 a day per boarded horse but a copy of the contract was not brought to tonight's hearing.

Commissioner Wysocki referred to Exhibit A provided by Mr. Pearson Sr., and asked if there was an old windmill in the background? Mr. Pearson Sr. replied yes, the structure was indeed an old windmill. Commissioner Wysocki asked if the structure at the bottom of the photo was a well? Mr. Pearson Sr. replied they were working on the fence in the past when a woman stopped by and said she grew up on the property. The woman said in the past they had horses, a farm and (referring to the structure at the bottom of Exhibit A) was where the original house was. Mr. Pearson Sr. explained that he was not sure if that structure was a well. Chair Danforth asked Mr. Pearson Sr. how long he has been associated with the property? Mr. Pearson Sr. responded he went out to the property frequently when his step-dad was receiving cancer treatments. Additionally, his wife would stay the night occasionally over thirteen years prior to purchasing the property. He stated that Tyler Pearson was maintaining the property during that time.

Chair Danforth asked who was renewing the Conditional Use Permit annually? Mr. Pearson Sr. responded his family was filling out the renewal. Chair Danforth asked the applicants why they contacted the Umatilla County Planning Department? Mr. Pearson Sr. replied they have been renewing the hardship dwelling application and that is how they knew to contact the Planning Department. Chair Danforth asked how long they have been involved with the property, when the property was purchased in 2017? Mr. Pearson Sr. replied that Monty Hixson owned the property for twenty years prior to Mrs. Pearson and himself buying it. The Pearson family has been going to the property since Tyler Pearson was a child.

Commissioner Hinsley asked Mr. Pearson Jr. if he had another job? Mr. Pearson Jr. replied that he works as a journeyman electrician. He expressed that his goal was and still is to help other people train horses for mounted shooting. He said that the property is his main priority, this is his foot in the door to get his name established. Mr. Pearson Jr. added that he grew up riding horses with his aunt and uncle and has a very diverse knowledge of horses. Commissioner Wysocki asked the applicants if they have a business plan or a plan for expansion? Mr. Pearson Sr. responded that they do not have a written business plan, but they do talk about it and get insight from others on how to grow their business.

Chair Danforth commented that the hearing packet states the applicant is boarding three horses. Mr. Pearson Sr. replied that was correct. Chair Danforth asked if the contract was only for one horse? Mr. Pearson Sr. clarified that the contract was for all three horses. Commissioner Wysocki asked how many horses they could board? Mr. Pearson Sr. replied that with the current barn configuration, the number of horses would depend on how the customer wanted them boarded. Another factor is if the customer wanted them to be separated from other horses. He stated he could fit ten horses in the pasture, but they may need to build more shelters for five to ten more horses. Mr. Pearson Sr. explained that they would be able to have some horses on the pasture south of the road, but for liability reasons, they currently don't put horses on the pasture due to the poor condition of the fence. Commissioner Williams wanted to clarify that the applicant has three boarded horses and owns two other horses. She asked if they are training horses for mounted shooting? Mr. Pearson Sr. replied that Tyler Pearson is working with the horses and has barrel broken them. Mr. Pearson Jr. stated his plan is to show the progress of the horses and sell them, so he can get his name out there as a mounted shooter horse trainer. Mr. Pearson Jr. said a friend of his, Jessie Johnson, has done the same and she has done very well.

Commissioner Williams asked Mr. Pearson Jr. how the business benefits from him living on the property? Mr. Pearson Jr. replied the property is twenty miles from town and he would be driving forty miles round trip to work with the horses and help his parents with maintaining the property. Commissioner Williams

wanted to confirm that time is the only factor. Mr. Pearson Jr. replied it is travel expenses as well and he has more knowledge about horses. He said if a horse is injured, his parents only have the knowledge to keep them comfortable until a vet arrives. Mr. Pearson Jr. added that he can administer drugs to the horses and is able to transport them. Commissioner Williams wanted to clarify that it is a time and a safety factor for the horses, also more money could go back into the business if he lived onsite. Mr. Pearson Jr. confirmed.

Chair Danforth stated with a \$40,000 income requirement, how long will it take for the business to get there? Mr. Pearson Sr. replied in 2022 they earned 50% more than in the past and he thinks it would take three to five years to meet the income requirement. Commissioner Williams commented that it takes five to maybe ten years to build a business and pointed out that with the rising cost of gas and other everyday items, it may take even longer to reach that goal. She added it may take 15 years to reach the requirement, and it takes a long time to build a business when you do not have money coming into it.

Commissioner Gentry stated that he knows a few things about horses, and that if someone sold two to three high value horses, it could put them over the income requirement. He also commented that there seems to be two standards that don't fit. This property is less than 30 acres in the Cold Springs area, and nothing against the applicant's property, but the farm revenue rate in Cold Springs is not that high whether you farm or run livestock on it. Commissioner Gentry added, the applicant is trying to figure out a way to make it "jive" when the two standards just don't go together. He stated that this is not a 160-acre farm property that would truly be a commercial farm. He is struggling to make the two standards fit. Commissioner Hinsley asked for the value of a trained horse? Mr. Pearson Jr. replied that a trained horse, depending upon the trainings and title, can sell for \$8,000. He further explained, some shooting horses on average sell \$20,000 to \$30,000, but for an average the applicant's horse would sell for \$10,000 to \$15,000.

Commissioner Wysocki said that he read in the hearing packet that the applicant is providing weed control, and asked what the applicant is doing to control them? Mr. Pearson Sr. responded that he has yellow star weeds and he is pulling a lot of them. He said he does spray occasionally but the ground is so light he can just pull them. Chair Danforth asked the applicant if there is a domestic well on the property? Mr. Pearson Sr. nodded yes. Chair Danforth asked what is the amount of acreage of water that a domestic well could supply? Mrs. Davchevski replied one domestic well could supply up to one-half an acre. Chair Danforth said she was wondering how the applicant is going to grow anything on the property for the horses? Mr. Pearson Sr. responded that on his property the soil is so light, it would be hard to grow crops. Mr. Pearson added that they buy hay to feed the horses.

Chair Danforth asked the Commissioners if they had any other questions. None were asked. She asked Mrs. Pearson who was present, via Zoom, if she had anything to add? No response was made. Chair Danforth asked Suzie Reitz who was also present via Zoom if she had anything to add? She responded that she supports the proposal. Chair Danforth asked if there were any comments from public agencies. None were received. She called for opponents. She called for rebuttal. None were made. Chair Danforth closed the hearing and added Exhibit A to the record.

DELIBERATION & DECISION

Commissioner Tucker asked if the \$40,000 income requirement must be met in any circumstances or are there circumstances in which the income requirement does not have to be met? And is it still possible to approve? He commented that he had the understanding that there could be possible approval if other conditions were met. Mrs. Davchevski responded the criterion that needs to be met is whether a commercial farm operation is occurring on the property. She stated that a commercial farm operation is not defined in the development code and because of that issue, there has been a lot of LUBA cases surrounding it. She added that LUBA has designated safe harbors to determine if the farm operation is a commercial farm operation. She further explained if the Planning Commission plans to apply a different safe harbor to define it as a commercial farm operation there would need to be findings on what the standard is for determining a commercial farm operation and how it applies to the applicant's request. Commissioner Tucker replied that safe harbors do not necessarily end the discussion and it is possible to find another reason to approve it even though this safe harbor was not met. Staff responded yes.

Commissioner Tucker said staff spoke of a relative farm dwelling for help and asked if this was not possible in this case? Mrs. Davchevski replied a farm relative dwelling and a farm relative help dwelling are the same thing just different terminology. Commissioner Tucker responded that a farm help dwelling is one where there is a four-year authorization with an increase of possible two years. Mrs. Davchevski asked where Commissioner Tucker was reading that? Commissioner Tucker pointed to page 10, paragraph seven, in the Planning Commission hearing packet, it states dwellings that are approved under this section are valid for four years. Mrs. Davchevski clarified that this section pertains to the application being approved and if it was approved, the approval is valid for four years. She further explained that the applicant has four years to meet all conditions of approval, the approval is finalized with an over-the-counter Zoning Permit. Commissioner Tucker asked if all the things we talked about like the \$40,000 income requirement safe harbor still applies in four years? Mrs. Davchevski said if the applicant doesn't get a Zoning Permit within four years they would need to reapply.

Chair Danforth commented that the Planning Commission has seen many hardship dwelling cases where the dwelling has been removed after the person has passed. She said she feels this was known to the family because it was brought to them as a family hardship. She sympathizes with Mr. Pearson Sr., he purchased the property and he was told the second dwelling would stay there. Chair Danforth added that looking at the records, the deed, and trying to do their due diligence with nothing recorded is a problem we have as the County. Chair Danforth made comments that there should be more provisions in our County Development Code. Mrs. Davchevski replied that this is issue something the Planning Department strives manage better today. She noted that when staff are approving hardship homes now, the applicant is required to record a document that will appear in a title search. Chair Danforth responded she was aware and agrees with Commissioner Gentry that the property isn't over 180-acres that is producing a crop and agrees that horses are a business. She expressed that this is difficult a decision for her because she believes it is in the grey area.

Chair Danforth emphasized, if approved, two dwellings will be on the property in perpetuity. Commissioner Wysocki asked if the current dwelling could be replaced if this was approved today? Mrs. Davchevski replied that if it satisfied the replacement criteria, then yes, they could replace it with a new home with the appropriate permit. She commented that there is no requirement for the current dwelling to be removed if ownership changes. Chair Danforth added that the Oregon Governor wants to have more housing everywhere and possibly RV's. Chair Danforth wondered if this is approved, are there going to be RV's

added to the property? This property is not over 100 acres and is smaller, so she is unsure if it can satisfy the criteria as a new business venture. Commissioner Standley asked if he could make a comment. Chair Danforth denied his request.

Commissioner Green said that she has horses and understands the work that goes into them. And it is ideal to have someone onsite. She again mentioned the small acreage of the property and would not be opposed to possibly seeing if it could receive short term approval to see if they can become a commercial farm. Commissioner Hinsley made a comment that her father-in-law boards more horses than the applicant on a much smaller piece of property. Commissioner Hinsley asked who are we to say that we can't make it work for the applicant considering the length of time the home has already been there?

Commissioner Williams stated that she understands the worry of meeting the criteria, but if the applicant wants to run a horse business then they should be able to. If they don't operate the horse business and sell the property, it is just going to sit there as bare 20 acres. She stated that she would like to give him a chance and give them four years to see if they can succeed. She commented that the 20-acre property is good enough for horses; they can feed them hay, train them, and she thinks it would be a good opportunity for the farm operator. She added that she would hate to see the nice dwelling torn down when there is chance for a business in our community. Commissioner Williams stated that she has never heard of mounted shooting horses and believes Mr. Pearson Jr. has a skill that is valuable and could teach others, which is very cool. She believes he could meet the income requirement if given a chance.

Mrs. Davchevski asked to clarify something; the four years is not a deadline for the applicant to become a commercial farm operation, it is a deadline for them to get the Zoning Permit. She added that for the farm relative dwelling approval would be valid for four years. And after four years if a Zoning Permit was not submitted the applicant would need to reapply to establish the farm relative dwelling. Chair Danforth asked what is required of the applicant? Mrs. Davchevski replied that, if approved, the Conditions of Approval require the applicant to supply a Covenant Not to Sue Document to Umatilla County Records and obtain a Zoning Permit. Chair Danforth asked what is the requirement to get a Zoning Permit? Mrs. Davchevski explained that a Zoning Permit is an over-the-counter two-page permit that requires property owner signatures and a site plan. The permit has a \$100.00 fee.

Commissioner Wysocki asked if the applicant would have to go through this process again? Staff responded that the decision made tonight is final unless appealed. Chair Danforth clarified the applicant has four years to get a Zoning Permit. Staff confirmed and clarified that the Zoning Permit finalizes the action. Mrs. Davchevski explained that at a later date if approved, the dwelling could be replaced if the property owner chose to, with permit approval from the Planning Department. Chair Danforth noted that this could be for either home, and that two dwellings on the property really could increase the value. Chair Danforth asked the Commissioners if they have a motion?

Commissioner Hinsley stated she would like to make a motion to approve, she just needs some help wording it correctly. Mrs. Davchevski clarified that if the Planning Commission were to approve this request then they would need to decide what constitutes a commercial farm operation and how the applicant meets that requirement. Commissioner Hinsley responded that she is going to have some trouble with that. Chair Danforth stated that herein lies the problem, this is a budding commercial farm operation. Commissioner Gentry stated that the property is limited for commercial grazing and crops, the applicant is maximizing the use of the property with what they have available. Chair Danforth stated that if the Planning Commission

chooses to approve this request and designate it as a commercial farming operation then 'commercial farm operation' needs to be defined.

Commissioner Williams stated that her understanding when reading the packet, is that the high-income requirement is a result of marijuana and wineries being high value crops. She asked, why can't the Planning Commission make an exception for horses? Mrs. Davchevski explained that marijuana can't be used to qualify for a dwelling as established in the Umatilla County Development Code. Commissioner Williams clarified that she was referring to the \$40,000 income requirement. Mrs. Davchevski responded that the \$40,000 income requirement comes from state statutes for establishing a primary farm dwelling and she pointed out that this property already has a dwelling. Chair Danforth added that the income requirement came from a LUBA decision. Mrs. Davchevski confirmed Chair Danforth's statement. Commissioner Williams asked, why can't the Planning Commission make an exception for horses? Mrs. Davchevski responded that state statute does not allow counties to be less restrictive. Commissioner Williams asked if they can change that? She insisted that staff needs to help the Planning Commission approve this request. She asked why is the Planning Commission even here if they can't change things like that? Mrs. Davchevski replied that the Planning Commission can't change what the requirements are in our code for a primary farm relative dwelling tonight, but what they can do is define what a commercial farm operation is. She further explained that the Planning Commission decides if an operation is a commercial farm operation or a hobby farm. Commissioner Williams asked if the Planning Commissioners can make the decision when the commercial farm earns \$2,000 or \$3,000 a year? Mrs. Davchevski clarified that the Planning Commission's cannot change the income requirements for a dwelling, but they can define what constitutes a commercial farm operation.

Commissioner Green stated she believes this is a commercial farm operation because they are selling a farm product for a profit. She referred to the livestock and crops as a product being sold on the market for a profit, as a business. She asked the Planning Commission if that makes sense to them? Commissioner Williams asked staff if a definition like what Commissioner Green presented would be enough? Mrs. Davchevski responded that it is the Planning Commission decision. Commissioner Williams commented that she likes what Commissioner Green defined as a commercial farm operation and asked her to repeat it. Commissioner Green restated that a commercial farm operation is defined as farming operation producing a product which is being sold on the market for a profit. She added that in this case the farm operator is selling horses. Chair Danforth stated that the farm operator is not just selling horses, he is training them. Commissioner Green stated that she knows the farm operator provides a service, but he is also providing a product because he sells the horses once they're trained. Commissioner Williams asked staff if that definition would work? Mrs. Davchevski replied that it is not staff's decision, it is the Planning Commission's decision.

Commissioner Hinsley made a motion to approve the request, stating that she believes the farm operator is selling horses for profit and that constitutes a commercial farming operation. Others agreed that the farm operator is providing farm related services, as well. Chair Danforth explained that language like that would limit all commercial farming operations to only services for horses, therefore we shouldn't specify what kinds of specific products and services unless we want to limit the definition to only include those listed. Commissioner Williams asked to add livestock to the definition. Commissioner Green stated a commercial farming operation is a type of farm in which crops and livestock are sold on the market for profit. Commissioner Gentry stated that she needs to add services as well.

Commissioner Hinsley asked if they are not establishing the reason to approve this, but they are establishing a whole new code? Mrs. Davchevski clarified that they are establishing a basis to define this operation as a commercial farm operation for establishing a farm relative dwelling. Commissioner Tucker stated that he has a question, he was not aware that any decision that they make would define the terms applicable to this hearing would have to be applied to any future requests? Mrs. Davchevski responded that tonight's decision will not affect the development code, but it could be referenced in future decisions related to a farm relative dwellings. Commissioner Tucker stated this decision made by this body is applicable and it could be referenced in the future. Commissioner Hinsley replied any time we are going outside the Development Code they would be here talking about it again. Commissioner Tucker stated the Planning Commission doesn't want to say we are going outside the County Development Code; The Planning Commission wants to say that this decision is consistent with Umatilla County Development Code. Commissioner Hinsley commented they would still have to come and present it. Mrs. Davchevski clarified that the Planning Commission is interpreting what a commercial farming operation is and how it applies to this request. Commissioner Williams said the Planning Commission is not changing the Umatilla County Development Code, but they are making a decision that could possibly be referenced back in the future. Adding that they are the ones who choose if it is common sense or not, and they all have the right to vote on tonight's hearing.

Commissioner Hinsley made a motion to approve this request, stating this is a type of farming in which crops and livestock are sold, and services are provided for a profit. Mrs. Davchevski responded the motion statement is in the Planning Commission's findings and directed Commissioner Hinsley to the sample on page thirty of the hearing packet. Chair Danforth asked if the farm operator would still have to spend most of their time working on the farm? Mrs. Davchevski clarified that the findings would still change from what is in the packet. On page twelve, this statement would change to say the Planning Commission finds the farm operator sells a product and provides a service for a profit, the farming operation is a commercial farm operation. Commissioner Tucker stated based upon the evidence that was heard in this case, the farm operator spends half their time working on the farm. He explained based on Mr. Pearson Jr.'s testimony, removing vacation and sick leave, the farm operator is at 35 hours a week at another job. The Planning Commission could say based on this, the farm operator devotes half their time to the farm operation and this would support the motion on the table. Mrs. Davchevski clarified the sections that refer to the income requirement would be removed because that was the safe harbor that staff referenced. Commissioner Tucker stated that the Planning Commission is not using a safe harbor and that he would somewhat support the decision based on the number of working hours the farm operator devotes to farm operation.

Commissioner Hinsley made a motion to approve this Land Use Decision with the following findings: because it is a commercial farm operation, because the livestock are sold for a profit, because the farm operator provides services, and the farm operator devotes half their working time to the farm operation. Commissioner Gentry seconded the motion. Motion passed with a vote of 5:2.

MINUTES APPROVAL

Chair Danforth called for any corrections or additions to the minutes from the January 26, 2023 meeting. There were none. Commissioner Tucker moved to approve the minutes as presented. Commissioner Standley seconded the motion. Motion carried by consensus.

OTHER BUSINESS

Mrs. Davchevski stated the Planning Department had been renamed Community Development Department and there has been some reorganization. Robert Waldher is now the Community Development Director and is focusing more on economic development. Megan Davchevski is now the Planning Manager and oversees the planning side of the department. Tierney Cimmiyotti has been promoted to a Planner. Mrs. Davchevski introduced our new Administrative Assistant, Bailey Dazo. She also added that there is a vacancy for one Planning Commissioner. The next Planning Commission meeting on May 18th, 2023 is going to be a week early and will be taking place at the County Courthouse in the Commissioner's meeting room, 130.

ADJOURNMENT

Chair Danforth adjourned the meeting at 8:14 pm.

Respectfully submitted,

Bailey Dazo, Administrative Assistant

MEETING MINUTES

LAND DIVISION REQUEST #LD-2N-209-23: DONALD & FRANCES BARNETT, APPLICANTS/ DONALD & FRANCES BARNETT, TIM & LESLIE CAIN & DONNA SISK, OWNERS. Applicants, Donald and Frances Barnett, seek approval to replat Lots 1 through 8, Block 4 of Geanakopulos Addition into three lots. The subject properties are located southwest of Pendleton, in the unincorporated community of Reith. The applicant's proposed replat reconfigures the lots to eliminate several shared lot lines and adjust the shared lot lines between Lots 4 and 5 and Lots 5 and 6. The land use standards applicable to the applicant's request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions.



LAND DIVISION REQUEST #LD-5N-899-23: WILLIAM G & SARAH E ANDERSON, APPLICANTS/ OWNERS. Applicants, Will & Sarah Anderson, seek approval to replat the east half of Lot 2, and all of Lot 3, Block 5 of Hat Rock Tracts. The subject property is located in Hat Rock Tracts subdivision, east of Umatilla, just south of the Columbia River. The land use standards applicable to the applicant's request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions.

UMATILLA COUNTY PLANNING
COMMISSION HEARING

May 18, 2023

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, May 18, 2023 6:30pm

** ****

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Don Wysocki, Vice Chair, Sam Tucker, Kim Gillet, John Standley, Emery Gentry, & Tammie Williams

COMMISSIONERS Tami Green

ABSENT:

PLANNING STAFF: Megan Davchevski, Planning Division Manager, Tierney Cimmiyotti, Planner II/GIS & Bailey Dazo, Administrative Assistant

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NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. RECORDING IS AVAILABLE AT THE PLANNING OFFICE

CALL TO ORDER

Chair Danforth called the meeting to order at 6:31 pm and read the Opening Statement.

NEW HEARING

LAND DIVISION REQUEST #LD-2N-209-23: DONALD & FRANCES BARNETT, APPLICANTS/DONALD & FRANCES BARNETT, TIM & LESLIE CAIN & DONNA SISK, OWNERS. The applicants seek approval to Replat Lots 1 through 8, Block 4 of Geanakopulos Addition into three lots. The subject properties are located southwest of Pendleton, in the unincorporated community of Reith. The applicants’ proposed replat reconfigures the lots to eliminate several shared lot lines and adjust the shared lot lines between Lots 4 and 5 and Lots 5 and 6. The land use standards applicable to the applicant’s request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions.

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. Commissioner Gentry stated the applicants are long time family friends, and Donald Barnett has worked with his father on different logging projects in the past. Commissioner Gentry clarified he had no knowledge of the applicants’ request prior to receiving the Planning Commission Hearing Packet in the mail. Chair Danforth determined that there were no conflicts of interest pertaining to this matter. Commissioner Gentry agreed with Chair Danforth’s decision. Chair Danforth called for the Staff Report.

STAFF REPORT

Megan Davchevski, Planning Manager, presented the Staff Report. Mrs. Davchevski stated the applicant’s request to replat Lots 1 through 8, Block 4, of Geanakopulos Addition, to vacate the shared lot lines between several lots and relocate the lines between Lots 4 and Lot 5 and Lots 5 and 6. The subject properties are located in Geanakopulos Addition Subdivision, southwest of Pendleton and in the unincorporated community of Reith. Mrs. Davchevski said the properties are located north of Main Street and between Hill and Delphi Streets. She explained there is an existing shop building on proposed Lot 2, that currently crosses the shared lot line between Lots 5 and 6. Mrs. Davchevski explained the proposed replat will correct this and result in approximately 3.24 feet between the structure on Lot 2 and the shared lot line with Lot 1. The replat will result in a total of three lots.

Mrs. Davchevski stated a notice of the applicants' request, and the public hearing was mailed on April 28, 2023, to the owners of properties located within 250-feet of the perimeter of Lots 1 through 8 and to applicable public agencies. She said the notice was published in the East Oregonian on May 6, 2023, notifying the public of the applicants' request before the Planning Commission on May 18, 2023. The criteria of approval are found in the Umatilla County Development Code Section 152.697(C), Type III Land Divisions. The standards for reviewing a replat generally consist of complying with development standards and survey plat requirements.

Mrs. Davchevski finalized the Staff Report by stating the Planning Commission is tasked with determining if the application satisfies all the criteria of approval based on the facts in the record. The proposed Conditions of Approval address the survey and recording requirements with final approval accomplished through the recording of the final survey plat. Mrs. Davchevski concluded the Staff Report by stating the Planning Commission decision is final unless timely appealed to the County Board of Commissioners. Chair Danforth asked if there were any questions for staff. No further questions were asked.

APPLICANT TESTIMONY: Applicant, Frances Barnett, 41410 Birch Creek Rd, Pendleton, OR 97801. Commissioner Tucker walked in and apologized for joining the Planning Commission hearing a few minutes late. Mrs. Barnett began her testimony by stating there has been some turmoil with current and previous neighbors regarding lot lines on her property and tax lot #2500. She explained there has been an encroachment associated with the property for over 60 years. Mrs. Barnett believes this land division is the best solution for making a bad situation comfortable and livable for everyone involved. Commissioner Standley asked the applicant if she can further explain the background history of the property? Mrs. Barnett informed that there has been an encroachment regarding the east side of the property and believes this first occurred in the 1950s when the dwelling was first built. Mrs. Barnett explained the property owners at that time were aware of the encroachment. She believes was in place prior to the previous owners purchasing the property in 1968. Mrs. Barnett further explained the previous property owners of tax lot #2500, who bought their property in 1969, were aware of the encroachment as well. She expressed at that time, a neighbor who needed a little more land on their side, agreed with a friendly handshake. Mrs. Barnett said these agreements do not happen with handshakes anymore.

Mrs. Barnett stated she believes that when she purchased the property her realtor had knowledge of the encroachment. She stated two months after her and Mr. Barnett closed on purchasing the property, issues arose with the current neighbor, who resides on tax lot #2500. Commissioner Wysocki asked Mrs. Barnett if there was any disclosure of the encroachment to her or Mr. Barnett prior to purchasing the property? Chair Danforth objected the question. Mrs. Barnett expressed that the Planning Commissioners have a right to know if she or Mr. Barnett knew about the encroachment prior to purchasing the property. She explained that they were not given a disclosure document and two other documents when purchasing the property. Mrs. Barnett alleged that the realtor signed her name on the documents. She expressed that the lot lines had been problematic since buying the property and she wants to resolve the encroachment issue.

Commissioner Standley asked if the survey documents Mrs. Barnett provided show accurate acreage and lot lines pertaining to the adjoining property? Mrs. Barnett said that the survey documents were completed by Survey One, Inc and are indeed accurate and legitimate. She explained that on her side of the property, east of the house, there is a fence line that does not meet a 20-foot set back from two structures due to the lot line they are requesting to be moved. Mrs. Barnett further explained, that she contacted a surveyor to see if it was possible to reconfigure the lot line to meet the 20-foot setback, which would require moving the adjoining neighbor's property line farther to the east.

Chair Danforth interrupted and asked Commissioner Tucker if he has any ex parte contact regarding this matter? Commissioner Tucker stated he did not have any ex parte contact pertaining to this request. Chair Danforth acknowledged Commissioner Tucker's response. Commissioner Tucker asked if Mr. Barnett was the owner of Pine Creek Logging, Inc? Mrs. Barnett replied yes. Commissioner Tucker stated he knows of Mr. Barnett but has had no contact from the applicant nor has been told information regarding this request. Commissioner Tucker asked Mrs. Barnett if there was a dispute with the neighbor that did not get resolved? And would a Planning Commission hearing resolve the dispute? Mrs. Barnett responded yes, that was correct. Chair Danforth asked if there were any further questions for the applicant? None were asked. Mrs. Barnett said she had some questions about the Precedent and Subsequent Conditions of Approval, on page 7 of the hearing packet. Chair Danforth clarified that the hearing was not completed yet, and there has not been as decision. Chair Danforth called for proponents, opponents, or testimony from public agencies. There were none. Chair Danforth called for rebuttal. There was none. Chair Danforth closed the hearing for deliberation.

DELIBERATION

Commissioner Williams stated she was comfortable with approving this request. Chair Danforth agreed with Commissioner Williams and believes a land division would be a good solution for the applicants. Commissioner Standley made a motion to approve Type III Land Division, Replat Request, #LD-2N-209-23. Commissioner Gentry seconded the motion. Motion passed with a vote of 7:0.

NEW HEARING

LAND DIVISION REQUEST #LD-5N-899-23: WILLIAM & SARAH E. ANDERSON, APPLICANTS/OWNERS. The applicants, Will & Sarah E. Anderson, seek approval to replat the east half of Lot 2, and all of Lot 3, Block 5 of Hat Rock Tracts. The subject property is located in Hat Rock Tracts Subdivision, east of Umatilla, just south of the Columbia River. The land use standards applicable to the applicants' request are found in Umatilla County Development Code Section 152.697(C), Type III Land Divisions. Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. There were none. Chair Danforth called for the Staff Report.

STAFF REPORT

Tierney Cimmiyotti, Planner, presented the Staff Report. Ms. Cimmiyotti stated the subject property is located in Hat Rock Tracts Subdivision, east of Umatilla, just south of the Columbia River. Ms. Cimmiyotti said the request is to Replat the east half of Lot 2 and all of Lot 3, Block 5, of Hat Rock Tracts Subdivision, to remove the shared lot line for a homesite. The east half of Lot 2 and all of Lot 3 are currently undeveloped. She added the subject property has road frontage along both Hill Top Drive and River View Drive, both are platted public roads. Ms. Cimmiyotti further explained, the existing acreage on the east half of Lot 2 is 0.14 acres and Lot 3 is 0.29 acres. Proposed Lot 1 would be 0.43 acres. Notice of the applicants' request and the public hearing was mailed on April 28, 2023, to the owners of properties located within 250-feet of the perimeter of tax lot #1400. She stated the notice was also published in the Eastern Oregonian on May 6, 2023. Ms. Cimmiyotti shared that the applicants' provided reasoning for the replat request is to establish a homesite. Ms. Cimmiyotti said the criteria for approval are contained in Section 152.697(C), Type III Land Divisions, are provided in underlined text.

Ms. Cimmiyotti finalized the Staff Report by stating the Findings and Conclusions of the Planning Commission shall include two copies of the tentative plan upon which the decision is noted and any

conditions described. Approval by the Planning Commission shall be final upon signing of the Findings and Facts unless appealed. Ms. Cimmiyotti concluded the Staff Report by stating approval of the tentative plan shall not constitute acceptance of the Final Replat for recording. However, such approval shall be binding upon the County for purposes of preparation of the replat, and the county may require only such changes in the replat as are necessary for compliance with the terms of its approval of the tentative plan.

Chair Danforth stated she had a question the second half of the hearing packet, on Page 3. She asked if the map, on the west half of tax Lot 2, is the original plat map? Ms. Cimmiyotti clarified there were originally 5 lots on Block 5, Lot 2, on the east side, is a portion of tax lot #1400. She explained the west side of Lot 2 is on the neighboring tax lot to the west. Ms. Cimmiyotti clarified that is not the request today, the parcel where the applicant wants to place the home needs to meet setbacks from that lot line. Ms. Cimmiyotti further explained that is why the lot line is being requested to be removed. No further questions were asked.

APPLICANT TESTIMONY: Applicant, William Anderson, 33987 Hill Top Dr., Hermiston, OR 97838. Mr. Anderson stated he did not have any further comments and his request is self-explanatory. He explained they are not adding or moving any lot lines, they are removing one, so they can place a home on their property. Mr. Anderson further explained they are requesting to remove a 73-year-old lot line. Mr. Anderson said in his research, he found that Hat Rock Tracts Subdivision has six other dwellings along lot line. He expressed he wished there were easier options in place to remove old lot lines, like in this case. Chair Danforth asked if there were any further questions for the applicant? Commissioner Standley asked, by moving the lot line over to tax lot #1401, is this request encroaching any set back requirements from any structures on the property? Ms. Cimmiyotti clarified the applicants are not moving lot lines, they are removing a lot line, so the applicant can place a dwelling to meet setback requirements. Commissioner Standley retracted his question. Chair Danforth called for proponents, opponents, or testimony from public agencies. There were none. Chair Danforth called for rebuttal. There was none. Chair Danforth closed the hearing for deliberation.

DELIBERATION

Commissioner Gentry made a motion to approve Type III Land Division, Replat Request, #LD-5N-899-23. Commissioner Standley seconded the motion. Motion passed with a vote of 7:0.

OTHER BUSINESS

Mrs. Davchevski introduced the new Planning Commissioner, Kim Gillet. Commissioner Gillet has a business owner background and comes from the Hermiston area. Mrs. Davchevski stated staff received a resignation email from Commissioner Hinsley effective May 18, 2023, who will no longer be serving on the Planning Commission. She stated because of this resignation, there is one Planning Commissioner vacancy to fill.

Mrs. Davchevski explained in the last Planning Commission hearing on April 27, 2023, she mentioned there could possibly be a controversial matter in a future hearing. She stated staff did not received a hearing request for that matter and the applicant withdrew their application.

Mrs. Davchevski shared that the Board of County Commissioners and the Department's liaison Commissioner, Commissioner Dorrان, is supporting the Community Development Department with hosting a Planning Commission training. She further explained the training will be regarding land use in Oregon, provided by John Morgan from Chinook Institute. Mrs. Davchevski said the training will be June 20th & June 21st, 2023, 6 PM–9 PM. This will take place instead of the June Planning Commission hearing. The location of the training has yet to be determined.

Chair Danforth stated House Bill (HB) 3181 caught her attention today, the bill directs State Department of Energy and Department of Land Conservation and Development to convene a work group to examine barriers, opportunities and other issues related to renewable energy and transmission project siting in Oregon. Chair Danforth said what she recently learned is the bill will streamline and expedite siting of large energy projects and will restrict county siting requirements of large sites. Mrs. Davchevski shared that Bob Waldher, Community Development Director, has tracked HB 3181, and she will need to get an update from him. She stated what she read on HB 3181, it does pertain to counties in Eastern Oregon. Chair Danforth believes the bill will allow energy development without having to go through a County's standard process, expediting the process.

Chair Danforth referred to a project in Echo, Oregon, that has been contested by the Umatilla County. Chair Danforth asked staff if they had any updates? Mrs. Davchevski stated the Umatilla County Commissioners are working with County Council on the next steps on that matter, but a decision has not been made. Chair Danforth expressed that she hopes Umatilla County takes this matter to Oregon Supreme Court. Chair Danforth expressed, it is our right as a County to make the Development Code stricter, not less restrictive than State Statute and Administrative Rule. Mrs. Davchevski advised that is the reason the County appealed that decision, she stated she will share Chair Danforth's comment with Mr. Waldher and Commissioner Dorran.

ADJOURNMENT

Chair Danforth adjourned the meeting at 07:06 pm.

Respectfully submitted,

Bailey Dazo, Administrative Assistant