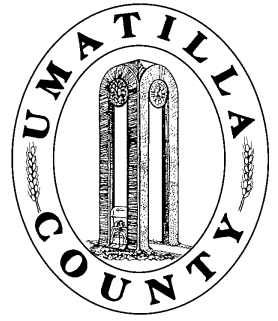


Umatilla County

Board of County Commissioners



BOARD OF COMMISSIONERS MEETING

Wednesday, September 8, 2021, 9AM
Umatilla County Courthouse, Room 130

- A. Call to Order
- B. Chair's Introductory Comments & Opening Statement
- C. New Business

APPEAL OF PLANNING COMMISSION DECISION

TYPE II LAND DIVISION REQUEST #LD-4N-1054-21 RICHARD & SANDRA HUNSAKER, APPLICANTS/ OWNERS

On June 16, 2021, the Hunsaker Zone Map Amendment request #Z-316-21 was approved by the Umatilla County Board of Commissioners (BCC) effectively changing the zoning designation of Tax Lots 1100 & 1200 on Map 4N2804 from General Rural Zone (F-2 in Umatilla County's 1972 Zoning Ordinance), to the County's Future Urban Zone (FU-10).

Approval of the Hunsaker zone change request allowed the applicant to subsequently act on the Planning Commission's approval to partition the property resulting in 3 parcels, each at least 10 acres in size. The Land Use Standards applicable to the applicants' request are found in Umatilla County Development Code 152.680, Type II Land Divisions.

The applicant was dissatisfied with the Conditions of Approval placed on the Land Division and is now appealing the Planning Commission's decision to the BCC. The appeal was received by County Planning on July 6, 2021.

- D. Adjournment

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT WALDHER

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

TO: Umatilla County Board of Commissioners
FROM: Megan Green, Planner
DATE: September 1, 2021

CODE
ENFORCEMENT

RE: September 8, 2021 Board of Commissioners Meeting
Appeal – Hunsaker Type II Land Division LD-4N-1054-21

SOLID WASTE
COMMITTEE

CC: Robert Waldher, Planning Director

SMOKE
MANAGEMENT

GIS AND
MAPPING

Background and Request

On June 16, 2021, the Hunsaker Zone Change request was approved by the County Board of Commissioners. Approval of the Hunsaker Zone Change allowed the applicant to subsequently act on the Planning Commission's approval of the applicant's land division.

RURAL
ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

The applicant was dissatisfied with the conditions of approval placed on the Land Division and is now appealing the Planning Commission's decision to the Board of Commissioners. The appeal was received by County Planning on July 6, 2021.

Despite the appeal in process, the applicant submitted the final partition plat (mylars) to County Planning on August 9, 2021 to be signed by the County Planning Director. Partition Plat mylars cannot be signed by County Planning until all of the precedent conditions of approval have been satisfied. To date, the only conditions that have been satisfied by the applicant are Precedent Conditions #1 and #2.

Standards of Approval

Adopted standards (summarized and underlined below) are applied to each land division application. All County Land Division standards must be satisfied in order to be approved by the local government. (See Exhibits 1 and 2.)

Umatilla County Development Code (UCDC) § 152.684 Type II Land Division Standard.

F. (2) Includes in part, partitions occurring along dead-end access easements must provide a circle drive or turn-around space for emergency vehicles, the type of emergency vehicle access is determined by the Planning director or Public Works Director, improved to the same standard as the road served, as provided in § 152.648 (D).¹

¹ "Option 2 ["P-2" road standard] is to be used for easements serving 4 or more parcels. This standard includes a

Memo

Board of County Commissioners Public Hearing – September 8, 2021

Zoning Map Amendment Z-316-2144

F. (3) Includes, in part, access easements serving four or more parcels, shall be required to meet the Option 2 or “P-2” County Road Standard. All 60-ft access easements are to be named prior to final partition plat approval and the road name included on the final partition plat.

Approval Conditions and Appeal Reasons

The Planning Commission decision includes 12 Precedent Conditions and 1 Subsequent Condition. The applicant is appealing *Precedent Conditions, 3 through 8 (See Exhibit 5.)* as follows:

Precedent Condition 3. Dedicate a 50-foot radius turnaround area to supplement the existing 60-foot access easement. The dedication and easement must be shown on the Final Partition Plat.

Applicant’s appeal reason – *“Failed to consider the acceptable alternative available through state fire code. See Exhibit A.” (See Exhibit 7.)*

Precedent Condition 4. Improve the 50-foot radius turnaround area to the County P-2 road standard. [Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.]

Applicant’s appeal reason – *“Failed to inspect existing conditions and alternatives available.”*

Precedent Condition 5. Submit written confirmation from Umatilla County Fire District #1 that the improved 50-foot radius turnaround is adequate to County Planning.

Applicant’s appeal reason – *“as above.”*

Precedent Condition 6. Submit evidence to County Planning that the access easement has been improved to the County P-2 road standard, or evidence that the applicant has improved the easement to the County P-2 road standard. Verification the improvements are in place and meet the P-2 standard must be provided. [Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.]

Applicant’s appeal reason – *“Failed to consider the City of Hermiston recommendation that the easement remain private stating ‘maintaining the access as an easement will avoid dedication of which later must be transferred to the City changing a county road to a city street.’”*

Precedent Condition 7. Submit a road naming application with applicable fees, including road sign installation fees, to the County Planning Department.

Precedent Condition 8. Receive road naming approval from the County Rural Addressing Coordinator.

Applicant’s appeal reason – *“Precedent condition 6, 7 and 8” “Failed to consider the long term implication of naming and signing the road and having to rename the same road in*

22-foot surface width with a 60-foot easement width.”

Memo

Board of County Commissioners Public Hearing – September 8, 2021

Zoning Map Amendment Z-316-2144

the future. If the road were to be named by the City today it would be NW 17th Street.”

Response

The Cul-de-sac requirement from the Umatilla County Transportation System Plan (TSP) is provided in the “C” Cul-de-sac diagram, **Exhibit 6**. Fulfilment of Precedent Condition #3 would satisfy the requirement standard for emergency turnaround associated with a dead-end road for the 60-foot access easement. As with all access easements, the turn-around area is to be kept clear of obstructions.

Coordination with local emergency service providers on emergency turn-around is usually done with the local fire and ambulance provider serving the area. The input from the local service provider has been an important part in meeting emergency service providers’ safety concerns for access by their personnel and emergency equipment. The applicant’s property is located within the service area of Umatilla County Fire District #1. The applicant is appealing confirmation by the fire district of the emergency turn-around area and offers instead an alternative from the Oregon Fire Code. (**See Exhibit 7.**)

Applicant’s Exhibit A includes a diagram from Appendix D, page 544, of the 2019 Oregon Fire Code. The determined emergency vehicle turn-around by the Planning Director is a 50-foot radius turn-around. The Hammerhead diagram shown in Applicant’s Exhibit A does not meet the requirement.

The area the applicant wishes to use as a turn-around area appears to be at the entrance to an existing driveway. This area could offer the required space to meet Precedent Condition #3 for the dedicated turn-around area. The applicant must confirm the area meets all turn-around requirements and show this area dedicated on the final partition plat. (**See Exhibit 8.**)

Improvements within that portion of the access road easement serving the applicant’s property must meet the Option 2 or “P-2” road standard. If the current road already meets the standard then confirmation is all that is needed, if the current access road needs added improvements then once the improvements have been made confirmation of the added improvements (meeting the “P-2” road standard) need to be provided to show satisfaction of the standard.

The applicant’s appeal reasons are: “Failed to consider the City of Hermiston recommendation that the easement remain private stating ‘maintaining the access as an easement will avoid dedication of which later must be transferred to the City changing a county road to a city street.’” and “By maintaining the easement in its current status the City can require right of way dedication as a city street when the property develops at urban density within the City limits at a later date”. The applicant included letters from 2 of the property owners currently served by the easement as part of the appeal statement.

The applicant may misunderstand the continued status of the private access road easement serving the applicant’s property. The current private road access easement will remain private. The private road will not be dedicated as a county road, and instead dedicated as a private road benefiting the existing and new parcel(s). Because the property is located within the City of Hermiston Urban Growth Boundary (UGB) the private road may one day become a City street, however, this is not anticipated at this time. The County has coordinated with the City of Hermiston regarding improvements of the access easement road. The City requested the County’s road standards for the 60-foot access road easement be used in place of the City standards requiring a 24-foot wide “paved” roadway surface. The naming and signage of the access road is a requirement of both the land division standards and the County Addressing Ordinance. Naming the road located within the City UGB is in coordination with the City of Hermiston.

Memo

Board of County Commissioners Public Hearing – September 8, 2021

Zoning Map Amendment Z-316-2144

It is agreed that the easement name should be NW 17th Street in accord with the City's road network. **(See Exhibits 10 and 11.)** The original road sign will be a County private road type sign.

The applicant has the burden of proving compliance with all applicable adopted approval criteria. Applicants who disagree with the adopted criteria/standards have the right and option to apply for an amendment of the County's adopted standards.

Conclusion

An addendum to the Findings is provided in **Exhibit 2**. The addendum includes more detail on the adopted Findings and provides additional insight. The Board of Commissioners may agree with the Planning Commission's approval and conditions applied to the applicant's land division for compliance with the County's land division standards. Or, the Board may accept the appeal in whole or part, and write and adopt new Findings together with the essential connection between the standard and the new condition meant to satisfy the standard. Staff as always is available for questions and to provide additional information.

Exhibits

Exhibits are numbered as follow:

1. Approval letter and Final Findings.
2. Addendum to the Final Findings.
3. Planning Commission Packet, dated May 27, 2021.
 - a. County/Hermiston 1983 JMA.
 - b. Co. Ord. 83-07.
 - c. Co. Ord. 84-02.
 - d. City of Hermiston Correspondence.
 - e. Hermiston Irrigation District Comments.
4. Department of State Lands Comments.
5. Applicant's Appeal.
6. TSP "C" Cul-de-sac Diagram.
7. Applicant's Exhibit A.
8. Applicant's Photos.
9. Umatilla County Fire District #1 Comments.
10. Applicant's Support Letters.
11. City of Hermiston Comments.

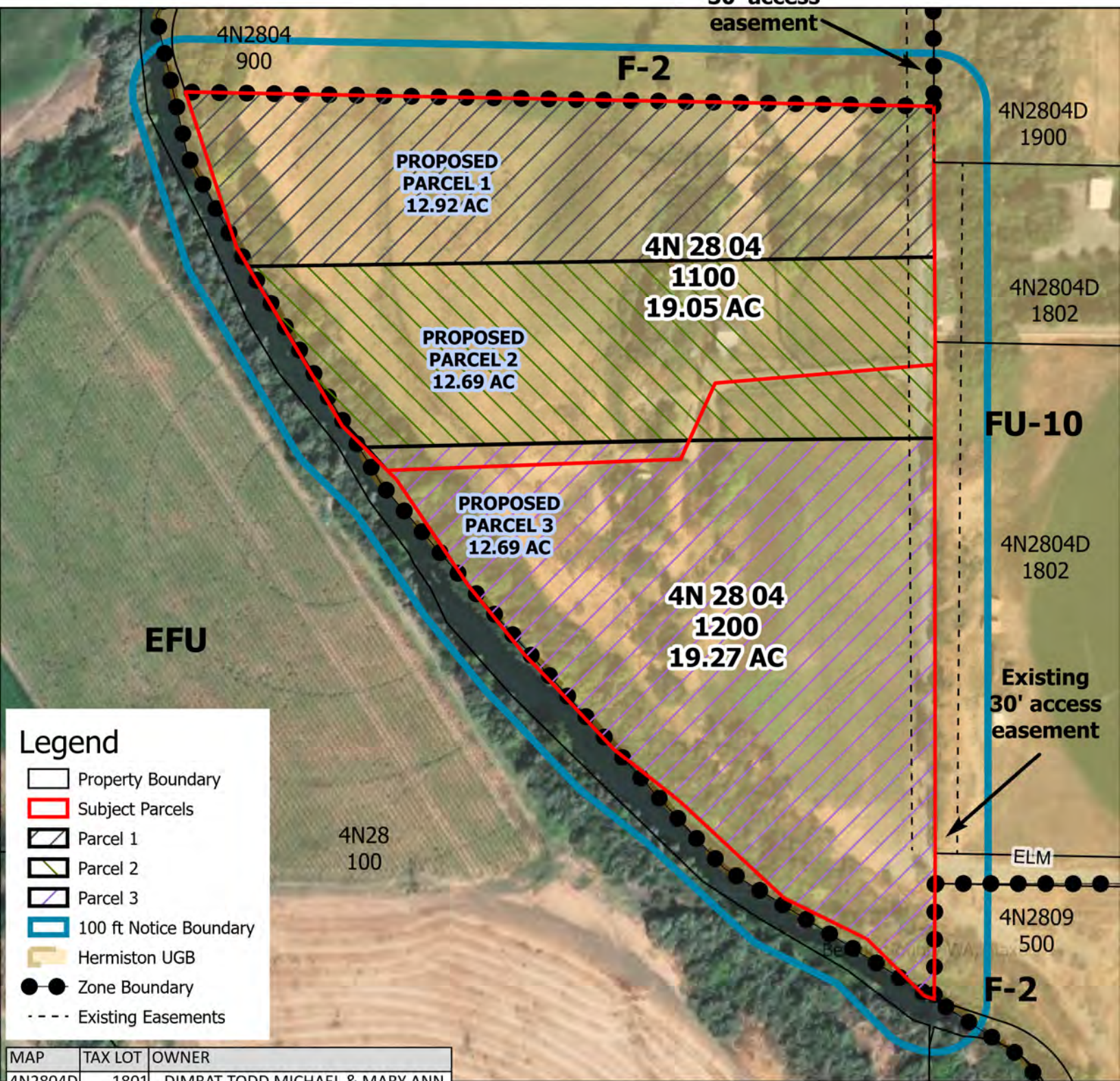
**UMATILLA COUNTY
BOARD OF COMMISSIONERS HEARING – SEPTEMBER 8, 2021
APPEAL OF PLANNING COMMISSION DECISION
TYPE II LAND DIVISION #LD-4N-1054-21
RICHARD & SANDRA HUNSAKER, APPLICANTS & OWNERS
PACKET CONTENT LIST**

1. Staff Memo to Board of County Commissioners	Pages 1-4
2. Appeal Notice and Vicinity Map	Page 6
3. Soils Map	Page 7
4. Floodplain and Wetlands Map	Page 8
5. Easement and Address Map	Page 9
6. Preliminary Partition Plat	Page 10
7. Final Decision Letter and Signed Final Findings	Pages 12-39
8. Addendum to Final Findings	Pages 41-46
9. Planning Commission Packet	Pages 48-117
10. Department of State Lands Comment	Pages 119-123
11. Appeal Packet	Pages 125-138
12. County TSP “C” Cul-de-sac Diagram	Page 140
13. Applicant’s Exhibit A	Page 142
14. Applicant’s Photos	Pages 144-148
15. Umatilla County Fire District #1 Comments	Pages 150-153
16. Applicant’s Support Letters	Pages 155-156
17. City of Hermiston Comments	Pages 158-159

APPLICANT: RICHARD & SANDRA HUNSAKER
OWNER: SAME AS APPLICANT #LD-4N-1054-21
MAP: 4N 28 04 TAX LOTS: 1100 AND 1200

APPEAL TO BOARD OF COUNTY COMMISSIONERS

Notified Property Owners with 100 feet of Subject Parcels



Legend

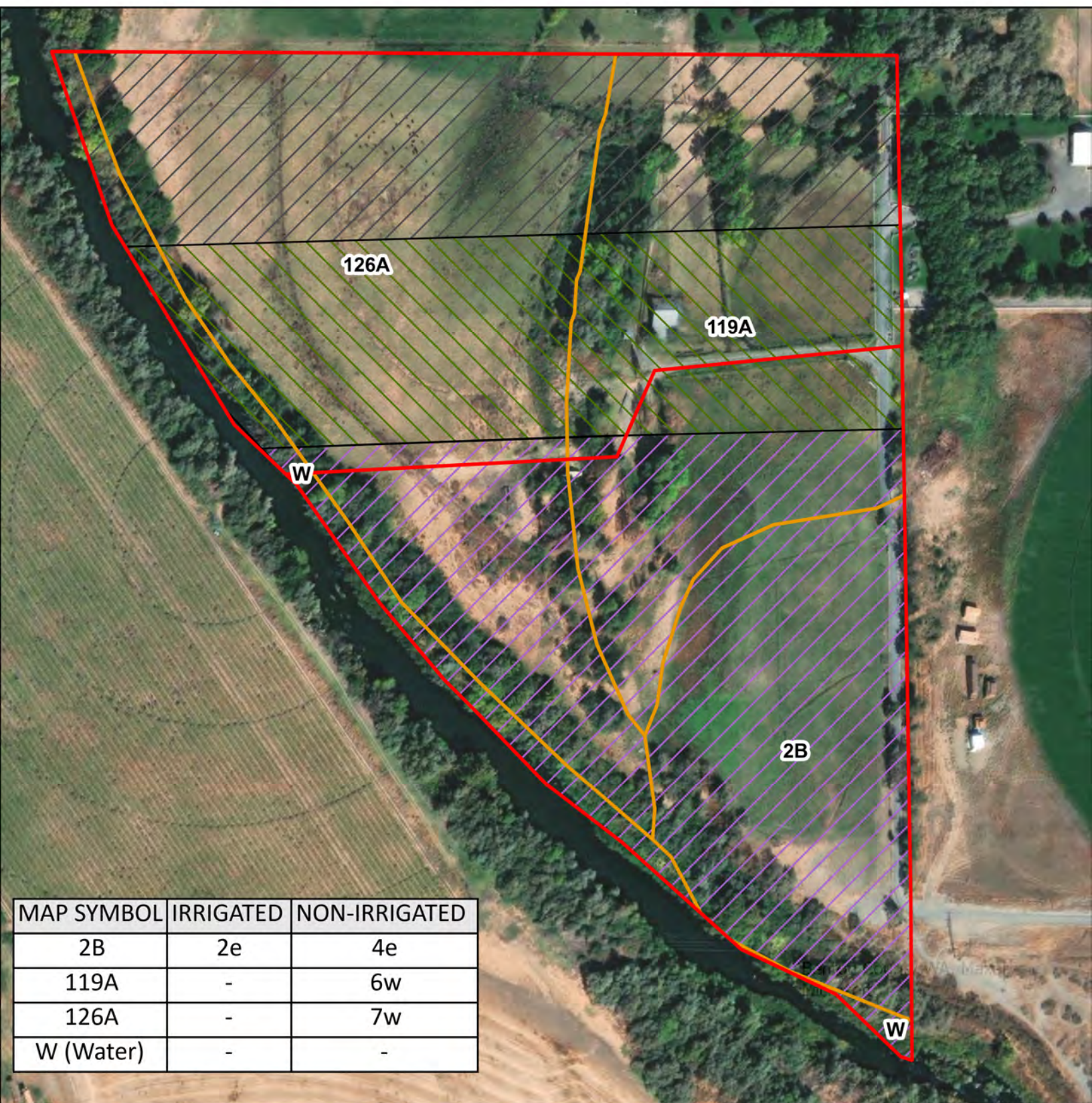
- Property Boundary
- Subject Parcels
- Parcel 1
- Parcel 2
- Parcel 3
- 100 ft Notice Boundary
- Hermiston UGB
- Zone Boundary
- Existing Easements

MAP	TAX LOT	OWNER
4N2804D	1801	DIMBAT TODD MICHAEL & MARY ANN
4N2804D	1802	CHAIRES SAUL VOLLMER
4N2804D	1900	ROBERTS BERKLEY J & STACIE R
4N2804	1200	HUNSAKER RICHARD L & SANDRA
4N28	100	CARPENTER RICHARD A & KRISTINE
4N2804	900	FLAIZ RICHARD A & CLAUDIA R (TRS)
4N2804	1100	HUNSAKER RICHARD L & SANDRA
4N2809	500	HERMISTON IRRIG DIST

N

0 240 480 960 Feet

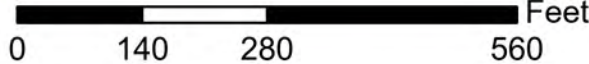
Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Green, Umatilla County Planning Department Date: 8/16/2021



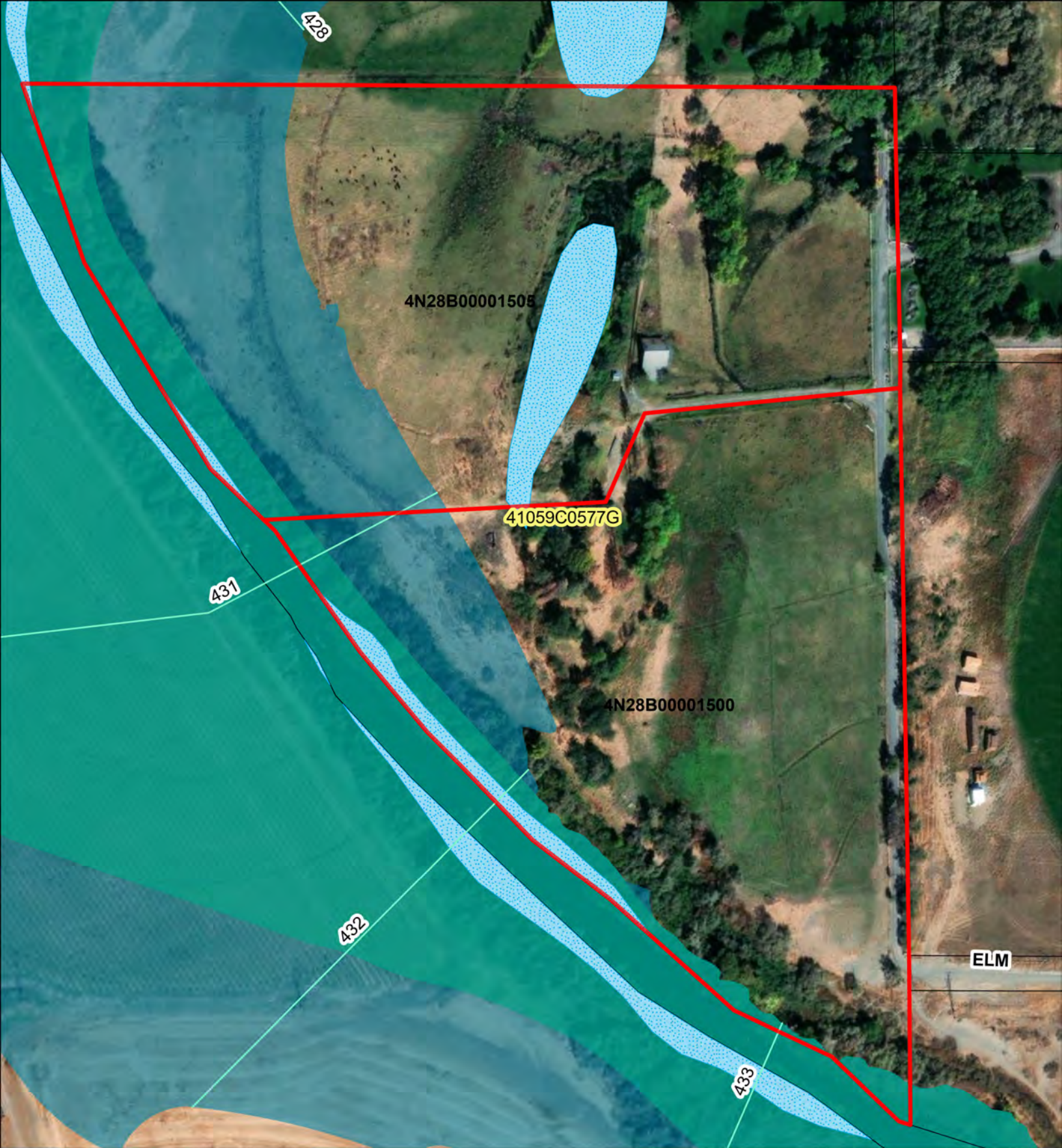
MAP SYMBOL	IRRIGATED	NON-IRRIGATED
2B	2e	4e
119A	-	6w
126A	-	7w
W (Water)	-	-

Legend

- Subject Parcels
- Soils
- Parcel 1
- Parcel 2
- Parcel 3

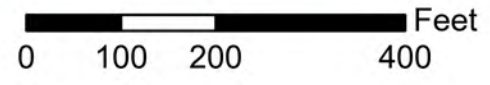


Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Green, Umatilla County Planning Department Date: 8/10/2021



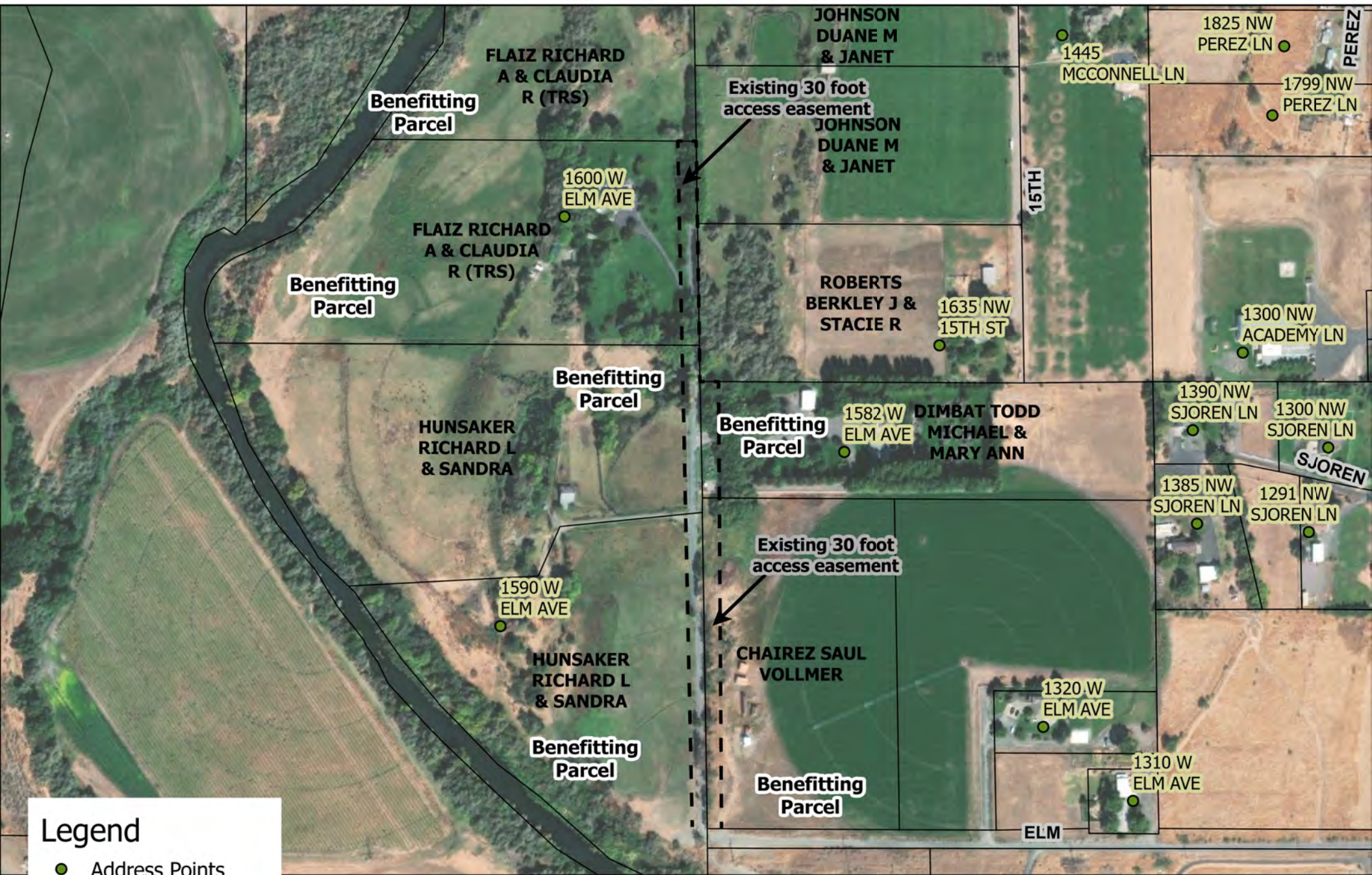
FIRM Panel 41059C0577G

- Legend**
- Base Flood Elevation
 - Floodway
 - FIRM Panel
 - A, No Base Flood Determined
 - AE, Base Flood Determined
 - AO, Shallow Flooding
 - Tax Lot Boundary
 - Subject Parcels
 - Umatilla_County Wetlands



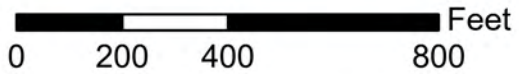
MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Map data should be used for reference purposes only. Not survey grade or for legal use.
Created 4/14/2021

ADDRESSES CURRENTLY SERVED BY EXISTING ACCESS EASEMENT



Legend

- Address Points
- Tax Lot
- - Existing Easements



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only.
 Created by M. Green, Umatilla County Planning Department. Created 8/16/2021

HUGHS REPLAT

OF PARCEL I AND II OF PARTITION PLAT 1999-37, LOCATED IN THE S.W. 1/4 OF SEC. 4 AND N.W. 1/4 SEC. 9 TWP. 4 N., RNG. 28 E.W.M., UMATILLA COUNTY, OREGON.

SURVEYOR'S NARRATIVE

THIS SURVEY WAS PERFORMED AT THE REQUEST OF RICHARD L. HUNSAKER TO REPLAT PARCELS I AND II OF PARTITION PLAT 1999-37 INTO PARCELS AS DEPICTED ON THIS PLAT.

IN 1993 LS 2431 CREATED PARCEL 1 OF PARTITION PLAT 1993-05 THROUGH A LAND PARTITION. IN DOING SO HE SET THE MONUMENT FOR THE NORTHEASTERLY CORNER OF PARCEL 1. THIS MONUMENT WAS FOUND AND RECOVERED. SEE LAND PARTITION 1993-05

IN 1999 LS 2817 PARTITIONED PARCEL 1 OF PARTITION PLAT 1993-05 INTO 2 PARCELS. THE 6 MONUMENTS HE SET DURING THIS LAND PARTITION WERE FOUND AND RECOVERED WITH THE EXCEPTION OF THE 3 MONUMENTS SET ON THE RIGHT BANK OF THE UMATILLA RIVER. THESE 3 MONUMENTS WERE SEARCHED FOR BUT NOT FOUND. IT IS SUSPECTED THAT THEY WERE OBLITERATED DURING A RECENT FLOOD AND EROSION. SEE LAND PARTITION 1999-37.

THE POSITIONS FOR THE NORTHWESTERLY CORNER OF PARCEL II AND THE SOUTHERLY CORNER OF PARCEL I, BOTH OF PARTITION PLAT 1999-37, AND LOCATED ON THE RIGHT BANK OF THE UMATILLA RIVER WERE COMPUTED AT RECORD BEARING AND DISTANCES AS SHOWN ON PARTITION PLAT 1999-37.

THE RECORD MEANDER LINES ALONG THE RIGHT BANK OF THE UMATILLA RIVER AS SHOWN ON PARTITION PLAT 1999-37 WERE THEN MOVED, SCALED AND ROTATED SO AS TO MATCH SAID POSITIONS OF THE NORTHWESTERLY CORNER OF PARCEL II AND THE SOUTHERLY CORNER OF PARCEL I.

THE TOTAL ACREAGE OF THIS TRACT OF LAND WAS SURVEYED AT +/- 38.30 ACRES.

THE SOUTHERLY BOUNDARY LINE OF PARCEL 1 OF THIS PARTITION PLAT WAS COMPUTED PARALLEL WITH THE NORTHERLY BOUNDARY LINE OF PARCEL 2 OF PARTITION PLAT 1999-37 AND 20.00 FEET NORTHERLY OF THE MOST NORTHERLY CORNER OF AN EXISTING BARN THAT SITS ON THE PROPERTY, THEREBY CREATING A PARCEL ENCOMPASSING +/- 12.92 ACRES.

THE REMAINING ACREAGE WAS THEN DIVIDED IN HALF, THEREBY CREATING PARCEL 2 AND PARCEL 3 OF THIS PARTITION PLAT, PARCEL 2 BEING +/- 12.96 ACRES AND PARCEL 3 BEING +/- 12.96 ACRES. THE SOUTHERLY BOUNDARY OF PARCEL 2 OF THIS PARTITION PLAT BEING PARALLEL WITH THE NORTHERLY BOUNDARY.

THIS SURVEY WAS ACCOMPLISHED UTILIZING 2 TRIMBLE R10 GNSS RECEIVERS, AN AUTONOMOUS POSITION WAS GENERATED ON THE BASE RECEIVER AND THE FOUND MONUMENT MARKING THE NORTHWEST CORNER OF SECTION 9 AND THE FOUND MONUMENT MARKING THE NORTH ONE-QUARTER CORNER OF SECTION 9 WERE USED FOR A SITE CALIBRATION, EACH CORNER WAS THEN LOCATED OR SET ON A 1 SECOND EPOCH WITH A FIXED SOLUTION. THE BASIS OF BEARING OF THIS PLAT IS BASED ON PARTITION PLAT 1999-37.

BOUNDARY LINE TABLE

LINE	BRNG.	DIST.
L1	(C) S 19°13'35" E	14.42'
L2	(C) S 39°43'16" E	98.26'
L3	(C) S 39°43'06" E	98.27'
L4	(C) S 35°14'14" E	172.10'
L5	(C) S 26°05'50" E	127.68'
L6	(C) S 61°08'58" E	96.23'
L7	(C) S 82°02'18" E	64.45'
L8	(C) S 76°15'26" E	58.09'
L9	(C) S 29°18'54" E	52.99'
L10	N 00°53'08" W	42.42'
L11	N 00°53'08" W	32.65'

LPN 1999-37 BOUNDARY LINE TABLE

LINE	BRNG.	DIST.
L2	N 39°43'22" W	98.26'
L3	S 39°43'22" E	98.26'
L4	S 35°14'15" E	172.12'
L5	S 26°05'56" E	127.68'
L6	S 61°09'04" E	96.23'
L7	S 82°02'24" E	64.45'
L8	S 76°15'32" E	58.09'
L9	S 29°19'00" E	52.99'

LPN 1999-37 UTILITY ESMT. LINE TABLE

LINE	BRNG.	DIST.
L12	N 88°30'32" W	481.30'
L13	S 85°59'20" W	83.18'
L14	N 36°13'15" W	319.57'
L15	N 35°38'19" E	154.11'
L16	N 59°42'28" E	198.85'
L17	N 36°14'18" W	331.51'
L18	N 59°08'13" W	119.96'
L19	N 02°40'52" W	298.41'
L20	N 02°48'59" W	298.34'
L21	S 38°40'36" E	499.79'
L22	S 87°36'11" W	27.77'

OWNER'S ACKNOWLEDGMENT & DEDICATION

I, RICHARD L. HUNSAKER AND SANDRA L. HUNSAKER, OWNERS OF THE LANDS SHOWN ON THIS PLAT AND MORE PARTICULARLY DESCRIBED AS PARCEL I AND PARCEL II OF PARTITION PLAT 1999-37 HAVE CAUSED THE SAME TO BE SURVEYED AND REPLATTED INTO PARCELS AS SHOWN ON THIS PLAT IN ACCORDANCE WITH O.R.S. CHAPTER 92, AS REVISED, AND DO HEREBY DEDICATE THE 10 FOOT WIDE NON-EXCLUSIVE DOMESTIC WATER LINE EASEMENT AS SHOWN HEREON.

NOTARY PUBLIC FOR OREGON

ON THIS _____ DAY OF _____, 2020, THE INDIVIDUALS TO THE LEFT APPEARED PERSONALLY BEFORE ME AND IS KNOWN TO ME TO BE THE IDENTICAL INDIVIDUALS WHO EXECUTED THIS PLAT AND ACKNOWLEDGED THAT THEY DID SO FREELY AND VOLUNTARILY BEFORE ME.

NOTARY PUBLIC FOR OREGON

RICHARD L. HUNSAKER

PRINTED NAME

SANDRA L. HUNSAKER

COMMISSION NO.

MY COMMISSION EXPIRES

DEEDS

INST. NO. 2016-6450319 (HUNSAKER)
INST. NO. 2020-6970201 (FLAIZ)
INST. NO. 2016-6450319 (HUNSAKER)

I CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL PLAT AS FILED FOR RICHARD L. HUNSAKER AND SANDRA L. HUNSAKER IN UMATILLA COUNTY, OREGON.

KEITH P. PRIMM

1" = 150'

LEGEND

- FOUND MONUMENT AS NOTD
- SET: 5/8" X 30" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "LS LS 48490"
- FND: 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "GBW WA 3040 O 02817LS"
- FND: 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "R. MCKINNIS LS 2431"
- ▲ FND: 5/8" IRON ROD WITH YELLOW PLASTIC CAP CAP ILLEGIBLE
- × COMPUTED POINT (NOT SET)
- PARCEL BOUNDARY
- (C) CALCULATED

SURVEYS

- (R1) PLS 2017 PARTITION PLAT 1999-37
- (R2) PLS 2431 PARTITION PLAT 1993-05
- (R3) PLS 48490 PARTITION PLAT 2015-22
- (R4) PLS 2431 PARTITION PLAT 1996-15
- (R5) PLS 2718 PARTITION PLAT 1998-37
- (R5) SURVEY NO. H-231-X

SURVEYOR'S CERTIFICATION

I, KEITH P. PRIMM, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON HEREBY CERTIFY THAT I HAVE SURVEYED THE LANDS AS DESCRIBED AS PARCEL I AND II OF PARTITION PLAT 1999-37 AND THAT THIS MAP CORRECTLY REPRESENTS A SURVEY CONDUCTED UNDER MY DIRECT SUPERVISION IN NOVEMBER 2020, AND HAVE SET THE PROPER MONUMENTS AS ESTABLISHED BY O.R.S. 209.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 12, 2005
KEITH P. PRIMM
48490

EXPIRATION DATE: 12/31/29

DATE _____

APPROVALS

UMATILLA COUNTY SURVEYOR

I DO HEREBY CERTIFY THAT I HAVE EXAMINED THE ACCOMPANYING PLAT, THAT IT COMPLIES WITH THE LAWS OF THE STATE OF OREGON WITH REFERENCE TO FILING AND RECORDING OF SUCH PLATS AND I THEREFORE APPROVE SAID PLAT.

UMATILLA COUNTY SURVEYOR

DATED THIS _____ DAY OF _____

HERMISTON IRRIGATION DISTRICT

THIS IS TO CERTIFY THAT I HAVE REVIEWED THIS PLAT AND IT IS APPROVED FOR FILING AND RECORDING BY MY AUTHORITY.

MANAGER

DATED THIS _____ DAY OF _____

UMATILLA COUNTY PLANNING DEPARTMENT:

I HAVE EXAMINED THE ACCOMPANYING PLAT AND DO HEREBY CERTIFY THAT IT COMPLIES WITH ALL REQUIREMENTS OF THE ORDINANCES AS ESTABLISHED BY UMATILLA COUNTY AND I THEREFORE APPROVE SAID PLAT FOR FILING.

DIRECTOR UMATILLA PLANNING DEPARTMENT

DATED THIS _____ DAY OF _____

UMATILLA COUNTY TAX COLLECTOR AND ASSESSOR

WE DO HEREBY CERTIFY THAT WE HAVE EXAMINED THE TAX RECORDS RELATIVE TO THE LANDS COVERED BY THE ACCOMPANYING PLAT AND THAT ALL MONIES DUE FOR STATE AND COUNTY TAXES AND ASSESSMENTS THAT COULD CONSTITUTE A LIEN ON SAID LANDS HAVE BEEN PAID, AND WE HEREBY APPROVE SAID PLAT.

TAX COLLECTOR

TAX ASSESSOR

DATED THIS _____ DAY OF _____

UMATILLA COUNTY CLERK

PRIMM LAND SURVEYING, INC.

P.O. BOX 1322, 1340 N.E. 4TH
HERMISTON, OR 97838
BU (541) 564-7887
FAX (541) 567-8020
keith@primmlandsurveying.com
brill@primmlandsurveying.com

CLIENT: RICHARD L. HUNSAKER

P.O. BOX 2266 EUGENE, OREGON 97402

PROJECT:

HUGHS REPLAT

JOB #: 2010008
DATE: 29 OCT 20
FB/PG: 44/19
SHEET: 1 OF 1
DRAWN: KPP
APPROVED: KPP

EXHIBIT 1
APPROVAL LETTER AND FINAL FINDINGS

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT
WALDHER

June 21, 2021

LAND USE
PLANNING,
ZONING AND
PERMITTING

Richard and Sandra Hunsaker
PO Box 685
Waltersville OR 97489

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

Re: Approval of Zoning Map Amendment Z-316-21 and Land Division LD-4N-1054-21

SMOKE
MANAGEMENT

Dear Mr. and Mrs. Hunsaker:

GIS AND
MAPPING

Zone Change

RURAL
ADDRESSING

The Umatilla County Board of County Commissioners approved and signed the Final Findings and Conclusions and adopted Ordinance No. 2021-04. Ordinance No. 2021-04 approved your land use application to change the zoning on your property from F-2, general rural zoning, to FU-10, future urban zoning. Copies of both documents are enclosed.

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

The Rezone Findings were signed by the Board on June 17, 2021. This date constitutes formal approval and begins the 21-day Land Use Board of Appeals (LUBA) appeal period. This appeal period will end at 5:00 pm on Thursday, July 8, 2021.

Appeal of the county's decision for your zone change may be made to LUBA. Persons who may appeal are identified in Section 152.766(F) of the County Development Code. If you wish to contact LUBA to determine whether an appeal has been filed, their address is: 775 Summer Street NE, Suite 330, Salem, OR 97301; phone (503) 373-1265.

The requisite Notice of Adoption to the Department of Land Conservation & Development was posted online on June 18, 2021, by the County Planning Department.

Land Division

In addition to the change in zoning your application also included a land division request approved by the Planning Commission and signed by the Planning Commission vice-chair on June 17, 2021. The copy of this Final decision, mailed today, June 21, 2021, begins a 15-day appeal period that will end on Tuesday, July 6, 2021.

All notified property owners, affected agencies, and you, the applicant, who participated or testified during the approval process, may appeal the County's decision. Appeals must be made in writing on the proper form available at the County Planning Department office and should include the reasons for the appeal and the alleged errors that the appellant believes were made by the County in addressing specific land division approval criteria.

Appeal of the Planning Commission's decision to approve your land division request would be made to the Board of County Commissioners. The form for appeal may be obtained at the County Planning Department, Room #104 in the County Courthouse, 216 SE 4th Street, Pendleton, OR 97801; phone (541) 276-6252. The form is also available online on the County's website. The cost of appeal is \$800.

Several comments were made by yourself, nearby property owners and notified agencies. Many of the comments were included in both the Planning Commission packets and the Board of Commissioners packets. However, two comments were received by Planning following the Planning Commission hearing but before the Board of Commissioners' hearing. The letters were provided to the Board and added into the record, but because they did not pertain to the zone change request that was before the Board, they were not addressed. The two letters were from yourself and Richard Flaiz, a nearby property owner. Copies of the letters are enclosed.

The conditions placed on the Land Division approval are as follows:

Precedent Conditions: The following precedent conditions must be fulfilled prior to final approval of this request, signified by the recording of the Final Partition Plat:

1. Receive rezone approval for the subject parcel to amend the UGB Zoning Map to FU-10, Future Urban 10-acre Zoning, prior to submitting a Partition Plat.
2. Pay public notice fees to County Planning.
3. Dedicate a 50-foot radius turnaround area to supplement the existing 60-foot access easement. The dedication and easement must be shown on the Final Partition Plat.
4. Improve the 50-foot radius turnaround area to the County P-2 road standard. [Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.]
5. Submit written confirmation from Umatilla County Fire District #1 that the improved 50-foot radius turnaround is adequate to County Planning.
6. Submit evidence to County Planning that the access easement has been improved to the County P-2 road standard, or evidence that the applicant has improved the easement to the County P-2 road standard. Verification the improvements are in place and meet the P-2 standard must be provided. [Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written

verification by a licensed civil (road) engineer that the County road improvement standards have been met.]

- 7. Submit a road naming application with applicable fees, including road sign installation fees, to the County Planning Department.
- 8. Receive road naming approval from the County Rural Addressing Coordinator.
- 9. Comply with HID’s irrigation easement and irrigation water right requirements. Satisfaction of HID’s requirements may be satisfied with a signature on the Final Partition Plat.
- 10. Sign and record an Irrevocable Consent Agreement (ICA) for future participation in road improvements to the 60-foot currently unnamed road for Parcels 1-3. The ICA document will be provided by County Planning.
- 11. Submit a Preliminary Partition Plat to County Planning, GIS and Surveyor for review and comment.
- 12. Pay and pre-pay all taxes prior to recording the Final Partition Plat.

Subsequent Condition: The following subsequent condition must be fulfilled following satisfaction of all precedent conditions and approval of the Preliminary Partition Plat.

- 1. Record the Final Partition Plat, prior to signing deeds.

The County Planning Department’s approval will expire on the following date, two years from issuance of the final decision for your land division request. By that time, at the latest, you must have satisfied the conditions of approval listed above.

 * June 17, 2023 *

Note: If the above deadline is missed, a new land division application would need to be submitted and the new application request would be subject to all review procedures and standards in effect at that time.

To Record the Partition Plat:

Step 1-The Irrevocable Consent Agreement (ICA), required in Precedent Condition #10, will need to be signed by the property owner before a Notary Public. Note: You are provided a copy of the document, but a new document will need to be created and contain the approved road name. Once signed the ICA must be recorded. The recording charges are \$96 for the first page and \$5 for each additional page and in this case the recording charge for **each** ICA document is **\$111**. A check for the recording fee made out to “Umatilla County” in the amount of **\$111** should be included with each signed/notarized document and returned to the Planning Department (County Courthouse Room #104). *Planning staff will record the ICA documents at the same time the Final Partition*

Plat is recorded.

*Step 2-*Your surveyor may submit the Final Partition Plat for review and approval to the County GIS/Mapping Office, Room #106 in the County Courthouse. The County Surveyor will be contacted to sign the plat.

*Step 3-*Next, the Final Partition Plat is reviewed at the County Planning Office. The plat will be approved and signed by the Planning Director after all of the land division precedent conditions are met.

*Step 4-*Once all of the necessary signatures are placed on the Final Partition Plat, the plat is then ready to be recorded. The plat recording fee is **\$120**. In addition, the Final Partition Plat must be filed at the County Surveyor's Office; the Surveyor's filing fee is **\$75**.

The above fees associated with the Final Partition Plat (i.e. **\$120** and **\$75**), may already have been paid by your Surveyor; therefore, prior to submitting checks please consult with your Surveyor. Otherwise, please make checks out to "Umatilla County" and submit two separate checks (i.e. **\$120** plat recording fee and **\$75** filing fee) to the County GIS Department in Room #106 of the County Courthouse. The GIS Department will disburse the checks to the appropriate departments at the time the Final Partition Plat is received.

*Step 5-*After the Final Partition Plat is recorded you may request a copy of the recorded plat by contacting the County Records Department located in Room #106 of the County Courthouse, at 216 SE 4th Street, Pendleton, Oregon, phone # 541-278-6236.

Congratulations on your success and thank you for your patience throughout this process. If you have questions please contact me, at (541) 278-6246, or if it is more convenient you may e-mail me at Megan.Green@umatillacounty.net.

Kind Regards,



Megan Green,
Planner II/GIS

Enclosures: Ordinance No. 2021-04, Final Findings and Conclusions, Applicant Testimony to Board of Commissioners, Testimony from Richard Flaiz, P-2 County Road Standard diagram, Irrevocable Consent Agreement

cc: Clint Spencer, City of Hermiston
Hermiston Irrigation District
Jean Dahlquist, Fair Housing Council of Oregon
Department of State Lands
County GIS
County Surveyor
County Assessor
Primm Land Surveying, surveyor
Richard Flaiz, notified property owner

**UMATILLA COUNTY BOARD OF COMMISSIONERS
FINAL FINDINGS OF FACT AND CONCLUSIONS
HUNSAKER ZONING MAP AMENDMENT REQUEST, # Z-316-21, AND
TYPE II LAND DIVISION REQUEST, # LD-4N-1054-21
ASSESSOR'S MAP # 4N 28 04, TAX LOT # 1100, ACCOUNT # 155513 AND
ASSESSOR'S MAP # 4N 28 04, TAX LOT # 1200, ACCOUNT # 117258**

1. **APPLICANT:** Richard and Sandra Hunsaker, PO Box 685, Waltherville OR, 97489
2. **PROPERTY OWNER:** Same as above.
3. **PROPERTY LOCATION:** The Hunsaker properties are located on the north side of West Elm Extension and east of the Umatilla River, approximately one-half mile west of Hermiston City Limits. The applicants' properties and the surrounding properties are all located within the City of Hermiston Urban Growth Boundary (UGB).
4. **REQUEST/PROCESS:** The Hunsaker land use request consists of the following two land use requests:
 1. A zone change from the 1972 F-2, General Rural Zone (19-acre minimum parcel size), to FU-10, Future Urban 10-acre minimum parcel size.
 2. A Type II Land Division to create three 10+ acre parcels from the current two 19-acre parcels.

Much of the zoning applied to the City of Hermiston's UGB lands are from the 1972 Umatilla County Zoning Ordinance. Urban lands are zoned a city zone, and urbanizable lands are either FU-10 (UCDC) or F-1/F-2 (UC 1972 Zoning Ordinance). Rezoning of land within Hermiston's UGB is subject to the Joint Management Agreement (JMA) between the City of Hermiston and Umatilla County. The JMA provides the procedures for processing amendments to comprehensive plans, zoning maps and land use regulations. In addition to the JMA, the Hermiston zone change is also subject to policies in the City of Hermiston's Comprehensive Plan, Transportation System Plan and the applicable Oregon Statewide Planning Goals.

Per the JMA, amendments to zoning maps within urbanizable areas are processed by application to the County with notification to the City. The County Planning Commission provides a recommendation to the Board of County Commissioners based on the facts provided in the record and the testimony provided at the public hearing. The Board of County Commissioners also conducts a hearing and makes the final decision on whether the zone change request complies with applicable standards. If someone testifying does not agree with the Board's Final decision, the decision may be appealed to the State Land Use Board of Appeals (LUBA).

The change in zoning would allow the applicant to partition the two 19-acre parcels into

three 12-acre parcels. Tax Lot 1100 is improved with a 2400 square foot feeder barn and a 48 square foot pump house (assessment records), and Tax Lot 1200 contains one 860 square foot barn (assessment records). The applicant is requesting approval of a Type II Land Division to partition three parcels. The land use decision on the Hunsaker Type II Land Division is made by the Planning Commission.

Background Information: The applicants' contact with County Planning began in February 2021, when the applicant submitted a land division application to create three 12+ acre parcels to County Planning. Upon preliminary staff review, staff found that the land division could not be completed at the time due to the parcels being zoned F-2 (19-acre minimum). Staff contacted the applicant, and encouraged them to submit a Zoning Map Amendment to rezone the parcels from F-2 to FU-10, followed by a land division. County Planning staff also visited with the City of Hermiston Planning Director, who had previously directed the applicant to visit with County Planning about an application. The Zoning Map Amendment and Land Division applications were received and deemed complete by County Planning on April 20, 2021.

Several ordinances have been adopted by the County and the City of Hermiston that are relevant to F-1 and F-2 zoned properties within Hermiston's UGB. The following adopted documents are included as attachments and summarized below: Joint Management Agreement (JMA) adopted September 20, 1983, County Ordinance 83-07, and County Ordinance 84-02.

1983 JMA: Provides a table for the County to rezone some Urban Area zones from the 1972 Zoning Ordinance to a City Zone.

Ordinance 83-07: Adopts and codifies FU-10 zoning into Umatilla County Development Code, designates R-1, R-1a, R-2 and R-3 zones in the Urbanizable Area as FU-10, and states that F-1 and F-2 properties are not rezoned at this time.

Ordinance 84-02: Co-adopt City of Hermiston Comprehensive Plan Ord. #1505, co-adopt Hermiston Zoning Ordinance #1504, rezone one F-1 parcel and one F-2 parcel to the City's M-2 zone (ODOT gravel pits), rezone an FU-10 parcel as the City's M-2 zone (sewage treatment plant)

Attachment B: Defines "Future Work" project; Contact all F-1 and F-2 zoned property owners within UGB to determine which parcels should be zoned EFU-40, and which FU-10.

A county ordinance adopting the change of F-1 and F-2 zoned properties within the City of Hermiston's UGB to the FU-10 zone or EFU-40 zone was not found. Property owners of F-1 and F-2 zoned lands within Hermiston's UGB have the ability to request a rezone of their properties to the FU-10 zone or EFU-40 through a Zoning Map Amendment

processed by County Planning. The applicant would like to pursue this option, and is requesting to rezone their F-2 zoned properties to the FU-10 zone.

5. **PARCEL SIZE:** Tax Lot 1100 = 19.05 acres, Tax Lot 1200 = 19.27 acres
6. **PROPOSED PARCELS:** Parcel 1 = 12.92 acres; Parcel 2 = 12.69 acres; Parcel 3 = 12.69 acres
7. **COMPREHENSIVE PLAN:** The City of Hermiston Comprehensive Plan Designation is Open Space and Future Residential; no change to the comprehensive plan designation is proposed or necessary for approval of the proposed Hunsaker rezone.
8. **CURRENT ZONING:** Umatilla County 1972 Zoning Ordinance, F-2 (General Rural - 19 acre minimum parcel size), parcels are *urbanizable*.
9. **PROPOSED ZONING:** Umatilla County Development Code, FU-10 Future Urban, 10-acre minimum parcel size, parcels will remain *urbanizable*.
10. **ACCESS:** The properties currently have two access points from an existing 60-foot access easement that runs north to south and connects to West Elm Ave, County Road #1240.
11. **ROAD TYPE:** The existing 60-foot access easement is a private easement serving more than three parcels. It is a gravel drive and is currently unnamed.

West Elm Ave is a two-lane gravel, County Road, County Road #1240.
12. **EASEMENTS:** The properties contain several easements.
Easements on Tax Lot 1100: 10-foot utility easement, irrigation ditch and ponds, drain field easement benefitting tax lot 1200, and 30-foot access easement.
Easements on Tax Lot 1200: Two (2) 10-foot utility easements, 30-foot access easement with 20-foot Hermiston Irrigation District irrigation easement.
13. **STRUCTURES & LAND USE:** Tax Lot 1100 is developed with a 2400 square foot barn and a 48 square foot pump house, according to assessment records. Tax Lot 1200 is developed with an 860 square foot barn and previously contained a dwelling, according to assessment records.
14. **ADJACENT LAND USE:** The applicant's properties and properties to the north and east are located within the City of Hermiston's Urban Growth Boundary (UGB). Properties to the north are similarly zoned F-2, while properties to the east are zoned FU-10, Future Urban 10-acre minimum. Properties to the south and west are outside of

Hermiston's UGB and zoned EFU-40, Exclusive Farm Use. The properties are bordered on the west boundaries by the Umatilla River.

15. **LANDFORM:** Columbia Basin Plateau
16. **UTILITIES:** Umatilla Electric Cooperative is the area electrical provider, the applicant provides that both parcels currently have electrical service.
17. **WATER/SEPTIC:** The applicant provides that Tax Lot 1100 contains a domestic well, according to the applicant neither parcel contains a septic system. A drain field easement was granted on Tax Lot 1200, benefiting Tax Lot 1100, however it does not appear that the septic was installed. The document recording number is 2017-6580009 at Umatilla County Deed Records. Future development is dependent on domestic wells and individual on-site septic systems because urban water and sewer facilities have not been extended, and therefore, do not service the area.

The subject property is located within the Butter Creek Critical Groundwater Area, an area designated by Oregon Water Resources Department (OWRD) as having declining basalt aquifer groundwater levels. OWRD does not require a permit for a domestic well, an exempt water use. However, this could change in the future due to a continued decline in groundwater levels and may result in OWRD permitting or limiting wells in critical groundwater areas, including exempt wells.

The subject property area is also located within the Department of Environmental Quality (DEQ) designated Lower Umatilla Basin Groundwater Management Area (LUBGWMA) due to groundwater quality. Some wells within the management area are monitored and have tested higher than the Federal Drinking Water Standard for nitrates. The management of the LUBGWMA Action Plan continues to be managed by DEQ.

18. **IRRIGATION:** According to the applicant, the properties contain irrigation water rights from Hermiston Irrigation District (HID). HID confirmed that Tax Lot 1100 contains 10.1 acres of water rights and Tax Lot 1200 contains 9 acres of water rights. Both properties are under Bureau of Reclamation Certificate No. 89006.
19. **ZONING MAP AMENDMENT REVIEW PROCESS:** The following criteria apply from the Joint Management Agreement (County Resolution September 20, 1983 and City of Hermiston Ordinance #1481, last updated in 2017) between the County and City of Hermiston for lands within the Urban Growth Area (UGA). Applicable criteria are underlined, while responses are provided in standard text.

E.4. All applications for land use actions within the Urbanizable Area shall be made through the County's Planning Department. Land use actions within Urbanizable areas

shall be reviewed according to the procedures described in sections E-5 through E-8. The County shall be responsible for planning and zoning code enforcement in the Urbanizable Areas.

It is the applicant's request to amend the County Zoning Map. Lands within the City's UGB are zoned a city zone if urban and a county zone if urbanizable. The applicant's properties are zoned F-2 (urbanizable) and are requested to be zoned FU-10 (urbanizable). Approval of the applicant's request to rezone the subject properties from the 1972 County Zoning Code F-2, general rural zone, to the Umatilla County Development Code zone FU-10, future urban 10-acre minimum, would maintain consistency with the City's Comprehensive Plan Map designation of Future Residential and Open Space. The rezone would likewise provide continuity with the adjoining lands zoned FU-10, located east of the subject properties.

E.5. The County Planning Department will refer to the City Planning Department for review and comment all land use requests within the Urbanizable area for which a public hearing is required. Such notice shall be sent at least ten (10) days prior to the date of the first public hearing on each request. The County shall send the City the staff reports on such requests at least one week prior to the first public hearing. The County received an amendment application for rezoning land located within the UGA from applicant and property owners, Richard and Sandra Hunsaker. Adequate notice will be provided to the City of Hermiston as required. In addition, a copy of the Preliminary Amendment Findings will be sent to the City for review and comment.

E.6. If adequate time is available, the City Planning Department will review and comment on each such UGB land use action notice; otherwise the City Manager, or designee, will review and comment on the behalf of the City Planning Commission, and will so notify them at the next City Planning Commission meeting. The City will relay to the County comments on each such request by the date of the first public hearing or at said public hearing, even if the City's response is "no comment."

Notification to the City of Hermiston of the proposed rezone request and Planning Commission public hearing date will be followed as prescribed above. Comments from the City of Hermiston on the proposed amendment will be taken into consideration.

E.7. The County Planning Department will refer back to the City prior to final action any such land use action request in the Urbanizable area for which amendments by the applicant or County were made subsequent to the first or additional public hearings together with relevant new staff comments. The same ten-day notice period will apply. The City will be notified of the Planning Commission's recommendation and have an opportunity to comment before a Final decision is made by the Board of County Commissioners.

E.8. The County Planning Department will notify the City Planning Department in writing of all actions on such requests as well as all staff permit approvals within the UGB, within seven days of such action or approval.

The City will be notified of the final decision made by the Board of County Commissioners.

E.12. Decisions of the County Board of Commissioners regarding appeals of land use actions within Urbanizable Areas and amendments to the Comprehensive Plan, and land use regulations for the UGA may be appealed to the appropriate tribunal. The applicant for a land use action or Comprehensive Plan amendment bears the burden of proof regarding the request or amendment and the responsibility of defending an appeal. The applicant affected by an appeal shall be required to notify the County in writing within seven days of receiving notice whether he desires to undertake his own defense or will withdraw the requested land use action or amendment. In the absence of such written communication, the County may either:

- a) Tender the defense to the applicant, or
- b) Elect to defend its decision at County expense, should the issue be determined to be of county-wide significance.

The County Board of Commissioners and/or the City may elect to participate jointly or singly in all or a portion of the cost of defending such appeal, if the issues are determined to be of county-wide or city-wide significance.

The City of Hermiston will be notified of the Final Decision by the County Board of Commissioners and have opportunity for an appeal, according to the requirements of state statutes and administrative rules.

G.1. The County zoning designations in the Urbanizable areas shall be applied in accordance with the City Comprehensive Plan.

Approval of the applicant's rezone amendment would not amend the future residential or open space designation of City of Hermiston Comprehensive Plan Map. The County maintained zoning maps would be amended by the County to change the zoning on lands located within the UGA. Approval of the applicant's rezone request would result in no required change with the City's Comprehensive Plan Designation.

G.2. The City will not annex land in the Urbanizable area, without first converting it to Urban status.

If, in the future the properties desire to be annexed, they will first have to be converted from urbanizable to urban. This process is initiated by the applicant with the City of Hermiston.

Finding: Umatilla County has evaluated the Joint Management Agreement (JMA) with the City of Hermiston and has evaluated all applicable criteria. Umatilla County finds the criteria that are applicable have been satisfied, or will be satisfied throughout this public process.

20. STATEWIDE PLANNING GOALS:

1. Citizen Involvement (Goal 1): To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The applicant's zone change proposal is processed through a public hearing and notice procedure. This process allows for citizen involvement and provides a forum for citizen testimony and input on the applicant's proposal.

2. Land Use Planning (Goal 2): To establish 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.

City and County actions on land use requests must be consistent with acknowledged local comprehensive plans. The Hunsaker proposal to zone land FU-10, Future Urban, is consistent with the City of Hermiston's Comprehensive Plan Future Residential designation.

3. Agricultural Lands (Goal 3): To preserve and maintain agricultural lands.

Statewide Planning Goal 3 is not applicable to lands within the Urban Growth Boundary. The subject properties are designated for future residential and open space use by the City of Hermiston Comprehensive Plan.

4. Forest Lands (Goal 4): To conserve forest lands with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Statewide Planning Goal 4 is for protection of designated forest lands and is not applicable to this request.

5. Open Spaces Scenic and Historic Areas and Natural Resources Goal (Goal 5): To protect natural resources and conserve scenic and historic areas and open spaces.

The subject properties are located within the Butter Creek Critical Groundwater Area. This Critical Groundwater designation applies to the basalt aquifer. Goal 5 directs that local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. Among the specific resources to be protected are groundwater resources. The purpose and intent as defined in the Administrative Rules establishes procedures and criteria for inventorying and evaluating Goal 5 resources and for developing land use programs to conserve and protect significant Goal 5 resources.

Groundwater Resource: "Protect significant groundwater resources" means to adopt land use "programs" to help insure that reliable groundwater is available to areas planned for development and to provide a reasonable level of certainty of the carrying capacity of groundwater resources will not be exceeded. (OAR 660-023-0140(1) (c). Critical groundwater areas (CGWA's) are considered to be a

significant Goal 5 resource. The OAR implies that local governments shall develop programs to protect the significant Goal 5 groundwater resource. Further the programs developed by local government are to be adopted as part of the Comprehensive Plan. Local plans require that such areas that are significant groundwater resources shall develop “programs” to protect the significant groundwater resource.

Goal 5 Implementation Process: Goal 5 requires the inventorying of Goal 5 resources. The regime as set forth in OAR 660-023, after the inventory process, includes provisions for the local government to follow the ESEE Decision Process. The steps and the standard ESEE process are as follows:

1. Identify Conflicting Uses;
2. Determine the Impact Areas;
3. Analyze the ESEE Consequences; and
4. Develop a Program to Achieve Goal 5.

It is important to note that “Goal 5 and the implementing rule are not satisfied by a case-by-case implementation approach, but require a jurisdiction-wide planning, program selection, and regulatory process.” Ramsey v. City of Portland, 23OrLUBA 291, aff’d, 115 Or App 20, 23, (1992).

Programs to Achieve Goal 5: When a local government has decided to protect a Goal 5 resource such programs shall contain “clear and objective” standards. The program shall also require the necessary notice and landowner involvement prior to adoption of the program.

Butter Creek Critical Groundwater Area: The Butter Creek Critical Groundwater Area (CGWA) is by definition in the OAR a Goal 5 resource. As a result, the county is expected to adopt a program to help insure that reliable groundwater is available to areas planned for development and to provide a reasonable level of certainty that the carrying capacity of groundwater resources will not be exceeded.

The Butter Creek Critical Groundwater Area is already subject to Umatilla River Basin Rules. OAR 690-507-0610 through OAR 690-507-700 apply specifically to the Butter Creek CGWA. The protection of the Goal 5 resource pertaining to groundwater is unique because, in effect, the Basin Rules referred to above have already set forth a “program.” Although the program set forth in the Umatilla Basin Rules has not been formally adopted as part of the County Comprehensive Plan it has the same regulatory effect as a land use regulation.

County Program: Umatilla County presently has not adopted as specified in the

Administrative Rule guidelines a land use program for the Butter Creek Critical Groundwater Area. The County had begun implementation of one Goal 5 program by considering a “partial moratorium on rural residential development.” That proposed program and ordinance was turned down by the Planning Commission. The Umatilla County Board of Commissioners appointed a task force to study the groundwater situation and develop a 2050 Plan for a sustainable water supply.

Oregon Water Resource Department (OWRD) Regulations: OWRD has adopted, by Administrative Regulation, OAR 690-507-0610, et seq, describing methods for determining and distributing the sustainable annual yield of the basalt groundwater reservoir by subarea for the Butter Creek Critical Groundwater Area. That regulation is in force and effect since August 18, 1986. One of the important restrictions is that OWRD will not accept new applications for appropriation of water from the basalt groundwater reservoir within the Butter Creek Critical Groundwater Area. However, certain uses, specifically exempt domestic wells, are expressly allowed. OWRD’s August 21, 2006 letter, in response to the Kenny-Wood rezone application stated: “Domestic uses and irrigation of up to ½ acre of lawn or non-commercial garden are allowed by statute as exempt uses.”

OWRD Exemption: The OWRD regulations in the Butter Creek Critical Groundwater Area expressly exempts water users exempt under the provisions of ORS 537.545 pertaining to exempt or what is commonly referred to as domestic wells (OAR 690-507-0775). The construction of domestic wells for residential purposes, livestock watering and limited commercial purposes are expressly allowed within the Butter Creek Critical Groundwater Area covering the Hunsaker property.

County Exempt Well Resolution BCC 2007-17: The Water Task Force recommended the County approve a resolution relating to exempt domestic wells. As a result, the Board of Commissioners adopted Order No. BCC 2007-17, pursuant to the construction of exempt wells. The exempt well resolution includes the following recital:

“Whereas on January 6, 2005, the Umatilla County Critical Groundwater Task Force adopted a resolution and recommendation to deal with the immediate domestic water use issue and to provide security and clear and objective standards for Umatilla County citizens to develop domestic water supplies as allowed by law; . . .”

The resolution adopted by the Task Force and Board of Commissioners contains a thorough analysis and detailed background on the use and impact of exempt wells and concludes that the quantities of water used by exempt domestic wells is of such a small quantity that the county has elected to impose no regulation of such wells until a 2050 plan has been adopted. It is important to note that such 2050 plan may not necessarily limit or restrict exempt wells, however, exempt wells are, as with all other critical groundwater resources, being reviewed. The Task Force's resolution presently in effect emphasizes that domestic and other exempt uses of water consume relatively little of the alluvial and basalt aquifer waters in the critical areas as compared to nonexempt uses such as that used for municipal, industrial, and agricultural purposes. The Task Force's recommendation as adopted by the Board of Commissioner's Resolution states as follows:

“In so far as the county is required to adopt findings to approve land use permits, the county will rely on this document to defend the assumption that new exempt wells do not make a significant adverse impact on the groundwater resources. The county will assume exempt wells are appropriate and permissible.”

Current County Policy: In the January 25, 2005 BCC Perkins Amendment and Final Findings, involving a plan and zone change and the BOC did not restrict, limit, or condition in any manner the installation of exempt domestic wells on the property subject to the zoning change. In the April 24, 2006 BCC Findings and Conclusions for Seven Hills Property, LLC adoption of minimum parcel sizes below Oregon's statutory requirements found that “currently the State of Oregon does not regulate domestic wells on rural lands; wells are “exempt” from water permits and allowed outright. There will be a maximum of 20 new exempt wells on the tract, which is not likely to create an impact to neighboring properties.” Rural residential development in Umatilla County for both partitions and subdivisions has fallen under the BCC exempt well resolution and as a result such domestic wells have been allowed, until such time as the county or state law changes.

Preemption of State Law: The County recognizes that OWRD has the sole and exclusive right to regulate waters for public purposes within the State of Oregon. As a result, Umatilla County may not adopt an ordinance or regulation or impose a condition in conflict with the present state law. Present state law allows the construction of exempt/domestic wells. As mentioned above, while OWRD has adopted regulations in the Butter Creek Critical Groundwater Area, those regulations do not regulate the construction of exempt domestic wells and expressly provide for an exemption for such wells. The county is aware that such

regulations are subject to change by OWRD or by legislative process, but at present both state law and OWRD regulations clearly authorize exempt wells within the Butter Creek Critical Groundwater Area.

Kennedy/Wood Zone Change Application: The Kennedy/Wood application complied with the Basin Rule which in effect is the “program” in place. As noted in the exempt well Resolution, and as noted by Commissioner Doherty, exempt wells in the CGWA’s have a “diminimus” impact to the overall resource, that is, ten additional wells would further be diminimus, upon approval of the Kennedy/Wood application.

Because there is no indication that the Hunsaker application has not complied with Goal 5 provisions and because it is demonstrated that impacts, if any, are diminimus and because proposed water development is expressly allowed by law, the applications is in compliance with Goal 5. Further, because the Basin Rules adopted and implemented by the OWRD, are in effect, and exempt wells are expressly provided for in the rules, the County finds that there is a Goal 5 Program to protect the groundwater resource and the Hunsaker Zone Change application complies with the Goal 5 Program.

6. Air, Water and Land Resources Quality (Goal 6): To maintain and improve the quality of the air, water and land resources of the state.

The subject properties and surrounding area is within the Oregon Department of Environmental Quality (DEQ) designated Lower Umatilla Basin Groundwater Management Area (LUBGWMA) due to high nitrate levels in groundwater. Some wells within this management area are monitored and have, in the past, tested higher than the Federal Drinking Water Standard for nitrates. However, this designation has not resulted in limitations on development or farming and continues to be managed through the LUBGWMA Action Plan. DEQ is the lead state agency overseeing implementation of the Action Plan and has jurisdiction in permitting on-site septic systems. Because DEQ oversees management of the LUBGWMA Action Plan, and limitations on development and farming are not implemented, the County finds the Hunsaker zone change application complies with Goal 6.

7. Areas Subject to Natural Disaster and Hazards (Goal 7): To protect people and property from natural hazards.

The subject properties contain areas that are mapped in FEMA’s designated Special Flood Hazard Areas (SFHA). Development within the SFHA, if allowed, is limited and must meet floodplain development standards depending on the floodplain designation. Development in the SFHA must obtain a floodplain development permit

from County Planning and be constructed to FEMA's floodplain standards. This requires certification from a licensed engineer.

The Hunsaker parcels border the Umatilla River, this border area is within the designated floodway, which is defined as, "the channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood". In addition, a significant amount of the west portion of both Tax Lots 1000 and 1100 are within the AE, Base Flood Determined zone. The determined base flood elevation (BFE) varies from 433 to 430 feet, according to flood maps. The BFE is defined as "the water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot".

Future development should only occur outside of the SFHA, as each parcels contains adequate acreage. The City of Hermiston has an Open Space Comprehensive Plan Designation for the portion of these parcels that are within the SFHA.

The County finds that the subject properties are within the Special Flood Hazard Area, and therefore future development is restricted to comply with Goal 7 and floodplain development standards.

8. Recreational Needs (Goal 8): To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Goal 8 applies to recreational facilities. No recreation components are proposed nor included in this request.

9. Economic Development (Goal 9): To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Goal 9 requires local governments to adopt comprehensive plans and policies that contribute to a stable and healthy economy and is not directly applicable to this request.

10. Housing (Goal 10): To provide for the housing needs of citizens of the state.

Umatilla County finds the current zoning is F-2, which is designated urbanizable. Likewise, the proposed zoning of FU-10 is designated urbanizable. The only urban lands within Hermiston's UGB are those that are city zoned. Thus, the proposed

zone change would not result in a change of the urbanizable status. Although the applicants' properties are located within the UGB, they are managed by the County under current and proposed zoning. The more dense residential zoned areas within the UGB are managed by the City.

Umatilla County finds the F-2 zone is a 19-acre minimum zone and allows one Single Family Dwelling (SFD) and one Accessory Dwelling Unit (ADU) per parcel. The FU-10 zone is a 10-acre minimum zone and allows one SFD and one ADU per parcel. Once approved, the zone change and partition will create one additional parcel and therefore, the opportunity for one additional SFD and one additional ADU.

Umatilla County finds and concludes that Goal 10, Housing, is not a direct consideration of this request, as only one additional SFD and one additional ADU could be developed following the proposed land division.

11. Public Facilities and Services (Goal 11): To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The City of Hermiston's nearest water line is approximately 2,188 feet from the subject parcels and the nearest sewer service is approximately 650 feet from the subject property. Although this goal requires the orderly arrangement for public facilities, the County has been informed that there are not currently any development applications being processed by the City in this area. In addition, the City has informed the County that they are supportive of the rezone and partition request as it will not dramatically increase the area's dwelling density.

The proposal to change the zoning on the property would allow continued development of the property at a more rural density than what would normally be recommended should services be more readily available. Since the City has no immediate plans to extend services to the area, and the proposed zoning density of ten acres is a rural density, the County finds the Hunsaker zone change application is compliant.

12. Goal 12 Transportation: To provide and encourage a safe, convenient and economic transportation system.

The City of Hermiston has an adopted Transportation System Plan (TSP) which has been co-adopted by the County for application within the City's UGB.

The properties are not developed with dwellings and there is potential for three additional parcels and a total of three primary single family dwellings. Oregon House

Bill (HB) 2001, enrolled in 2019, requires cities with a population of at least 10,000 to allow for one accessory dwelling unit (ADU) per lot or parcel. A total of six dwellings could be permitted on three parcels (two dwellings per parcel). If fully developed, six additional single family dwellings would result in a total of 57.12 Average Daily Trips (week days), well under the 250 ADT required to trigger a Traffic Impact Analysis.

The City of Hermiston's TSP provides some guidance on rural local street design standards. The recommended standard for a rural local residential street is a 24-foot roadway within a 60-foot right-of-way, containing two 10-foot travel lanes with paved shoulders, two feet in width, on both sides of the road. Page 7-1 of the TSP states that rural roads are not required to have paved shoulders. The City has requested that this application comply with applicable County Road Standards.

Umatilla County finds the existing private access easement has been serving six parcels for years without causing significant transportation issues.

Umatilla County finds, by adding six dwellings at full density build-out under a zone change to FU-10, Future Urban 10 acre minimum, would not cause significant impact to access and transportation facilities.

13. Energy Conservation (Goal 13): To conserve energy.

Goal 13 directs local jurisdictions to manage and control land and uses developed on the land to maximize the conservation of all forms of energy, based on sound economic principles. Goal 13 is not directly applicable to this request.

14. Urbanization (Goal 14): To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The subject properties are located within the City of Hermiston's Urban Growth Boundary (UGB). The area is designated future residential and open space by the City Comprehensive Plan. A rezone from the 1972 F-2 general rural zoning to FU-10 future urban zone complies with the City's Future Residential Comprehensive Plan designation and provides consistency in the zoning of the area, as FU-10 zoning is present on surrounding properties to the east.

Finding: Umatilla County has evaluated Statewide Planning Goals 1-14. The other five goals, 15-19, are not applicable to this application request. Umatilla County finds the goals that are applicable have been satisfied.

21. CITY OF HERMISTON COMPREHENSIVE PLAN POLICIES:

The City's Comprehensive Plan sets forth the goals and policies that guide the City's land use actions which closely follow the Statewide Planning Goals reviewed above. The most significantly applicable policy that was adopted by the City and co-adopted by the County includes the following policies:

Future Residential (FR): Areas located in the urbanizable portion of the UGB which have not yet been designated for a specific density, except in areas already developed or committed to development. Zoned either exclusive farm use, EFU40, or future urban, FU-10, by Umatilla County.

Open Space (OS): Areas containing natural resources and/or natural hazards which must be protected from urban development. Corresponds to OS in the zoning code.

Since the properties are designated Future Residential and Open Space, these sections of the City's Comprehensive Plan apply to the subject properties.

The holding of lands in large parcels within the UGB for future urban development is a long held land use recommendation and guideline in order to better plan for the extension of urban services. The current zoning of F-2 is an urbanizable zone and is managed by the County, likewise, the proposed zoning of FU-10 is also urbanizable and managed by the County. The City of Hermiston requires urbanizable lands to be converted to urban prior to annexation. The proposed zoning will allow for the rural character of the properties to remain while allowing a slightly smaller minimum parcel size. The F-2 zoning allows for one single family dwelling (and one accessory dwelling unit) with a minimum parcel size of 19 acres. The FU-10 zoning allows for one single family dwelling (and one accessory dwelling unit) with a minimum parcel size of 10 acres. The two zones are slightly different when it comes to other land uses, and in some way, the FU-10 zone is more restrictive. For example, F-2 zoning allows for: gun/archery range, livestock feed and sales yard, mobile home park, drive-in theater, junkyard, storage yard, dog pound and a golf course, while FU-10 zoning does not currently permit these uses. FU-10 does, however, allow for a slightly higher density of dwellings.

Umatilla County finds the proposed rezoning of the applicant's property to FU-10 seems to be the only course of action to accomplish the applicant's goal of creating three 10-acre parcels located on the 39 acre property.

Umatilla County finds the proposed rezoning of the applicant's property to FU-10 is in compliance and supports the City of Hermiston's Comprehensive Plan.

22. NOTIFIED AGENCIES: Department of Land Conservation and Development, Oregon

Department of Transportation, Oregon Department of Water Resources, Oregon Department of Environmental Quality, Oregon Department of State Lands, City of Hermiston, Umatilla County Fire District #1, Umatilla County Public Works, Umatilla County Assessor, Hermiston Irrigation District and Umatilla Electric

- 23. COMMENTS RECEIVED:** The City of Hermiston submitted a comment in support of the rezone and land division request, stating that the request is in support of the Comprehensive Plan and in compliance with the Joint Management Agreement. The City provided information on the nearest water and sewer connections and requested that the existing access easement be brought up to current County Road standards and that the improvement be a condition of the request.

Hermiston Irrigation District submitted an informational comment, confirming water rights and existing irrigation easements on the subject parcels.

The Fair Housing Council of Oregon submitted a comment requesting some additional Goal 10 Findings. The Planning Commission recommended that the suggested language be added to the Findings of Fact and is shown in italics.

The applicant, Richard Hunsaker, provided written testimony regarding several conditions of approval for the land division. The Planning Commission found that the standards of approval for the land division were specific and must be satisfied. The written testimony is included as an attachment.

Department of State Lands (DSL) submitted a response to the required Wetland Land Use Notification. DSL confirmed that the National Wetland Inventory displays wetlands, waterway or other water features on the property and that the subject properties are adjacent to a designated Essential Salmonid Habitat. DSL also confirmed that a state permit is not required at this time for the current land use request, but is required for fill removal or ground alterations.

The applicant, Richard Hunsaker, submitted a comment letter prior to the Board of Commissioner's meeting for the zone amendment decision, requesting that some of the conditions of the land division approval imposed by the Planning Commission be removed. The conditions of approval relate to road improvements and road naming requirements. The letter was entered into the record at the Board hearing, but not addressed because the Board is not the deciding body of the land division. In addition, the letter did not address the zone change, of which the Board is the deciding body. The letter is available in the land division file.

Richard Flaiz, nearby property owner, submitted a comment letter prior to the Board of Commissioner's meeting for the zone amendment decision. Mr. Flaiz indicated his

support of the zone change request, but disagreed with the Planning Commission's conditions of approval relating to road improvements and road naming. The letter was entered into the record at the Board's hearing, but not addressed because the Board is not the deciding body of the land division. The letter is available in the land division file.

24. **THE UMATILLA COUNTY DEVELOPMENT CODE STANDARDS FOR LAND DIVISIONS. Type II approval criteria, found in UCDC Section 152.684 are reviewed below.** The following standards of approval are underlined followed by Findings in standard text.

§ 152.684 STANDARDS FOR APPROVAL.

In granting approval of a Type II Land Division, the Planning Director shall find that the Type II Tentative Plan and required supplementary material comply with the following:

- A. Complies with applicable elements of the Comprehensive Plan, including, but not limited to, policies listed in the public facilities and services and the transportation elements of the Comprehensive Plan. The City of Hermiston Comprehensive Plan and City TSP apply to lands within the UGB of the City of Hermiston. The City's TSP specifically addresses transportation and access development for urbanizable lands within the UGB. The proposed land division results in each parcel having direct access to the existing private access easement for new and existing driveways.

The existing access easement is classified as a Rural Local Residential Street per requirements of the City TSP, the recommended standard for a rural local residential street is a 24-foot roadway within a 60-foot right-of-way, containing two 10-foot travel lanes with paved shoulders, two feet in width, on both sides of the road. The large right-of-way width reserves plenty of room for future expansion of the roadway to urban residential or collector street standards. For the most part, rural streets will not include sidewalks. The recommended shoulder width for rural local residential streets is 2-feet on each side. Page 7-1 of the TSP states that rural roads are not required to have paved shoulders.

The City of Hermiston has requested that "the county require the easement to be brought up to the standard necessary for easements serving this level of development under county standards. If additional gravel base and additional gravel width is necessary, the city requests this be added as a condition of development".

The applicable County Road Standard is the P-2 Road Standard, which consists of an improved surface width of at least 22 feet (60 feet of right of way) with 8 inches of compacted gravel. This standard differs from the standard located in the City's TSP. However, because the City has requested that the County Road Standard be applied, the road standards defined in the City's TSP are not being applied to this request. County Planning finds that the request is in compliance with the City's Comprehensive Plan

and Transportation System Plan (TSP), although the TSP's standards are not applicable at this time, at the City's request. County Planning finds that when the subject parcels are annexed the City's TSP road standards will apply, and likely, the road will have to be improved to meet applicable TSP standards.

- B. If approved, will permit development on the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances. The applicant's proposed partition does not affect adjacent development potential that could occur to the extent allowed by the current zoning and land use regulations.
- C. Complies with the zoning requirements or a proposed change thereto associated with the partition map proposal. The proposed zone change would require the zoning map to be amended to reflect the zone change approval to the FU-10 Zone. New parcels created through approval of the Type II Land Division would be required to meet the minimum FU-10 zone parcel size of ten acres. The applicant's partition plan shows that this minimum acreage requirement of 10-acres is met and exceeded.
- D. Complies with provisions of § 152.019, Traffic Impact Analysis, when applicable. A Traffic Impact Analysis is necessary when more than 250 average daily trips (ADT) are generated by potential development (UCDC § 152.019). The projected residential trips resulting from development of single family dwellings¹ at full build out of the 39 acres would result in a total of three dwellings and up to three Accessory Dwelling Units (ADUs)². The property is not currently developed with dwellings; therefore, there is potential for three parcels and three single family dwellings with up to three ADUs. Six single family dwellings would result in a total of 57.12 Average Daily Trips (week days), well under the 250 ADT required to activate a Traffic Impact Analysis. A requirement for a Traffic Impact Analysis is not applicable to this request.
- E. Roads and recorded easements for access purposes are laid out so as to conform, within the limits of the development standards, to the plats of subdivisions and maps of partitions already approved for adjoining property unless the Planning Director determines it is in the public interest to modify the road pattern; The applicant is not proposing any new road easements for access purposes. There is an existing 60-foot access easement along the east property lines that the subject parcels have lawful access to. Thirty-feet of said dedicated 60-foot of right of way are located on the subject parcels. This criterion has been satisfied.
- F. Dedicated road or public recorded easement shall be provided to each parcel and conform to

¹ A single family dwelling generates, week days, approximately 9.52 Average Daily Trips (ADT).

² ADUs must be allowed in residential zones within urban growth areas of cities with a population greater than 2,500 after the passage of Oregon HB 2001.

right-of-way and improvement standards as follows:

- (1) If a recorded easement for access purposes in a Type II Land Division will serve three or fewer parcels and will not likely serve other parcels or lots due to existing conditions, such as topography or the size or shape of land, or the parcels are not buildable, the easement or right-of-way is required to be improved to meet the Option 1 or "P-1" county Road standard as provided in §152.648 (D). The easement or right-of-way shall be a minimum of 30 foot wide and improved with a surface width of at least 16-feet.
The existing easement currently serves six parcels. One additional parcel will be served by this easement, should this land division request be approved. This criterion does not apply.

- (2) If the partition is located within a rural fire district or a hospital district which provides service, emergency vehicle considerations for recorded easements which dead-end shall provide either circle drives or driveway turn-arounds. The Planning Director or Public Works Director shall determine which type of emergency vehicle access above is most appropriate. Circle drives and turnarounds shall be improved to the same standard as the road they serve as provided in §152.648 (D), shall be kept clear and shall be of adequate circumference to provide turn around space for emergency vehicles.
The proposed partition is located within the boundary of Umatilla County Fire District #1, currently, a turnaround area is not provided by the existing access easement. Therefore, the applicant shall provide an adequate and improved turnaround with a radius of at least 50-feet.

County Planning finds a condition of approval is imposed that the applicant create and dedicate a 50-foot radius turnaround area to supplement the existing 60-foot access easement. This turnaround must be improved to the P-2 County Road Standard and shown on the final partition plat. The P-2 Road Standard consists of an improved surface width of at least 22 feet with 8 inches of compacted gravel.

County Planning finds a condition of approval that the applicant submit written confirmation from Umatilla County Fire District #1 that the improved 50-foot radius turnaround is adequate is imposed.

- (3) If a public road or recorded easement for access purposes in a Type II Land Division will serve four or more parcels and will likely serve additional parcels or lots, or likely be an extension of a future road as specified in a future road plan, the right-of-way or easement shall be required to be improved to meet the Option 2 or "P-2" County Road Standard as provided in §152.648 (D). The 60-ft right-of-way or easement shall be improved with a surface width of at least 22-feet. All 60-foot rights-of-way or easements are to be named prior to final approval of the partition plat and the road name must be included on the final partition plat map. Road signs are to be paid for prior to the final partition plat approval.

The existing 60-foot access easement currently serves six parcels and subsequent to approval of this land division request the easement will serve seven parcels. The applicant has not provided Planning with evidence that the existing access easement has been improved to meet the County P-2 standard. The P-2 Road Standard consists of an improved surface width of at least 22 feet with 8 inches of compacted gravel.

County Planning finds that the portion of the easement benefitting the subject parcels must be improved. Specifically, the portions of the access easement that abut the easterly property boundaries to the northerly boundary of the subject parcels.

County Planning finds the existing road access easement has not been named and serves more than four parcels at this time and will serve more in the future. Therefore, the easement must be named in conjunction of this land division request.

County Planning finds a precedent condition of approval that the applicant either submit evidence that the access easement has been improved to the County P-2 road standard, or evidence that the applicant has improved the easement to the County P-2 road standard is imposed. Verification the improvements are in place and meet the P-2 standard must be provided. Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.

County Planning finds a precedent condition of approval that the applicant submit a road naming application with applicable fees to the County Planning Department is imposed.

County Planning finds a precedent condition of approval that the applicant receive road naming approval from County Planning is imposed.

County Planning finds a precedent condition of approval that the approved road name be shown on the face of the final partition plat is imposed.

- (4) Recorded easements or dedicated public roads required in the Type II Land Division may warrant the installation of road signs at intersections with named or numbered county roads, state highways, or with other existing easements or public roads within or abutting the partitioned land. The Public Works Director will determine if road signs are necessary at these intersections. Such signs shall be of a type approved by the Public Works Director. Easement or public road names or numbers shall be the same as existing named or numbered county or public roads if an extension of such county or public road. All other road names or numbers shall be selected by the Planning Director as provided in Umatilla County Code of Ordinance, Chapter 93. Road signs shall be installed by the

County, provided the partitioner pays for the cost and maintenance of the sign. The applicant is not proposing a new access easement to serve the three proposed parcels. However, because the existing access easement serving the three parcels has not been named, the applicant is required to name the private easement, as described above in subsection (3), and pay for the installation of the road sign.

County Planning finds a precedent condition of approval that the applicant pay for the installation of the road sign for the newly-named access easement is imposed.

- (5) Existing County or Public Roads shall be improved pursuant to the requirements of this chapter. See J below.
 - (6) Shall obtain necessary approval and/or permits from either the State Highway Department or County Public Works Director for location, design, and improvement standards of access points onto County Roads, (approved) public roads, or state highways. The subject parcels have lawful access from the unnamed 60-foot access easement. The access easement was established in 1993, connecting to W Elm Ave (County Road #1230). No further access permits are required.
- G. Each parcel under four acres in size, both those partitioned or the remaining piece which are to be for residential purposes, have a site suitability approval from the Department of Environmental Quality. A waiver to this requirement may be granted if the applicant makes a written request to the Planning Director and the Planning Director finds:
- (1) The parcel, four acres or under, is to be used for non-residential purposes and the owner's signature to this effect is on the partition form;
 - (2) The parcel remaining has an existing dwelling and zoning densities will not permit additional dwellings. All of the proposed parcels are much larger than four acres. Therefore, the applicant's proposed parcels appear to have ample area for replacement drain fields. During the development process, new septic systems (and new connections to existing systems) must receive approval from County Environmental Health. This criterion does not apply.
- H. Shall provide easements along existing irrigation ditches that traverse or abut the partition where no such easements have yet been recorded. The purpose of the easement shall be for perpetual maintenance of the ditch and if within an irrigation district, said easement width and purpose shall be approved by the Irrigation District Board. The application information provides that the property is in pasture; and that the subject properties contain a combined total of 19.1 acres of irrigation water rights. Tax Lot 1100 contains 10.1 acres of irrigation water rights while Tax Lot 1200 contains 9 acres of irrigation water rights. Hermiston Irrigation District provided Planning with water rights information and stated that the district has an irrigation easement, located from the east side of the properties, ending at the southeast corner of Tax Lot 1200, this easement serves the D Line. Hermiston Irrigation

District (HID) serves the area and a copy of the public notice will be sent to the HID for District comment regarding easement requirements or other irrigation water requirements. Satisfaction of HID's requirements may be satisfied with a signature on the Final Partition Plat.

County Planning finds a precedent condition of approval that the applicant comply with HID's requirements is imposed. Satisfaction of HID's requirements may be satisfied with a signature on the Final Partition Plat.

- I. Considers energy conservation measures (e.g. road, lot and building orientation for solar and wind usage) unless vegetation, topography, terrain, or adjacent development will not allow these energy conservation measures. County Planning finds the proposed parcel sizes are adequate to accommodate on-site energy conservation measures.
- J. All required improvements have signed agreements with the Board of Commissioners to meet the standards of this chapter or improvements specified by the Planning Commission or Public Works Director, and are recorded in the Recorder's Office at the time, and as a condition of approval for a Type II Land Division. As development occurs, additional road impacts, future upgrading and road realignment often become necessary. With land division proposals, an Irrevocable Consent Agreement (ICA) is required by the county for adjoining land owners' involvement in the future financial participation in the upgrading and possible realignment of access easements and adjoining county roads.

County Planning finds 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 currently unnamed road for Parcels 1-3 is imposed.

- K. Adequately addresses any known development limitations within the proposed Type II Land Division, outlining appropriate measures to mitigate the limitation. All parcels will meet or exceed the FU-10 zone parcel size minimum of ten acres. All three proposed parcels have areas which are in the Special Flood Hazard Area (SFHA) and Parcels 1 and 2 contain designated wetlands. Development in these areas shall be extremely limited, and overall, development shall be placed elsewhere on the parcels.
- L. Addresses the comments of the appropriate water agency if the proposed Type II Land Division has a water right. (See H. above)


ZONE CHANGE DECISION: BASED ON THE ABOVE STATED FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UMATILLA COUNTY BOARD OF COMMISSIONERS HEREBY APPROVE THE HUNSAKER ZONING MAP AMENDMENT, Z-316-21.

Hunsaker Zone Amendment, #Z-316-21, and
Type II Land Division, #LD-4N-1054-21
Final Findings of Fact

23

DATED this 17 day of June, 2021.

UMATILLA COUNTY BOARD OF COMMISSIONERS


George M. Murdock, *Commissioner*


John M. Shafer, *Commissioner*

ABSENT
Daniel L. Dorran, *Commissioner*

LAND DIVISION DECISION: BASED UPON THE ABOVE FINDINGS THE HUNSAKER TYPE II LAND DIVISION REQUEST, #LD-4N-1054-21, IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

Precedent Conditions: The following precedent conditions must be fulfilled prior to final approval of this request, signified by the recording of the Final Partition Plat:

1. Receive rezone approval for the subject parcel to amend the UGB Zoning Map to FU-10, Future Urban 10-acre Zoning, prior to submitting a Partition Plat.
2. Pay public notice fees to County Planning.
3. Dedicate a 50-foot radius turnaround area to supplement the existing 60-foot access easement. The dedication and easement must be shown on the Final Partition Plat.
4. Improve the 50-foot radius turnaround area to the County P-2 road standard. [Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.]
5. Submit written confirmation from Umatilla County Fire District #1 that the improved 50-foot radius turnaround is adequate to County Planning.
6. Submit evidence to County Planning that the access easement has been improved to the County P-2 road standard, or evidence that the applicant has improved the easement to the County P-2 road standard. Verification the improvements are in place and meet the P-

2 standard must be provided. [Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.]

7. Submit a road naming application with applicable fees, including road sign installation fees, to the County Planning Department.
8. Receive road naming approval from the County Rural Addressing Coordinator.
9. Comply with HID's irrigation easement and irrigation water right requirements. Satisfaction of HID's requirements may be satisfied with a signature on the Final Partition Plat.
10. Sign and record an Irrevocable Consent Agreement (ICA) for future participation in road improvements to the 60-foot currently unnamed road for Parcels 1-3. The ICA document will be provided by County Planning.
11. Submit a Preliminary Partition Plat to County Planning, GIS and Surveyor for review and comment.
12. Pay and pre-pay all taxes prior to recording the Final Partition Plat.

Subsequent Condition: The following subsequent condition must be fulfilled following satisfaction of all precedent conditions and approval of the Preliminary Partition Plat.

1. Record the Final Partition Plat, prior to signing deeds.

Dated this 17 day of June, 2021.

UMATILLA COUNTY PLANNING COMMISSION



Donald Wysocki, *Planning Commission Vice-Chair*

EXHIBIT 2
ADDENDUM TO FINAL FINDINGS

Hunsaker Land Division Appeal, LD-4N-1054-21

Addendum to the Final Findings

The conditions of approval being appealed, appellant's statements, and Planning Staff responses are below.

Text from Umatilla County Development Code, County Ordinance Chapter 93, and the City of Hermiston TSP are provided in underlined text.

UCDC § 152.684 STANDARDS FOR APPROVAL.

In granting approval of a Type II Land Division, the Planning Director shall find that the Type II Tentative Plan and required supplementary material comply with the following:

F. (2) If the partition is located within a rural fire district or a hospital district which provides service, emergency vehicle considerations for recorded easements which dead-end shall provide either circle drives or driveway turn-arounds. The Planning Director or Public Works Director shall determine which type of emergency vehicle access above is most appropriate. Circle drives and turnarounds shall be improved to the same standard as the road they serve as provided in §152.648 (D), shall be kept clear and shall be of adequate circumference to provide turn around space for emergency vehicles.

Planning Commission Finding: The proposed partition is located within the boundary of Umatilla County Fire District #1, currently, a turnaround area is not provided by the existing access easement. Therefore, the applicant shall provide an adequate and improved turnaround with a radius of at least 50-feet.

County Planning finds a condition of approval is imposed that the applicant create and dedicate a 50-foot radius turnaround area to supplement the existing 60-foot access easement. This turnaround must be improved to the P-2 County Road Standard and shown on the final partition plat. The P-2 Road Standard consists of an improved surface width of at least 22 feet with 8 inches of compacted gravel.

County Planning finds a condition of approval that the applicant submit written confirmation from Umatilla County Fire District #1 that the improved 50-foot radius turnaround is adequate is imposed.

Precedent Condition 3: Dedicate a 50-foot radius turnaround area to supplement the existing 60-foot access easement. The dedication and easement must be shown on the plat.

Applicant's Appeal Reason: Failed to consider the acceptable alternative available through state fire code. See Exhibit A.

Staff Response: The appeal packet's Exhibit A is a diagram from Appendix D of the 2019 Oregon Fire Code, page 544. The Umatilla County Planning Director determined the 50-foot radius cul-de-sac as the appropriate turnaround for emergency vehicles. County Cul-de-sac requirements are shown in the "C" Cul-de-sac diagram from the Umatilla County Transportation System Plan. The "C" diagram is included as an attachment. Precedent condition #3 requires the turnaround area be dedicated to supplement the existing 60-foot access easement and shown on the plat.

Umatilla County Fire District #1 Response: The page from the fire code is an acceptable means for fire apparatus turn-a-round provided the requirements are fully met. That said, the County is not obligated to accept this as an alternative. Based on what has been provided (a page from the fire code and a couple of pictures) I am not able to make a determination that the area proposed is adequate, or meets other requirements of Section 503 or Appendix D of the Oregon Fire Code.

Precedent Condition 4: Improve the 50-foot radius turnaround area to the County P-2 road standard. [Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.]

Applicant's Appeal Reason: Failed to inspect existing conditions and alternatives available.

Staff Response: There is not currently a lawfully dedicated turnaround area serving the existing access easement. Therefore, a 50-foot radius turnaround area must be dedicated and improved to the County P-2 Road Standard. The applicant may submit evidence to Planning, as outlined in Precedent Condition #4, that the dedicated turnaround area meets the County P-2 Road Standard. County Planning does not inspect existing conditions of roadways. The applicant maintains the burden of proof for existing conditions and evidence of improvements.

Precedent Condition 5: Submit written confirmation from Umatilla County Fire District #1 that the improved 50-foot radius turnaround is adequate to County Planning.

Applicant's Appeal Reason: As above.

Staff Response: When a land division is under review for properties located within fire districts, County Planning requires that the applicant submit evidence from the applicable fire district that the turnaround is acceptable to the fire district. This ensures that there is adequate space for emergency service vehicles. Typically, this standard is satisfied with a letter from the fire district. County Planning does not provide these inspections, and relies on the fire district to make the determination. The burden of proof is placed on the applicant.

F. (3) If a public road or recorded easement for access purposes in a Type II Land Division will serve four or more parcels and will likely serve additional parcels or lots, or likely be an extension of a future road as specified in a future road plan, the right-of-way or easement shall be required to be improved to meet the Option 2 or "P-2" County Road Standard as provided in §152.648 (D). The 60-ft right-of-way or easement shall be improved with a surface width of at least 22-feet. All 60-foot rights-of-way or easements are to be named prior to final approval of the partition plat and the road name must be included on the final partition plat map. Road signs are to be paid for prior to the final partition plat approval.

Planning Commission Finding: The existing 60-foot access easement currently serves six parcels and subsequent to approval of this land division request the easement will serve seven parcels. The applicant has not provided Planning with evidence that the existing access easement has been improved

to meet the County P-2 standard. The P-2 Road Standard consists of an improved surface width of at least 22 feet with 8 inches of compacted gravel.

County Planning finds that the portion of the easement benefitting the subject parcels must be improved. Specifically, the portions of the access easement that abut the easterly property boundaries to the northerly boundary of the subject parcels.

County Planning finds the existing road access easement has not been named and serves more than four parcels at this time and will serve more in the future. Therefore, the easement must be named in conjunction of this land division request.

County Planning finds a precedent condition of approval that the applicant either submit evidence that the access easement has been improved to the County P-2 road standard, or evidence that the applicant has improved the easement to the County P-2 road standard is imposed. Verification the improvements are in place and meet the P-2 standard must be provided. Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.

County Planning finds a precedent condition of approval that the applicant submit a road naming application with applicable fees to the County Planning Department is imposed.

County Planning finds a precedent condition of approval that the applicant receive road naming approval from County Planning is imposed.

County Planning finds a precedent condition of approval that the approved road name be shown on the face of the final partition plat is imposed.

Precedent Condition 6: Submit evidence to County Planning that the access easement has been improved to the County P-2 road standard, or evidence that the applicant has improved the easement to the County P-2 road standard. Verification the improvements are in place and meet the P-2 standard must be provided. [Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.]

Applicant's Appeal Reason: Failed to consider the City of Hermiston recommendation that the easement remain private stating "maintaining the access as an easement will avoid dedication of which later must be transferred to the City changing a county road to a city street." "By maintaining the easement in its current status the City can require right of way dedication as a city street when the property develops at urban density within the City limits at a later date." Attached are letters from the 2 property owners currently served by the easement.

Staff Response: Improving the existing access easement, or providing acceptable evidence that the access easement is improved, to the County P-2 Road Standard does not change the

roadway type. The condition applied is not requiring that the easement be dedicated to the public, nor that it change from a private access easement. The condition placed on the approval is requiring that the County P-2 Road Standard be met. Evidence may be submitted that the standard is met without additional improvements from the applicant. However, prior to the appeal application, Planning had not received any photographs of the access easement. Based on Google Earth, the access easement did not appear to meet the County P-2 standard.

The applicant is asked to improve the road to meet the P-2 standard, or provide evidence that it already meets the standard. Regardless if some of the current owners of properties abutting the roadway agree that the road is “adequate” for current demand, the county standard exists to assist future development and growth. The land division proposal will allow for up to two additional dwellings, and therefore, increase the demand and wear on the roadway.

Because the properties are located within the City of Hermiston’s Urban Growth Area, the City’s Transportation System Plan (TSP) standards apply. Prior to the Planning Commission Hearing, County Staff communicated with City Staff regarding the proposal. City Staff requested that the City’s TSP standards **not** be applied to the land division, rather, that applicable County standards be applied. This is unique, and the City’s main reason is because the portion of W. Elm Extension that the easement connects to is gravel, and the applicable road standard would require pavement. It would not make sense to require an easement to be paved to connect with a gravel County Road. The applicable City standard for a rural local residential street is a 24-foot roadway within a 60-foot right-of-way, containing two 10-foot travel lanes with paved shoulders, two feet in width, on both sides of the road. The large right-of-way width reserves plenty of room for future expansion of the roadway to urban residential or collector street standards. For the most part, rural streets will not include sidewalks.

At the request of the City of Hermiston, the applicant already has a lesser road improvement requirement (County P-2 road standard) than what is required by the City’s TSP. The City provided clarification that the County P-2 Road Standard should be applied as a condition of the approval.

City of Hermiston’s clarifying statement: To avoid issues of county/city road jurisdiction, the city wishes to reiterate our original testimony that this easement should remain private for the time being and eventually improved to urban standards as a city street when this area is annexed to the city in the future. County standards for private easements should be applied as a condition of development as the city stated in our 5/13 testimony, *“If additional gravel base and additional gravel width is necessary, the city requests this be added as a condition of development.”*

Precedent Condition 7: Submit a road naming application with applicable fees, including road sign installation fees, to the County Planning Department.

Applicant’s Appeal Reason: Failed to consider the long term implication of naming and signing the road and having to rename the same road in the future. If the road were to be named by the

City today it would be NW 17th Street. Please consider our request to amend the precedent conditions listed above by eliminating or modifying the conditions of 6, 7, and 8 as approved.

Staff Response: The County Road Naming Ordinance, Chapter 93, provides rural addressing and road naming standards for the unincorporated areas of Umatilla County.

§ 93.16 ROAD NAMING.

(A) Roads shall be reviewed and named by the Planning Department, subject to the approval of the Board.

(B) The following situations will require approval of the Board of Commissioners, subject to the Planning Department's naming action pursuant to § 93.19

(1) When any unimproved county road or public road is constructed and used as a road;

(2) When any county or public road is established, including when these new county or public roads will have names established within the provisions of the County Zoning, Partition and Subdivision Ordinance, or in the provisions for establishing a public way as provided by ORS Chapter 368;

(3) When any private lane has the third building accessed from said lane;

(4) When there is a petition to rename an officially adopted road name pursuant to this chapter;

(5) When an application to name a private lane with two or less buildings is approved;

The existing access easement is unnamed and currently serves 6 parcels and currently 3 dwellings. The subject properties alone, should they be developed to the extent that current zoning allows, would add the burden of an additional 6 dwellings to the access easement (3 single family dwellings and 3 accessory dwelling units). This does not include the three parcels that are currently undeveloped. The access easement should have been named many years ago, when the third dwelling obtained a zoning permit. However, since that did not occur, the burden now falls on the applicant wishing to further partition their properties.

County Planning has met with the City Planning Director, who agreed that the road should be named NW 17th Street. It may be named that now, prior to annexation of the road or surrounding properties. The private easement is located within the City of Hermiston's UGB, and in accordance with the Joint Management Agreement between the City and the County, the City and County coordinate road names and rural addressing within the UGB.

The applicant is asked to submit the Road Naming application with applicable fees to County Planning. Typically, applicants submit their top three road names and County Planning, in coordination with County Dispatch, Road Department, and City if applicable, select an acceptable road name. The acceptable road name for this private access easement would be NW 17th Street, due to the location and City's road network.

City of Hermiston Statement: Currently as a county road, Elm is designated as W Elm Extension. There are existing houses serviced by the private easement and addressed off of Elm. To fully meet the criteria of the city's street naming ordinance, Elm should be designated as W Elm Ave and should not curve to the north along the private easement. The City TSP, co-

adopted by Umatilla County, calls for the future extension of Elm across the Umatilla River and this future extension will need to retain the Elm designation. Addresses for the houses serviced by the private easement should be assigned in accordance with the county's addressing standards. If county addressing standards require each easement to be named, then the easement should be named in accordance with the city requirements for street naming and be designated as NW 17th Street (this easement falls in the city's 17 block for street numbers and is in line with SW 17th Street further to the south).

Precedent Condition 8: Receive road naming approval from the County Rural Addressing Coordinator.

Applicant's Appeal Reason: Failed to consider the long term implication of naming and signing the road and having to rename the same road in the future. If the road were to be named by the City today it would be NW 17th Street. Please consider our request to amend the precedent conditions listed above by eliminating or modifying the conditions of 6, 7, and 8 as approved.

Staff Response: Please see above response to Precedent Condition #7.

EXHIBIT 3
UMATILLA COUNTY PLANNING
COMMISSION PACKET

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT WALDHER

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

MEMO

TO: Umatilla County Planning Commissioners

FROM: Megan Green, Planner

DATE: May 18, 2021

RE: May 27, 2021 Planning Commission Hearing
Zoning Map Amendment Z-316-21 and Type II Land Division LD-4N-1054-21

CC: Robert Waldher, Planning Director

Request

The Hunsaker request is comprised of two land use actions:

1. Zone Change from F-2, General Rural Zone to FU-10, Future Urban 10-acre Minimum Zone.
2. Type II Land Division.

Background Information

Property owners, Richard and Sandra Hunsaker, are requesting to rezone and partition two parcels located within Hermiston's Urban Growth Boundary (UGB). The Hunsaker properties are located north of West Elm Extension and east of the Umatilla River, approximately one-half mile west of Hermiston City Limits. The applicants' properties and the surrounding properties are all located within the City of Hermiston's UGB.

Criteria of Approval

The standards applied are from the Statewide Planning Goals, Joint Management Agreement, City Comprehensive Plan and County Zoning Ordinance. The Hunsaker request requires the Planning Commission to address two separate actions – a recommendation to the Board for approval or denial of the rezone and the final appealable decision on the Land Division request. The criteria for approval of the Zoning Map Amendment are found in Umatilla County Development Code Sections 152.750-152.755. The criteria for approval of the Type II Land Division are found in Umatilla County Development Code Sections 152.680-152.686.

Conclusion

The process of zone change approval by the County involves review by the County Planning Commission with a recommendation on the rezone request to the Board of County Commissioners (BCC). The BCC must also hold a public hearing(s) and make a decision whether or not to adopt the proposed zoning change. A public hearing before the BCC is scheduled for June 16, 2021.

Memo

Planning Commission Public Hearing – May 27, 2021

Zoning Map Amendment Z-316-21 and Land Division Request LD-4N-1054-21

Staff has provided Findings and Conclusions that you may believe support, or do not support, the criteria. The conclusions the Planning Commission members believe and use for a recommendation on the rezone to the Board of Commissioners, and for a decision on the land division request, must be based on substantial, factual, evidence in the record.

Attachments

The following attachments have been included for review by the Planning Commission:

- County Preliminary Findings and Conclusions
- 1983 City of Hermiston JMA
- County Ordinance 83-07
- County Ordinance 84-02
- City of Hermiston Comment
- Hermiston Irrigation District irrigation information

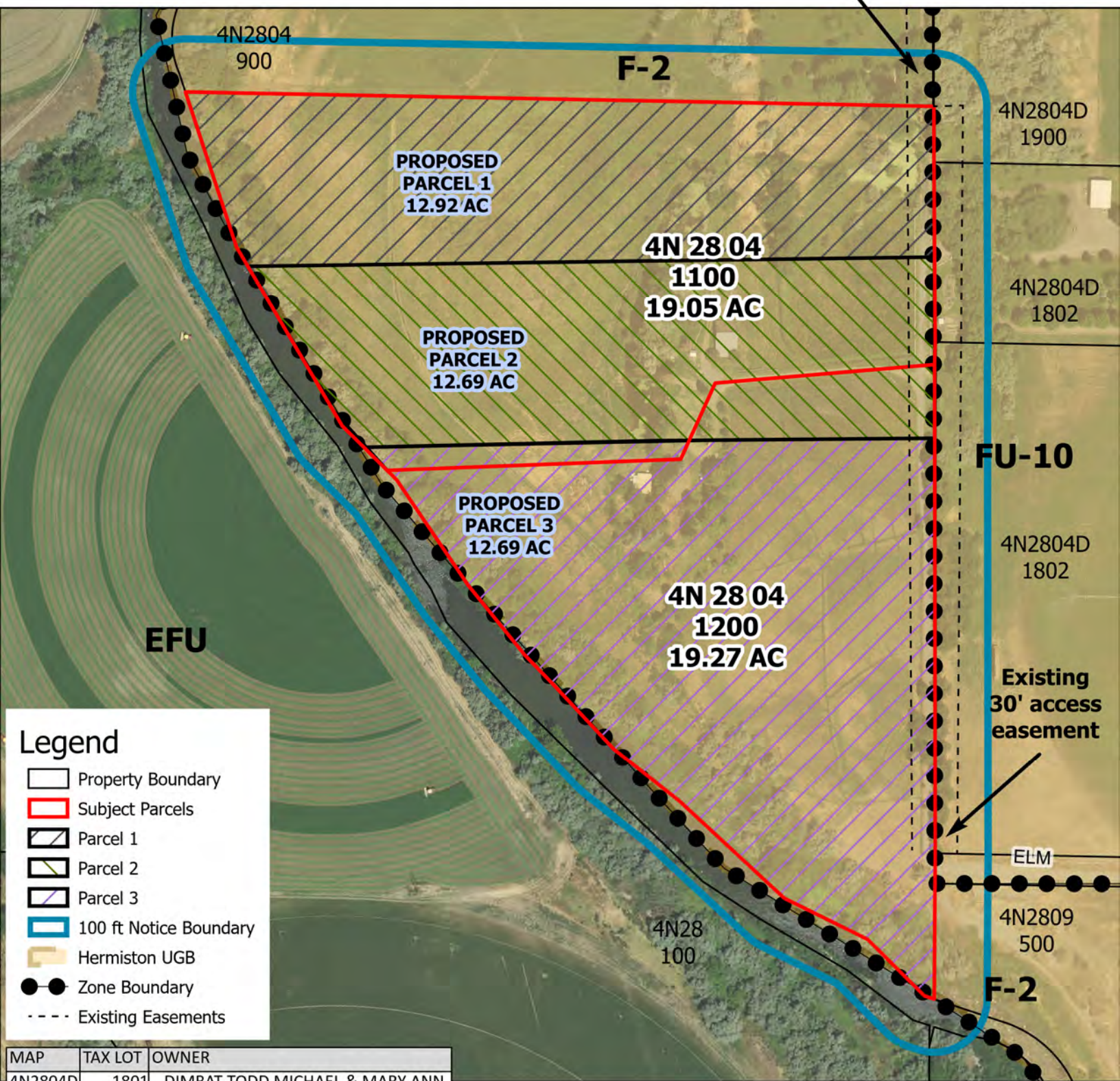
**UMATILLA COUNTY
PLANNING COMMISSION HEARING – MAY 27, 2021
UMATILLA COUNTY ZONING MAP AMENDMENT &
TYPE II LAND DIVISION
RICHARD & SANDRA HUNSAKER, APPLICANTS & OWNERS
PACKET CONTENT LIST**

1. Staff Memo to Planning Commission	Pages 1-2
2. Notice and Vicinity Map	Page 4
3. Soils Map	Page 5
4. Floodplain and Wetlands Map	Page 6
5. Preliminary Partition Plat	Page 7
6. Staff Report & Preliminary Findings	Pages 9-32
7. September 1983 Joint Management Agreement	Pages 34-45
8. County Ordinance #83-07	Pages 46-53
9. County Ordinance #84-02	Pages 54-65
10. City of Hermiston Comment, Clint Spencer	Pages 66-67
11. Hermiston Irrigation District Irrigation Information, Annette Kirkpatrick	Pages 68-70

APPLICANT: RICHARD & SANDRA HUNSAKER
OWNER: SAME AS APPLICANT #LD-4N-1054-21
MAP: 4N 28 04 TAX LOTS: 1100 AND 1200

Notified Property Owners with 100 feet of Subject Parcels

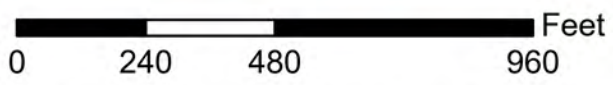
Existing 30' access easement



Legend

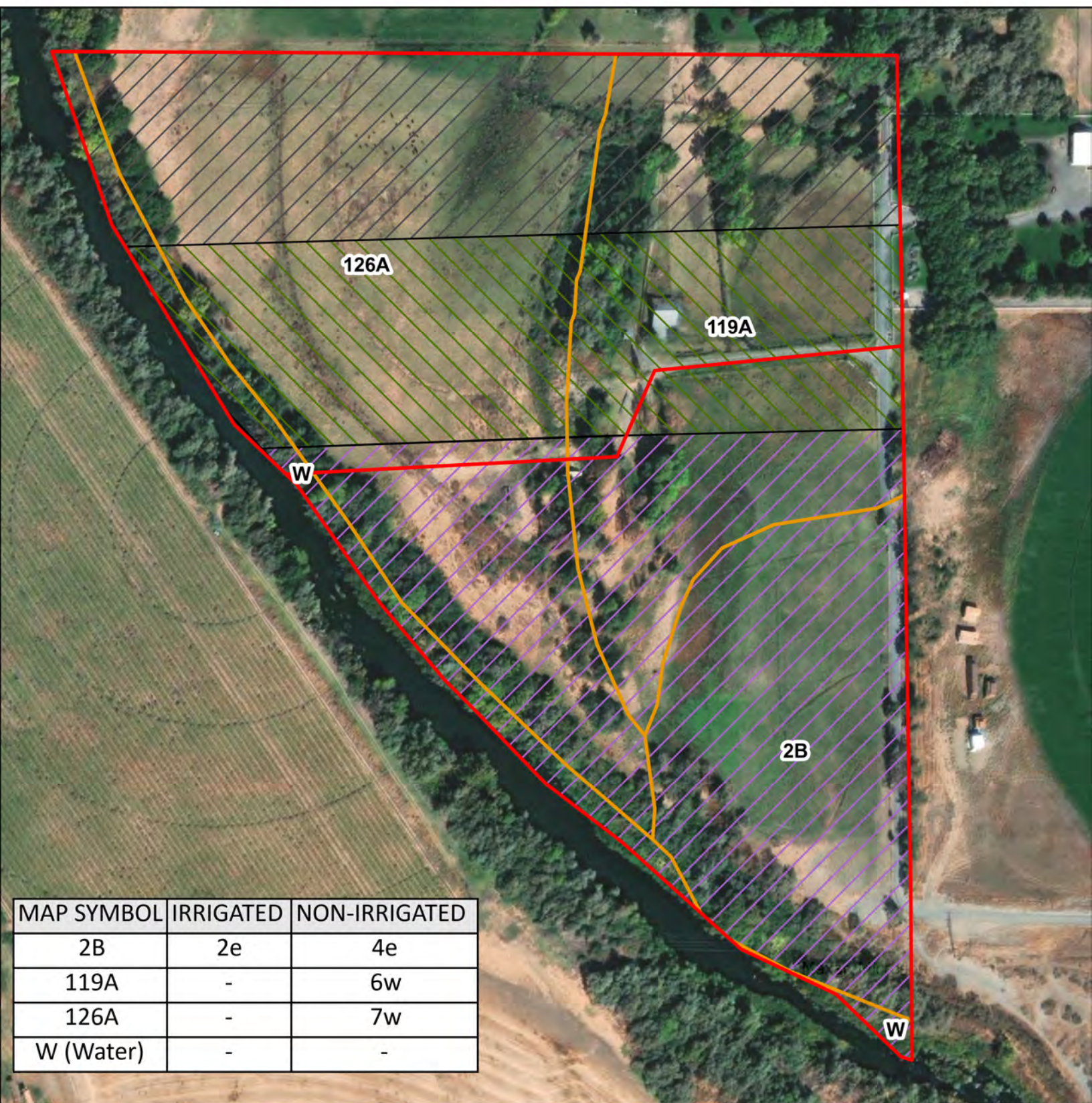
- Property Boundary
- Subject Parcels
- Parcel 1
- Parcel 2
- Parcel 3
- 100 ft Notice Boundary
- Hermiston UGB
- Zone Boundary
- Existing Easements

MAP	TAX LOT	OWNER
4N2804D	1801	DIMBAT TODD MICHAEL & MARY ANN
4N2804D	1802	CHAIRES SAUL VOLLMER
4N2804D	1900	ROBERTS BERKLEY J & STACIE R
4N2804	1200	HUNSAKER RICHARD L & SANDRA
4N28	100	CARPENTER RICHARD A & KRISTINE
4N2804	900	FLAIZ RICHARD A & CLAUDIA R (TRS)
4N2804	1100	HUNSAKER RICHARD L & SANDRA
4N2809	500	ELM



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 M. Green, Umatilla County Planning Department Date: 4/30/2021

APPLICANT: RICHARD & SANDRA HUNSAKER
OWNER: SAME AS APPLICANT #LD-4N-1054-21
MAP: 4N 28 04 TAX LOTS: 1100 AND 1200

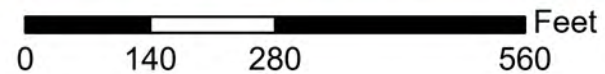


MAP SYMBOL	IRRIGATED	NON-IRRIGATED
2B	2e	4e
119A	-	6w
126A	-	7w
W (Water)	-	-

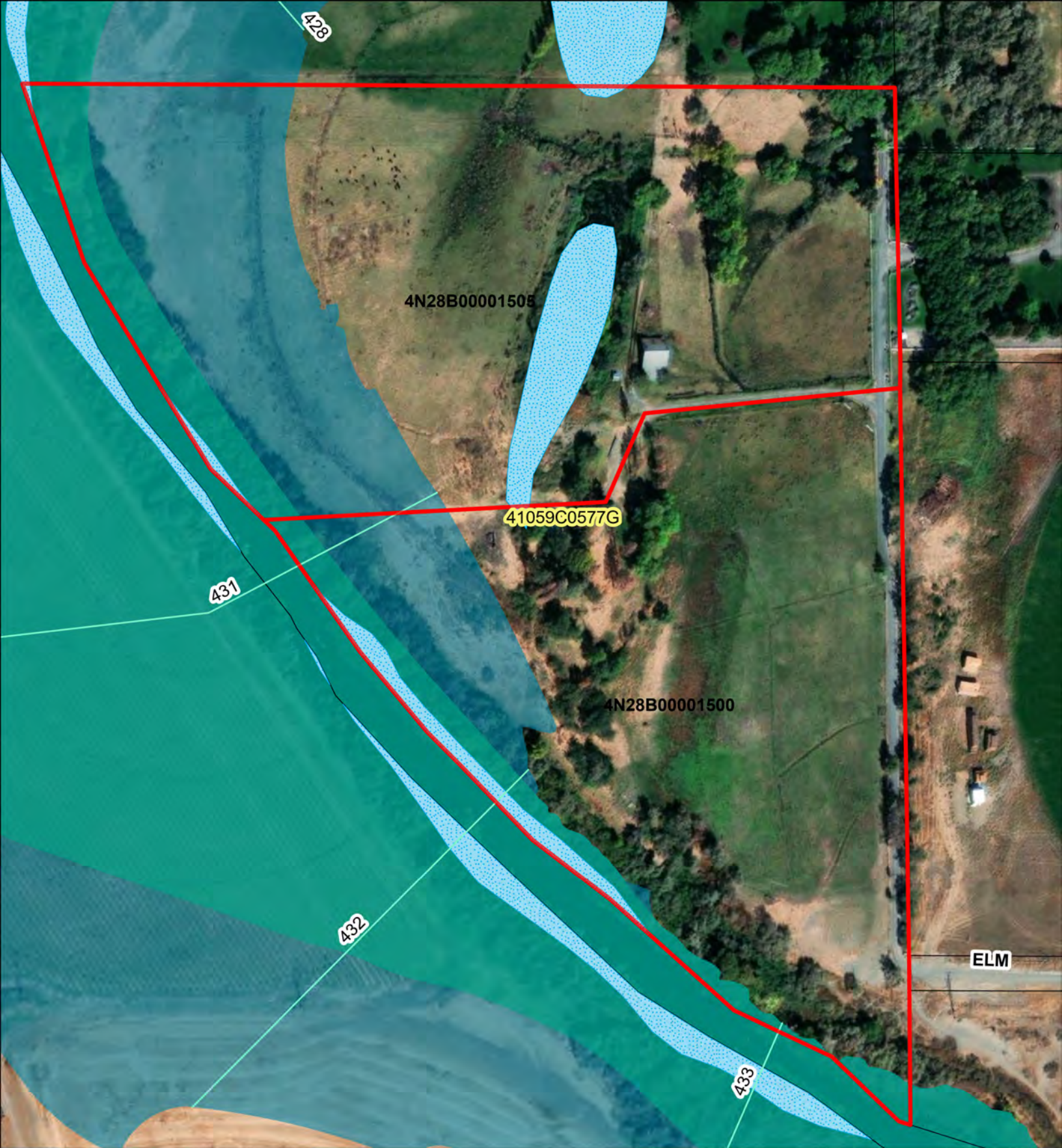
Legend

- Subject Parcels
- Soils
- Parcel 1
- Parcel 3
- Parcel 2

BCC Appeal Page 52

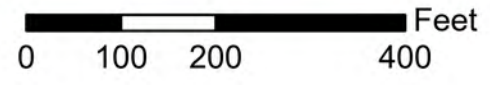


Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Green, Umatilla County Planning Department Date: 4/30/2021



FIRM Panel 41059C0577G

- Legend**
- Base Flood Elevation
 - Floodway
 - FIRM Panel
 - A, No Base Flood Determined
 - AE, Base Flood Determined
 - AO, Shallow Flooding
 - Tax Lot Boundary
 - Subject Parcels
 - Umatilla_County Wetlands



MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Map data should be used for reference purposes only. Not survey grade or for legal use. Created 4/14/2021

HUGHS REPLAT

OF PARCEL I AND II OF PARTITION PLAT 1999-37, LOCATED IN THE S.W. 1/4 OF SEC. 4 AND N.W. 1/4 SEC. 9 TWP. 4 N., RNG. 28 E.W.M., UMATILLA COUNTY, OREGON.

SURVEYOR'S NARRATIVE

THIS SURVEY WAS PERFORMED AT THE REQUEST OF RICHARD L. HUNSAKER TO REPLAT PARCELS I AND II OF PARTITION PLAT 1999-37 INTO PARCELS AS DEPICTED ON THIS PLAT.

IN 1993 LS 2431 CREATED PARCEL 1 OF PARTITION PLAT 1993-05 THROUGH A LAND PARTITION. IN DOING SO HE SET THE MONUMENT FOR THE NORTHEASTERLY CORNER OF PARCEL 1. THIS MONUMENT WAS FOUND AND RECOVERED. SEE LAND PARTITION 1993-05

IN 1999 LS 2817 PARTITIONED PARCEL 1 OF PARTITION PLAT 1993-05 INTO 2 PARCELS, THE 6 MONUMENTS HE SET DURING THIS LAND PARTITION WERE FOUND AND RECOVERED WITH THE EXCEPTION OF THE 3 MONUMENTS SET ON THE RIGHT BANK OF THE UMATILLA RIVER. THESE 3 MONUMENTS WERE SEARCHED FOR BUT NOT FOUND. IT IS SUSPECTED THAT THEY WERE OBLITERATED DURING A RECENT FLOOD AND EROSION, SEE LAND PARTITION 1999-37.

THE POSITIONS FOR THE NORTHWESTERLY CORNER OF PARCEL II AND THE SOUTHERLY CORNER OF PARCEL I, BOTH OF PARTITION PLAT 1999-37, AND LOCATED ON THE RIGHT BANK OF THE UMATILLA RIVER WERE COMPUTED AT RECORD BEARING AND DISTANCES AS SHOWN ON PARTITION PLAT 1999-37.

THE RECORD MEANDER LINES ALONG THE RIGHT BANK OF THE UMATILLA RIVER AS SHOWN ON PARTITION PLAT 1999-37 WERE THEN MOVED, SCALED AND ROTATED SO AS TO MATCH SAID POSITIONS OF THE NORTHWESTERLY CORNER OF PARCEL II AND THE SOUTHERLY CORNER OF PARCEL I.

THE TOTAL ACREAGE OF THIS TRACT OF LAND WAS SURVEYED AT +/- 38.30 ACRES.

THE SOUTHERLY BOUNDARY LINE OF PARCEL 1 OF THIS PARTITION PLAT WAS COMPUTED PARALLEL WITH THE NORTHERLY BOUNDARY LINE OF PARCEL 2 OF PARTITION PLAT 1999-37 AND 20.00 FEET NORTHERLY OF THE MOST NORTHERLY CORNER OF AN EXISTING BARN THAT SITS ON THE PROPERTY, THEREBY CREATING A PARCEL ENCOMPASSING +/- 12.92 ACRES.

THE REMAINING ACREAGE WAS THEN DIVIDED IN HALF, THEREBY CREATING PARCEL 2 AND PARCEL 3 OF THIS PARTITION PLAT, PARCEL 2 BEING +/- 12.96 ACRES AND PARCEL 3 BEING +/- 12.96 ACRES. THE SOUTHERLY BOUNDARY OF PARCEL 2 OF THIS PARTITION PLAT BEING PARALLEL WITH THE NORTHERLY BOUNDARY.

THIS SURVEY WAS ACCOMPLISHED UTILIZING 2 TRIMBLE R10 GNSS RECEIVERS, AN AUTONOMOUS POSITION WAS GENERATED ON THE BASE RECEIVER AND THE FOUND MONUMENT MARKING THE NORTHWEST CORNER OF SECTION 9 AND THE FOUND MONUMENT MARKING THE NORTH ONE-QUARTER CORNER OF SECTION 9 WERE USED FOR A SITE CALIBRATION, EACH CORNER WAS THEN LOCATED OR SET ON A 1 SECOND EPOCH WITH A FIXED SOLUTION, THE BASIS OF BEARING OF THIS PLAT IS BASED ON PARTITION PLAT 1999-37.

BOUNDARY LINE TABLE

LINE	BRNG.	DIST.
L1	(C) S 19°13'35" E	14.42'
L2	(C) S 39°43'16" E	98.26'
L3	(C) S 39°43'06" E	98.27'
L4	(C) S 35°14'14" E	172.10'
L5	(C) S 26°05'50" E	127.68'
L6	(C) S 61°08'58" E	96.23'
L7	(C) S 82°02'18" E	64.45'
L8	(C) S 76°15'26" E	58.09'
L9	(C) S 29°18'54" E	52.99'
L10	N 00°53'08" W	42.42'
L11	N 00°53'08" W	32.65'

LPN 1999-37 BOUNDARY LINE TABLE

LINE	BRNG.	DIST.
L2	N 39°43'22" W	98.26'
L3	S 39°43'22" E	98.26'
L4	S 35°14'15" E	172.12'
L5	S 26°05'56" E	127.68'
L6	S 61°09'04" E	96.23'
L7	S 82°02'24" E	64.45'
L8	S 76°15'32" E	58.09'
L9	S 29°19'00" E	52.99'

LPN 1999-37 UTILITY ESMT. LINE TABLE

LINE	BRNG.	DIST.
L12	N 88°30'32" W	481.30'
L13	S 85°59'20" W	83.18'
L14	N 36°13'15" W	319.57'
L15	N 35°38'19" E	154.11'
L16	N 59°42'28" E	198.85'
L17	N 36°14'18" W	331.51'
L18	N 59°08'13" W	119.96'
L19	N 02°40'52" W	298.41'
L20	N 02°48'59" W	298.34'
L21	S 38°40'36" E	499.79'
L22	S 87°36'11" W	27.77'

OWNER'S ACKNOWLEDGMENT & DEDICATION

I, RICHARD L. HUNSAKER AND SANDRA L. HUNSAKER, OWNERS OF THE LANDS SHOWN ON THIS PLAT AND MORE PARTICULARLY DESCRIBED AS PARCEL I AND PARCEL II OF PARTITION PLAT 1999-37 HAVE CAUSED THE SAME TO BE SURVEYED AND REPLATTED INTO PARCELS AS SHOWN ON THIS PLAT IN ACCORDANCE WITH O.R.S. CHAPTER 92, AS REVISED, AND DO HEREBY DEDICATE THE 10 FOOT WIDE NON-EXCLUSIVE DOMESTIC WATER LINE EASEMENT AS SHOWN HEREON.

NOTARY PUBLIC FOR OREGON

ON THIS _____ DAY OF _____, 2020, THE INDIVIDUALS TO THE LEFT APPEARED PERSONALLY BEFORE ME AND IS KNOWN TO ME TO BE THE IDENTICAL INDIVIDUALS WHO EXECUTED THIS PLAT AND ACKNOWLEDGED THAT THEY DID SO FREELY AND VOLUNTARILY BEFORE ME.

NOTARY PUBLIC FOR OREGON
 PRINTED NAME _____
 COMMISSION NO. _____
 MY COMMISSION EXPIRES _____

RICHARD L. HUNSAKER
 SANDRA L. HUNSAKER

DEEDS

INST. NO. 2016-6450319 (HUNSAKER)
 INST. NO. 2020-6970201 (FLAIZ)
 INST. NO. 2016-6450319 (HUNSAKER)

I CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL PLAT AS FILED FOR RICHARD L. HUNSAKER AND SANDRA L. HUNSAKER IN UMATILLA COUNTY, OREGON.

KEITH P. PRIMM

1" = 150'

LEGEND

- FOUND MONUMENT AS NOTD
- SET: 5/8" X 30" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "LS LS 48490"
- FND: 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "GB WA 3040 O 02817LS"
- FND: 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "R. MCKINNIS LS 2431"
- FND: 5/8" IRON ROD WITH YELLOW PLASTIC CAP CAP ILLEGIBLE
- COMPUTED POINT (NOT SET)
- PARCEL BOUNDARY
- CALCULATED

SURVEYS

- (R1) PLS 2017 PARTITION PLAT 1999-37
- (R2) PLS 2431 PARTITION PLAT 1993-05
- (R3) PLS 48490 PARTITION PLAT 2015-22
- (R4) PLS 2431 PARTITION PLAT 1996-15
- (R5) PLS 2718 PARTITION PLAT 1998-37
- (R5) SURVEY NO. H-231-X

SURVEYOR'S CERTIFICATION

I, KEITH P. PRIMM, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON HEREBY CERTIFY THAT I HAVE SURVEYED THE LANDS AS DESCRIBED AS PARCEL I AND II OF PARTITION PLAT 1999-37 AND THAT THIS MAP CORRECTLY REPRESENTS A SURVEY CONDUCTED UNDER MY DIRECT SUPERVISION IN NOVEMBER 2020, AND HAVE SET THE PROPER MONUMENTS AS ESTABLISHED BY O.R.S. 209.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON JULY 12, 2005
 KEITH P. PRIMM
 48490

EXPIRATION DATE: 12/31/29

DATE _____

APPROVALS

UMATILLA COUNTY SURVEYOR

I DO HEREBY CERTIFY THAT I HAVE EXAMINED THE ACCOMPANYING PLAT, THAT IT COMPLIES WITH THE LAWS OF THE STATE OF OREGON WITH REFERENCE TO FILING AND RECORDING OF SUCH PLATS AND I THEREFORE APPROVE SAID PLAT.

UMATILLA COUNTY SURVEYOR

DATED THIS _____ DAY OF _____

HERMISTON IRRIGATION DISTRICT

THIS IS TO CERTIFY THAT I HAVE REVIEWED THIS PLAT AND IT IS APPROVED FOR FILING AND RECORDING BY MY AUTHORITY.

MANAGER

DATED THIS _____ DAY OF _____

UMATILLA COUNTY PLANNING DEPARTMENT:

I HAVE EXAMINED THE ACCOMPANYING PLAT AND DO HEREBY CERTIFY THAT IT COMPLIES WITH ALL REQUIREMENTS OF THE ORDINANCES AS ESTABLISHED BY UMATILLA COUNTY AND I THEREFORE APPROVE SAID PLAT FOR FILING.

DIRECTOR UMATILLA PLANNING DEPARTMENT

DATED THIS _____ DAY OF _____

UMATILLA COUNTY TAX COLLECTOR AND ASSESSOR

WE DO HEREBY CERTIFY THAT WE HAVE EXAMINED THE TAX RECORDS RELATIVE TO THE LANDS COVERED BY THE ACCOMPANYING PLAT AND THAT ALL MONIES DUE FOR STATE AND COUNTY TAXES AND ASSESSMENTS THAT COULD CONSTITUTE A LIEN ON SAID LANDS HAVE BEEN PAID, AND WE HEREBY APPROVE SAID PLAT.

TAX COLLECTOR

TAX ASSESSOR

DATED THIS _____ DAY OF _____

UMATILLA COUNTY CLERK

PRIMM LAND SURVEYING, INC.

P.O. BOX 1322, 1340 N.E. 4TH
 HERMISTON, OR 97838
 BU (541) 564-7887
 FAX (541) 567-8020
 keith@primmlandsurveying.com
 brit@primmlandsurveying.com

CLIENT: RICHARD L. HUNSAKER

P.O. BOX 2266 EUGENE, OREGON 97402

PROJECT:

HUGHS REPLAT

JOB #: 2010008
 DATE: 29 OCT 20
 FB/PG: 44/19
 SHEET: 1 OF 1
 DRAWN: KPP
 APPROVED: KPP

PAGE INTENTIONALLY LEFT BLANK

**UMATILLA COUNTY BOARD OF COMMISSIONERS
PRELIMINARY FINDINGS AND CONCLUSIONS
HUNSAKER ZONING MAP AMENDMENT REQUEST, # Z-316-21, AND
TYPE II LAND DIVISION REQUEST, # LD-4N-1054-21
ASSESSOR'S MAP # 4N 28 04, TAX LOT # 1100, ACCOUNT # 155513 AND
ASSESSOR'S MAP # 4N 28 04, TAX LOT # 1200, ACCOUNT # 117258**

1. **APPLICANT:** Richard and Sandra Hunsaker, PO Box 685, Walterville OR, 97489
2. **PROPERTY OWNER:** Same as above.
3. **PROPERTY LOCATION:** The Hunsaker properties are located on the north side of West Elm Extension and east of the Umatilla River, approximately one-half mile west of Hermiston City Limits. The applicants' properties and the surrounding properties are all located within the City of Hermiston Urban Growth Boundary (UGB).
4. **REQUEST/PROCESS:** The Hunsaker land use request consists of the following two land use requests:
 1. A zone change from the 1972 F-2, General Rural Zone (19-acre minimum parcel size), to FU-10, Future Urban 10-acre minimum parcel size.
 2. A Type II Land Division to create three 10+ acre parcels from the current two 19-acre parcels.

Much of the zoning applied to the City of Hermiston's UGB lands are from the 1972 Umatilla County Zoning Ordinance. Urban lands are zoned a city zone, and urbanizable lands are either FU-10 (UCDC) or F-1/F-2 (UC 1972 Zoning Ordinance). Rezoning of land within Hermiston's UGB is subject to the Joint Management Agreement (JMA) between the City of Hermiston and Umatilla County. The JMA provides the procedures for processing amendments to comprehensive plans, zoning maps and land use regulations. In addition to the JMA, the Hermiston zone change is also subject to policies in the City of Hermiston's Comprehensive Plan, Transportation System Plan and the applicable Oregon Statewide Planning Goals.

Per the JMA, amendments to zoning maps within urbanizable areas are processed by application to the County with notification to the City. The County Planning Commission provides a recommendation to the Board of County Commissioners based on the facts provided in the record and the testimony provided at the public hearing. The Board of County Commissioners also conducts a hearing and makes the final decision on whether the zone change request complies with applicable standards. If someone testifying does not agree with the Board's Final decision, the decision may be appealed to the State Land Use Board of Appeals (LUBA).

The change in zoning would allow the applicant to partition the two 19-acre parcels into

three 12-acre parcels. Tax Lot 1100 is improved with a 2400 square foot feeder barn and a 48 square foot pump house (assessment records), and Tax Lot 1200 contains one 860 square foot barn (assessment records). The applicant is requesting approval of a Type II Land Division to partition three parcels. The land use decision on the Hunsaker Type II Land Division is made by the Planning Commission.

Background Information: The applicants' contact with County Planning began in February 2021, when the applicant submitted a land division application to create three 12+ acre parcels to County Planning. Upon preliminary staff review, staff found that the land division could not be completed at the time due to the parcels being zoned F-2 (19-acre minimum). Staff contacted the applicant, and encouraged them to submit a Zoning Map Amendment to rezone the parcels from F-2 to FU-10, followed by a land division. County Planning staff also visited with the City of Hermiston Planning Director, who had previously directed the applicant to visit with County Planning about an application. The Zoning Map Amendment and Land Division applications were received and deemed complete by County Planning on April 20, 2021.

Several ordinances have been adopted by the County and the City of Hermiston that are relevant to F-1 and F-2 zoned properties within Hermiston's UGB. The following adopted documents are included as attachments and summarized below: Joint Management Agreement (JMA) adopted September 20, 1983, County Ordinance 83-07, and County Ordinance 84-02.

1983 JMA: Provides a table for the County to rezone some Urban Area zones from the 1972 Zoning Ordinance to a City Zone.

Ordinance 83-07: Adopts and codifies FU-10 zoning into Umatilla County Development Code, designates R-1, R-1a, R-2 and R-3 zones in the Urbanizable Area as FU-10, and states that F-1 and F-2 properties are not rezoned at this time.

Ordinance 84-02: Co-adopt City of Hermiston Comprehensive Plan Ord. #1505, co-adopt Hermiston Zoning Ordinance #1504, rezone one F-1 parcel and one F-2 parcel to the City's M-2 zone (ODOT gravel pits), rezone an FU-10 parcel as the City's M-2 zone (sewage treatment plant)

Attachment B: Defines "Future Work" project; Contact all F-1 and F-2 zoned property owners within UGB to determine which parcels should be zoned EFU-40, and which FU-10.

A county ordinance adopting the change of F-1 and F-2 zoned properties within the City of Hermiston's UGB to the FU-10 zone or EFU-40 zone was not found. Property owners of F-1 and F-2 zoned lands within Hermiston's UGB have the ability to request a rezone of their properties to the FU-10 zone or EFU-40 through a Zoning Map Amendment processed by County Planning. The applicant would like to pursue this option, and is

requesting to rezone their F-2 zoned properties to the FU-10 zone.

5. **PARCEL SIZE:** Tax Lot 1100 = 19.05 acres, Tax Lot 1200 = 19.27 acres
6. **PROPOSED PARCELS:** Parcel 1 = 12.92 acres; Parcel 2 = 12.69 acres; Parcel 3 = 12.69 acres
7. **COMPREHENSIVE PLAN:** The City of Hermiston Comprehensive Plan Designation is Open Space and Future Residential; no change to the comprehensive plan designation is proposed or necessary for approval of the proposed Hunsaker rezone.
8. **CURRENT ZONING:** Umatilla County 1972 Zoning Ordinance, F-2 (General Rural - 19 acre minimum parcel size), parcels are *urbanizable*.
9. **PROPOSED ZONING:** Umatilla County Development Code, FU-10 Future Urban, 10-acre minimum parcel size, parcels will remain *urbanizable*.
10. **ACCESS:** The properties currently have two access points from an existing 60-foot access easement that runs north to south and connects to West Elm Ave, County Road #1240.
11. **ROAD TYPE:** The existing 60-foot access easement is a private easement serving more than three parcels. It is a gravel drive and is currently unnamed.

West Elm Ave is a two-lane gravel, County Road, County Road #1240.
12. **EASEMENTS:** The properties contain several easements.
Easements on Tax Lot 1100: 10-foot utility easement, irrigation ditch and ponds, drain field easement benefitting tax lot 1200, and 30-foot access easement.
Easements on Tax Lot 1200: Two (2) 10-foot utility easements, 30-foot access easement with 20-foot Hermiston Irrigation District irrigation easement.
13. **STRUCTURES & LAND USE:** Tax Lot 1100 is developed with a 2400 square foot barn and a 48 square foot pump house, according to assessment records. Tax Lot 1200 is developed with an 860 square foot barn and previously contained a dwelling, according to assessment records.
14. **ADJACENT LAND USE:** The applicant's properties and properties to the north and east are located within the City of Hermiston's Urban Growth Boundary (UGB). Properties to the north are similarly zoned F-2, while properties to the east are zoned FU-10, Future Urban 10-acre minimum. Properties to the south and west are outside of Hermiston's UGB and zoned EFU-40, Exclusive Farm Use. The properties are bordered on the west boundaries by the Umatilla River.

15. **LANDFORM:** Columbia Basin Plateau
16. **UTILITIES:** Umatilla Electric Cooperative is the area electrical provider, the applicant provides that both parcels currently have electrical service.
17. **WATER/SEPTIC:** The applicant provides that Tax Lot 1100 contains a domestic well, according to the applicant neither parcel contains a septic system. A drain field easement was granted on Tax Lot 1200, benefiting Tax Lot 1100, however it does not appear that the septic was installed. The document recording number is 2017-6580009 at Umatilla County Deed Records. Future development is dependent on domestic wells and individual on-site septic systems because urban water and sewer facilities have not been extended, and therefore, do not service the area.

The subject property is located within the Butter Creek Critical Groundwater Area, an area designated by Oregon Water Resources Department (OWRD) as having declining basalt aquifer groundwater levels. OWRD does not require a permit for a domestic well, an exempt water use. However, this could change in the future due to a continued decline in groundwater levels and may result in OWRD permitting or limiting wells in critical groundwater areas, including exempt wells.

The subject property area is also located within the Department of Environmental Quality (DEQ) designated Lower Umatilla Basin Groundwater Management Area (LUBGWMA) due to groundwater quality. Some wells within the management area are monitored and have tested higher than the Federal Drinking Water Standard for nitrates. The management of the LUBGWMA Action Plan continues to be managed by DEQ.

18. **IRRIGATION:** According to the applicant, the properties contain irrigation water rights from Hermiston Irrigation District (HID). HID confirmed that Tax Lot 1100 contains 10.1 acres of water rights and Tax Lot 1200 contains 9 acres of water rights. Both properties are under Bureau of Reclamation Certificate No. 89006.
19. **ZONING MAP AMENDMENT REVIEW PROCESS:** The following criteria apply from the Joint Management Agreement (County Resolution September 20, 1983 and City of Hermiston Ordinance #1481, last updated in 2017) between the County and City of Hermiston for lands within the Urban Growth Area (UGA). Applicable criteria are underlined, while responses are provided in standard text.

E.4. All applications for land use actions within the Urbanizable Area shall be made through the County's Planning Department. Land use actions within Urbanizable areas shall be reviewed according to the procedures described in sections E-5 through E-8. The County shall be responsible for planning and zoning code enforcement in the Urbanizable Areas.

It is the applicant's request to amend the County Zoning Map. Lands within the City's UGB are zoned a city zone if urban and a county zone if urbanizable. The applicant's properties are zoned F-2 (urbanizable) and are requested to be zoned FU-10 (urbanizable). Approval of the applicant's request to rezone the subject properties from the 1972 County Zoning Code F-2, general rural zone, to the Umatilla County Development Code zone FU-10, future urban 10-acre minimum, would maintain consistency with the City's Comprehensive Plan Map designation of Future Residential and Open Space. The rezone would likewise provide continuity with the adjoining lands zoned FU-10, located east of the subject properties.

E.5. The County Planning Department will refer to the City Planning Department for review and comment all land use requests within the Urbanizable area for which a public hearing is required. Such notice shall be sent at least ten (10) days prior to the date of the first public hearing on each request. The County shall send the City the staff reports on such requests at least one week prior to the first public hearing. The County received an amendment application for rezoning land located within the UGA from applicant and property owners, Richard and Sandra Hunsaker. Adequate notice will be provided to the City of Hermiston as required. In addition, a copy of the Preliminary Amendment Findings will be sent to the City for review and comment.

E.6. If adequate time is available, the City Planning Department will review and comment on each such UGB land use action notice; otherwise the City Manager, or designee, will review and comment on the behalf of the City Planning Commission, and will so notify them at the next City Planning Commission meeting. The City will relay to the County comments on each such request by the date of the first public hearing or at said public hearing, even if the City's response is "no comment."

Notification to the City of Hermiston of the proposed rezone request and Planning Commission public hearing date will be followed as prescribed above. Comments from the City of Hermiston on the proposed amendment will be taken into consideration.

E.7. The County Planning Department will refer back to the City prior to final action any such land use action request in the Urbanizable area for which amendments by the applicant or County were made subsequent to the first or additional public hearings together with relevant new staff comments. The same ten-day notice period will apply. The City will be notified of the Planning Commission's recommendation and have an opportunity to comment before a Final decision is made by the Board of County Commissioners.

E.8. The County Planning Department will notify the City Planning Department in writing of all actions on such requests as well as all staff permit approvals within the UGB, within seven days of such action or approval.

The City will be notified of the final decision made by the Board of County Commissioners.

E.12. Decisions of the County Board of Commissioners regarding appeals of land use

actions within Urbanizable Areas and amendments to the Comprehensive Plan, and land use regulations for the UGA may be appealed to the appropriate tribunal. The applicant for a land use action or Comprehensive Plan amendment bears the burden of proof regarding the request or amendment and the responsibility of defending an appeal. The applicant affected by an appeal shall be required to notify the County in writing within seven days of receiving notice whether he desires to undertake his own defense or will withdraw the requested land use action or amendment. In the absence of such written communication, the County may either:

- a) Tender the defense to the applicant, or
- b) Elect to defend its decision at County expense, should the issue be determined to be of county-wide significance.

The County Board of Commissioners and/or the City may elect to participate jointly or singly in all or a portion of the cost of defending such appeal, if the issues are determined to be of county-wide or city-wide significance.

The City of Hermiston will be notified of the Final Decision by the County Board of Commissioners and have opportunity for an appeal, according to the requirements of state statutes and administrative rules.

G.1. The County zoning designations in the Urbanizable areas shall be applied in accordance with the City Comprehensive Plan.

Approval of the applicant's rezone amendment would not amend the future residential or open space designation of City of Hermiston Comprehensive Plan Map. The County maintained zoning maps would be amended by the County to change the zoning on lands located within the UGA. Approval of the applicant's rezone request would result in no required change with the City's Comprehensive Plan Designation.

G.2. The City will not annex land in the Urbanizable area, without first converting it to Urban status.

If, in the future the properties desire to be annexed, they will first have to be converted from urbanizable to urban. This process is initiated by the applicant with the City of Hermiston.

Finding: Umatilla County has evaluated the Joint Management Agreement (JMA) with the City of Hermiston and has evaluated all applicable criteria. Umatilla County finds the criteria that are applicable have been satisfied, or will be satisfied throughout this public process.

20. STATEWIDE PLANNING GOALS:

1. Citizen Involvement (Goal 1): To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The applicant's zone change proposal is processed through a public hearing and notice procedure. This process allows for citizen involvement and provides a forum for citizen testimony and input on the applicant's proposal.

2. Land Use Planning (Goal 2): To establish 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.

City and County actions on land use requests must be consistent with acknowledged local comprehensive plans. The Hunsaker proposal to zone land FU-10, Future Urban, is consistent with the City of Hermiston's Comprehensive Plan Future Residential designation.

3. Agricultural Lands (Goal 3): To preserve and maintain agricultural lands.

Statewide Planning Goal 3 is not applicable to lands within the Urban Growth Boundary. The subject properties are designated for future residential and open space use by the City of Hermiston Comprehensive Plan.

4. Forest Lands (Goal 4): To conserve forest lands with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Statewide Planning Goal 4 is for protection of designated forest lands and is not applicable to this request.

5. Open Spaces Scenic and Historic Areas and Natural Resources Goal (Goal 5): To protect natural resources and conserve scenic and historic areas and open spaces.

The subject properties are located within the Butter Creek Critical Groundwater Area. This Critical Groundwater designation applies to the basalt aquifer. Goal 5 directs that local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. Among the specific resources to be protected are groundwater resources. The purpose and intent as defined in the Administrative Rules establishes procedures and criteria for inventorying and evaluating Goal 5 resources and for developing land use programs to conserve and protect significant Goal 5 resources.

Groundwater Resource: "Protect significant groundwater resources" means to adopt land use "programs" to help insure that reliable groundwater is available to areas planned for development and to provide a reasonable level of certainty of the carrying capacity of groundwater resources will not be exceeded. (OAR 660-023-0140(1) (c). Critical groundwater areas (CGWA's) are considered to be a significant Goal 5 resource. The OAR implies that local governments shall develop programs to protect the significant Goal 5 groundwater resource. Further the programs developed by local government are to be adopted as part of the Comprehensive Plan. Local plans require that such areas that are significant groundwater resources shall develop "programs" to protect the significant

groundwater resource.

Goal 5 Implementation Process: Goal 5 requires the inventorying of Goal 5 resources. The regime as set forth in OAR 660-023, after the inventory process, includes provisions for the local government to follow the ESEE Decision Process. The steps and the standard ESEE process are as follows:

1. Identify Conflicting Uses;
2. Determine the Impact Areas;
3. Analyze the ESEE Consequences; and
4. Develop a Program to Achieve Goal 5.

It is important to note that “Goal 5 and the implementing rule are not satisfied by a case-by-case implementation approach, but require a jurisdiction-wide planning, program selection, and regulatory process.” *Ramsey v. City of Portland*, 23OrLUBA 291, *aff’d*, 115 Or App 20, 23, (1992).

Programs to Achieve Goal 5: When a local government has decided to protect a Goal 5 resource such programs shall contain “clear and objective” standards. The program shall also require the necessary notice and landowner involvement prior to adoption of the program.

Butter Creek Critical Groundwater Area: The Butter Creek Critical Groundwater Area (CGWA) is by definition in the OAR a Goal 5 resource. As a result, the county is expected to adopt a program to help insure that reliable groundwater is available to areas planned for development and to provide a reasonable level of certainty that the carrying capacity of groundwater resources will not be exceeded.

The Butter Creek Critical Groundwater Area is already subject to Umatilla River Basin Rules. OAR 690-507-0610 through OAR 690-507-700 apply specifically to the Butter Creek CGWA. The protection of the Goal 5 resource pertaining to groundwater is unique because, in effect, the Basin Rules referred to above have already set forth a “program.” Although the program set forth in the Umatilla Basin Rules has not been formally adopted as part of the County Comprehensive Plan it has the same regulatory effect as a land use regulation.

County Program: Umatilla County presently has not adopted as specified in the Administrative Rule guidelines a land use program for the Butter Creek Critical Groundwater Area. The County had begun implementation of one Goal 5 program by considering a “partial moratorium on rural residential development.” That proposed program and ordinance was turned down by the Planning Commission. The Umatilla County Board of Commissioners appointed a task force to study the groundwater situation and develop a 2050 Plan for a sustainable

water supply.

Oregon Water Resource Department (OWRD) Regulations: OWRD has adopted, by Administrative Regulation, OAR 690-507-0610, et seq, describing methods for determining and distributing the sustainable annual yield of the basalt groundwater reservoir by subarea for the Butter Creek Critical Groundwater Area. That regulation is in force and effect since August 18, 1986. One of the important restrictions is that OWRD will not accept new applications for appropriation of water from the basalt groundwater reservoir within the Butter Creek Critical Groundwater Area. However, certain uses, specifically exempt domestic wells, are expressly allowed. OWRD's August 21, 2006 letter, in response to the Kenny-Wood rezone application stated: "Domestic uses and irrigation of up to ½ acre of lawn or non-commercial garden are allowed by statute as exempt uses."

OWRD Exemption: The OWRD regulations in the Butter Creek Critical Groundwater Area expressly exempts water users exempt under the provisions of ORS 537.545 pertaining to exempt or what is commonly referred to as domestic wells (OAR 690-507-0775). The construction of domestic wells for residential purposes, livestock watering and limited commercial purposes are expressly allowed within the Butter Creek Critical Groundwater Area covering the Hunsaker property.

County Exempt Well Resolution BCC 2007-17: The Water Task Force recommended the County approve a resolution relating to exempt domestic wells. As a result, the Board of Commissioners adopted Order No. BCC 2007-17, pursuant to the construction of exempt wells. The exempt well resolution includes the following recital:

"Whereas on January 6, 2005, the Umatilla County Critical Groundwater Task Force adopted a resolution and recommendation to deal with the immediate domestic water use issue and to provide security and clear and objective standards for Umatilla County citizens to develop domestic water supplies as allowed by law; . . ."

The resolution adopted by the Task Force and Board of Commissioners contains a thorough analysis and detailed background on the use and impact of exempt wells and concludes that the quantities of water used by exempt domestic wells is of such a small quantity that the county has elected to impose no regulation of such wells until a 2050 plan has been adopted. It is important to note that such 2050 plan may not necessarily limit or restrict exempt wells, however, exempt wells are, as with all other critical groundwater resources, being reviewed. The Task

Force's resolution presently in effect emphasizes that domestic and other exempt uses of water consume relatively little of the alluvial and basalt aquifer waters in the critical areas as compared to nonexempt uses such as that used for municipal, industrial, and agricultural purposes. The Task Force's recommendation as adopted by the Board of Commissioner's Resolution states as follows:

“In so far as the county is required to adopt findings to approve land use permits, the county will rely on this document to defend the assumption that new exempt wells do not make a significant adverse impact on the groundwater resources. The county will assume exempt wells are appropriate and permissible.”

Current County Policy: In the January 25, 2005 BCC Perkins Amendment and Final Findings, involving a plan and zone change and the BOC did not restrict, limit, or condition in any manner the installation of exempt domestic wells on the property subject to the zoning change. In the April 24, 2006 BCC Findings and Conclusions for Seven Hills Property, LLC adoption of minimum parcel sizes below Oregon's statutory requirements found that “currently the State of Oregon does not regulate domestic wells on rural lands; wells are “exempt” from water permits and allowed outright. There will be a maximum of 20 new exempt wells on the tract, which is not likely to create an impact to neighboring properties.” Rural residential development in Umatilla County for both partitions and subdivisions has fallen under the BCC exempt well resolution and as a result such domestic wells have been allowed, until such time as the county or state law changes.

Preemption of State Law: The County recognizes that OWRD has the sole and exclusive right to regulate waters for public purposes within the State of Oregon. As a result, Umatilla County may not adopt an ordinance or regulation or impose a condition in conflict with the present state law. Present state law allows the construction of exempt/domestic wells. As mentioned above, while OWRD has adopted regulations in the Butter Creek Critical Groundwater Area, those regulations do not regulate the construction of exempt domestic wells and expressly provide for an exemption for such wells. The county is aware that such regulations are subject to change by OWRD or by legislative process, but at present both state law and OWRD regulations clearly authorize exempt wells within the Butter Creek Critical Groundwater Area.

Kennedy/Wood Zone Change Application: The Kennedy/Wood application complied with the Basin Rule which in effect is the “program” in place. As noted in the exempt well Resolution, and as noted by Commissioner Doherty, exempt wells in the CGWA's have a “diminimus” impact to the overall resource, that is,

ten additional wells would further be diminished, upon approval of the Kennedy/Wood application.

Because there is no indication that the Hunsaker application has not complied with Goal 5 provisions and because it is demonstrated that impacts, if any, are diminished and because proposed water development is expressly allowed by law, the application is in compliance with Goal 5. Further, because the Basin Rules adopted and implemented by the OWRD, are in effect, and exempt wells are expressly provided for in the rules, the County finds that there is a Goal 5 Program to protect the groundwater resource and the Hunsaker Zone Change application complies with the Goal 5 Program.

6. Air, Water and Land Resources Quality (Goal 6): To maintain and improve the quality of the air, water and land resources of the state.

The subject properties and surrounding area is within the Oregon Department of Environmental Quality (DEQ) designated Lower Umatilla Basin Groundwater Management Area (LUBGWMA) due to high nitrate levels in groundwater. Some wells within this management area are monitored and have, in the past, tested higher than the Federal Drinking Water Standard for nitrates. However, this designation has not resulted in limitations on development or farming and continues to be managed through the LUBGWMA Action Plan. DEQ is the lead state agency overseeing implementation of the Action Plan and has jurisdiction in permitting on-site septic systems. Because DEQ oversees management of the LUBGWMA Action Plan, and limitations on development and farming are not implemented, the County finds the Hunsaker zone change application complies with Goal 6.

7. Areas Subject to Natural Disaster and Hazards (Goal 7): To protect people and property from natural hazards.

The subject properties contain areas that are mapped in FEMA's designated Special Flood Hazard Areas (SFHA). Development within the SFHA, if allowed, is limited and must meet floodplain development standards depending on the floodplain designation. Development in the SFHA must obtain a floodplain development permit from County Planning and be constructed to FEMA's floodplain standards. This requires certification from a licensed engineer.

The Hunsaker parcels border the Umatilla River, this border area is within the designated floodway, which is defined as, "the channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood". In addition, a significant amount of the west portion of both Tax Lots 1000 and 1100 are within the AE, Base Flood Determined zone. The determined base flood elevation (BFE) varies

from 433 to 430 feet, according to flood maps. The BFE is defined as “the water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot”.

Future development should only occur outside of the SFHA, as each parcels contains adequate acreage. The City of Hermiston has an Open Space Comprehensive Plan Designation for the portion of these parcels that are within the SFHA.

The County finds that the subject properties are within the Special Flood Hazard Area, and therefore future development is restricted to comply with Goal 7 and floodplain development standards.

8. Recreational Needs (Goal 8): To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Goal 8 applies to recreational facilities. No recreation components are proposed nor included in this request.

9. Economic Development (Goal 9): To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

Goal 9 requires local governments to adopt comprehensive plans and policies that contribute to a stable and healthy economy and is not directly applicable to this request.

10. Housing (Goal 10): To provide for the housing needs of citizens of the state.

Housing is not a direct consideration of this request.

11. Public Facilities and Services (Goal 11): To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The City of Hermiston's nearest water line is approximately 2,188 feet from the subject parcels and the nearest sewer service is approximately 650 feet from the subject property. Although this goal requires the orderly arrangement for public facilities, the County has been informed that there are not currently any development applications being processed by the City in this area. In addition, the City has informed the County that they are supportive of the rezone and partition request as it will not dramatically increase the area’s dwelling density.

The proposal to change the zoning on the property would allow continued development of the property at a more rural density than what would normally be recommended should services be more readily available. Since the City has no immediate plans to extend services to the area, and the proposed zoning density of ten acres is a rural density, the County finds the Hunsaker zone change application is compliant.

12. Goal 12 Transportation: To provide and encourage a safe, convenient and economic transportation system.

The City of Hermiston has an adopted Transportation System Plan (TSP) which has been co-adopted by the County for application within the City's UGB.

The properties are not developed with dwellings and there is potential for three additional parcels and a total of three primary single family dwellings. Oregon House Bill (HB) 2001, enrolled in 2019, requires cities with a population of at least 10,000 to allow for one accessory dwelling unit (ADU) per lot or parcel. A total of six dwellings could be permitted on three parcels (two dwellings per parcel). If fully developed, six additional single family dwellings would result in a total of 57.12 Average Daily Trips (week days), well under the 250 ADT required to trigger a Traffic Impact Analysis.

The City of Hermiston's TSP provides some guidance on rural local street design standards. The recommended standard for a rural local residential street is a 24-foot roadway within a 60-foot right-of-way, containing two 10-foot travel lanes with paved shoulders, two feet in width, on both sides of the road. Page 7-1 of the TSP states that rural roads are not required to have paved shoulders. The City has requested that this application comply with applicable County Road Standards.

Umatilla County finds the existing private access easement has been serving six parcels for years without causing significant transportation issues.

Umatilla County finds, by adding six dwellings at full density build-out under a zone change to FU-10, Future Urban 10 acre minimum, would not cause significant impact to access and transportation facilities.

13. Energy Conservation (Goal 13): To conserve energy.

Goal 13 directs local jurisdictions to manage and control land and uses developed on the land to maximize the conservation of all forms of energy, based on sound economic principles. Goal 13 is not directly applicable to this request.

14. Urbanization (Goal 14): To provide for an orderly and efficient transition from rural

to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The subject properties are located within the City of Hermiston's Urban Growth Boundary (UGB). The area is designated future residential and open space by the City Comprehensive Plan. A rezone from the 1972 F-2 general rural zoning to FU-10 future urban zone complies with the City's Future Residential Comprehensive Plan designation and provides consistency in the zoning of the area, as FU-10 zoning is present on surrounding properties to the east.

Finding: Umatilla County has evaluated Statewide Planning Goals 1-14. The other five goals, 15-19, are not applicable to this application request. Umatilla County finds the goals that are applicable have been satisfied.

21. CITY OF HERMISTON COMPREHENSIVE PLAN POLICIES:

The City's Comprehensive Plan sets forth the goals and policies that guide the City's land use actions which closely follow the Statewide Planning Goals reviewed above. The most significantly applicable policy that was adopted by the City and co-adopted by the County includes the following policies:

Future Residential (FR): Areas located in the urbanizable portion of the UGB which have not yet been designated for a specific density, except in areas already developed or committed to development. Zoned either exclusive farm use, EFU40, or future urban, FU-10, by Umatilla County.

Open Space (OS): Areas containing natural resources and/or natural hazards which must be protected from urban development. Corresponds to OS in the zoning code.

Since the properties are designated Future Residential and Open Space, these sections of the City's Comprehensive Plan apply to the subject properties.

The holding of lands in large parcels within the UGB for future urban development is a long held land use recommendation and guideline in order to better plan for the extension of urban services. The current zoning of F-2 is an urbanizable zone and is managed by the County, likewise, the proposed zoning of FU-10 is also urbanizable and managed by the County. The City of Hermiston requires urbanizable lands to be converted to urban prior to annexation. The proposed zoning will allow for the rural character of the properties to remain while allowing a slightly smaller minimum parcel size. The F-2 zoning allows for one single family dwelling (and one accessory dwelling unit) with a minimum parcel size of 19 acres. The FU-10 zoning allows for one single family dwelling (and one accessory dwelling unit) with a minimum parcel size of 10 acres. The

two zones are slightly different when it comes to other land uses, and in some way, the FU-10 zone is more restrictive. For example, F-2 zoning allows for: gun/archery range, livestock feed and sales yard, mobile home park, drive-in theater, junkyard, storage yard, dog pound and a golf course, while FU-10 zoning does not currently permit these uses. FU-10 does, however, allow for a slightly higher density of dwellings.

Umatilla County finds the proposed rezoning of the applicant's property to FU-10 seems to be the only course of action to accomplish the applicant's goal of creating three 10-acre parcels located on the 39 acre property.

Umatilla County finds the proposed rezoning of the applicant's property to FU-10 is in compliance and supports the City of Hermiston's Comprehensive Plan.

22. **NOTIFIED AGENCIES:** Department of Land Conservation and Development, Oregon Department of Transportation, Oregon Department of Water Resources, Oregon Department of Environmental Quality, Oregon Department of State Lands, City of Hermiston, Umatilla County Fire District #1, Umatilla County Public Works, Umatilla County Assessor, Hermiston Irrigation District and Umatilla Electric
23. **COMMENTS RECEIVED:** The City of Hermiston submitted a comment in support of the rezone and land division request, stating that the request is in support of the Comprehensive Plan and in compliance with the Joint Management Agreement. The City provided information on the nearest water and sewer connections and requested that the existing access easement be brought up to current County Road standards and that the improvement be a condition of the request.
24. **THE UMATILLA COUNTY DEVELOPMENT CODE STANDARDS FOR LAND DIVISIONS. Type II approval criteria, found in UCDC Section 152.684 are reviewed below.** The following standards of approval are underlined followed by Findings in standard text.

§ 152.684 STANDARDS FOR APPROVAL.

In granting approval of a Type II Land Division, the Planning Director shall find that the Type II Tentative Plan and required supplementary material comply with the following:

- A. Complies with applicable elements of the Comprehensive Plan, including, but not limited to, policies listed in the public facilities and services and the transportation elements of the Comprehensive Plan. The City of Hermiston Comprehensive Plan and City TSP apply to lands within the UGB of the City of Hermiston. The City's TSP specifically addresses transportation and access development for urbanizable lands within the UGB. The proposed land division results in each parcel having direct access to the existing private access easement for new and existing driveways.

The existing access easement is classified as a Rural Local Residential Street per requirements of the City TSP, the recommended standard for a rural local residential street is a 24-foot roadway within a 60-foot right-of-way, containing two 10-foot travel lanes with paved shoulders, two feet in width, on both sides of the road. The large right-of-way width reserves plenty of room for future expansion of the roadway to urban residential or collector street standards. For the most part, rural streets will not include sidewalks. The recommended shoulder width for rural local residential streets is 2-feet on each side. Page 7-1 of the TSP states that rural roads are not required to have paved shoulders.

The City of Hermiston has requested that “the county require the easement to be brought up to the standard necessary for easements serving this level of development under county standards. If additional gravel base and additional gravel width is necessary, the city requests this be added as a condition of development”.

The applicable County Road Standard is the P-2 Road Standard, which consists of an improved surface width of at least 22 feet (60 feet of right of way) with 8 inches of compacted gravel. This standard differs from the standard located in the City’s TSP. However, because the City has requested that the County Road Standard be applied, the road standards defined in the City’s TSP are not being applied to this request.

County Planning finds that the request is in compliance with the City’s Comprehensive Plan and Transportation System Plan (TSP), although the TSP’s standards are not applicable at this time, at the City’s request. County Planning finds that when the subject parcels are annexed the City’s TSP road standards will apply, and likely, the road will have to be improved to meet applicable TSP standards.

- B. If approved, will permit development on the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances. The applicant’s proposed partition does not affect adjacent development potential that could occur to the extent allowed by the current zoning and land use regulations.
- C. Complies with the zoning requirements or a proposed change thereto associated with the partition map proposal. The proposed zone change would require the zoning map to be amended to reflect the zone change approval to the FU-10 Zone. New parcels created through approval of the Type II Land Division would be required to meet the minimum FU-10 zone parcel size of ten acres. The applicant’s partition plan shows that this minimum acreage requirement of 10-acres is met and exceeded.
- D. Complies with provisions of § 152.019, Traffic Impact Analysis, when applicable. A Traffic Impact Analysis is necessary when more than 250 average daily trips (ADT) are generated by potential development (UCDC § 152.019). The projected residential trips resulting from

development of single family dwellings¹ at full build out of the 39 acres would result in a total of three dwellings and up to three Accessory Dwelling Units (ADUs)². The property is not currently developed with dwellings; therefore, there is potential for three parcels and three single family dwellings with up to three ADUs. Six single family dwellings would result in a total of 57.12 Average Daily Trips (week days), well under the 250 ADT required to activate a Traffic Impact Analysis. A requirement for a Traffic Impact Analysis is not applicable to this request.

- E. Roads and recorded easements for access purposes are laid out so as to conform, within the limits of the development standards, to the plats of subdivisions and maps of partitions already approved for adjoining property unless the Planning Director determines it is in the public interest to modify the road pattern; The applicant is not proposing any new road easements for access purposes. There is an existing 60-foot access easement along the east property lines that the subject parcels have lawful access to. Thirty-feet of said dedicated 60-foot of right of way are located on the subject parcels. This criterion has been satisfied.
- F. Dedicated road or public recorded easement shall be provided to each parcel and conform to right-of-way and improvement standards as follows:
- (1) If a recorded easement for access purposes in a Type II Land Division will serve three or fewer parcels and will not likely serve other parcels or lots due to existing conditions, such as topography or the size or shape of land, or the parcels are not buildable, the easement or right-of-way is required to be improved to meet the Option 1 or “P-1” county Road standard as provided in §152.648 (D). The easement or right-of-way shall be a minimum of 30 foot wide and improved with a surface width of at least 16-feet. The existing easement currently serves six parcels. One additional parcel will be served by this easement, should this land division request be approved. This criterion does not apply.
- (2) If the partition is located within a rural fire district or a hospital district which provides service, emergency vehicle considerations for recorded easements which dead-end shall provide either circle drives or driveway turn-arounds. The Planning Director or Public Works Director shall determine which type of emergency vehicle access above is most appropriate. Circle drives and turnarounds shall be improved to the same standard as the road they serve as provided in §152.648 (D), shall be kept clear and shall be of adequate circumference to provide turn around space for emergency vehicles.
The proposed partition is located within the boundary of Umatilla County Fire District #1, currently, a turnaround area is not provided by the existing access easement. Therefore, the applicant shall provide an adequate and improved turnaround with a radius of at least 50-feet.

1 A single family dwelling generates, week days, approximately 9.52 Average Daily Trips (ADT).

2 ADUs must be allowed in residential zones within urban growth areas of cities with a population greater than 2,500 after the passage of Oregon HB 2001.

County Planning finds a condition of approval is imposed that the applicant create and dedicate a 50-foot radius turnaround area to supplement the existing 60-foot access easement. This turnaround must be improved to the P-2 County Road Standard and shown on the final partition plat. The P-2 Road Standard consists of an improved surface width of at least 22 feet with 8 inches of compacted gravel.

County Planning finds a condition of approval that the applicant submit written confirmation from Umatilla County Fire District #1 that the improved 50-foot radius turnaround is adequate is imposed.

- (3) If a public road or recorded easement for access purposes in a Type II Land Division will serve four or more parcels and will likely serve additional parcels or lots, or likely be an extension of a future road as specified in a future road plan, the right-of-way or easement shall be required to be improved to meet the Option 2 or “P-2” County Road Standard as provided in §152.648 (D). The 60-ft right-of-way or easement shall be improved with a surface width of at least 22-feet. All 60-foot rights-of-way or easements are to be named prior to final approval of the partition plat and the road name must be included on the final partition plat map. Road signs are to be paid for prior to the final partition plat approval.

The existing 60-foot access easement currently serves six parcels and subsequent to approval of this land division request the easement will serve seven parcels. The applicant has not provided Planning with evidence that the existing access easement has been improved to meet the County P-2 standard. The P-2 Road Standard consists of an improved surface width of at least 22 feet with 8 inches of compacted gravel.

County Planning finds that the portion of the easement benefitting the subject parcels must be improved. Specifically, the portions of the access easement that abut the easterly property boundaries to the northerly boundary of the subject parcels.

County Planning finds the existing road access easement has not been named and serves more than four parcels at this time and will serve more in the future. Therefore, the easement must be named in conjunction of this land division request.

County Planning finds a precedent condition of approval that the applicant either submit evidence that the access easement has been improved to the County P-2 road standard, or evidence that the applicant has improved the easement to the County P-2 road standard is imposed. Verification the improvements are in place and meet the P-2 standard must be provided. Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.

County Planning finds a precedent condition of approval that the applicant submit a road naming application with applicable fees to the County Planning Department is imposed.

County Planning finds a precedent condition of approval that the applicant receive road naming approval from County Planning is imposed.

County Planning finds a precedent condition of approval that the approved road name be shown on the face of the final partition plat is imposed.

- (4) Recorded easements or dedicated public roads required in the Type II Land Division may warrant the installation of road signs at intersections with named or numbered county roads, state highways, or with other existing easements or public roads within or abutting the partitioned land. The Public Works Director will determine if road signs are necessary at these intersections. Such signs shall be of a type approved by the Public Works Director. Easement or public road names or numbers shall be the same as existing named or numbered county or public roads if an extension of such county or public road. All other road names or numbers shall be selected by the Planning Director as provided in Umatilla County Code of Ordinance, Chapter 93. Road signs shall be installed by the County, provided the partitioner pays for the cost and maintenance of the sign. The applicant is not proposing a new access easement to serve the three proposed parcels. However, because the existing access easement serving the three parcels has not been named, the applicant is required to name the private easement, as described above in subsection (3), and pay for the installation of the road sign.

County Planning finds a precedent condition of approval that the applicant pay for the installation of the road sign for the newly-named access easement is imposed.

- (5) Existing County or Public Roads shall be improved pursuant to the requirements of this chapter. See J below.
- (6) Shall obtain necessary approval and/or permits from either the State Highway Department or County Public Works Director for location, design, and improvement standards of access points onto County Roads, (approved) public roads, or state highways. The subject parcels have lawful access from the unnamed 60-foot access easement. The access easement was established in 1993, connecting to W Elm Ave (County Road #1230). No further access permits are required.
- G. Each parcel under four acres in size, both those partitioned or the remaining piece which are to be for residential purposes, have a site suitability approval from the Department of Environmental Quality. A waiver to this requirement may be granted if the applicant makes a written request to the Planning Director and the Planning Director finds:
- (1) The parcel, four acres or under, is to be used for non-residential purposes and the

owner's signature to this effect is on the partition form;

- (2) The parcel remaining has an existing dwelling and zoning densities will not permit additional dwellings. All of the proposed parcels are much larger than four acres. Therefore, the applicant's proposed parcels appear to have ample area for replacement drain fields. During the development process, new septic systems (and new connections to existing systems) must receive approval from County Environmental Health. This criterion does not apply.

H. Shall provide easements along existing irrigation ditches that traverse or abut the partition where no such easements have yet been recorded. The purpose of the easement shall be for perpetual maintenance of the ditch and if within an irrigation district, said easement width and purpose shall be approved by the Irrigation District Board. The application information provides that the property is in pasture; and that the subject properties contain a combined total of 19.1 acres of irrigation water rights. Tax Lot 1100 contains 10.1 acres of irrigation water rights while Tax Lot 1200 contains 9 acres of irrigation water rights. Hermiston Irrigation District provided Planning with water rights information and stated that the district has an irrigation easement, located from the east side of the properties, ending at the southeast corner of Tax Lot 1200, this easement serves the D Line. Hermiston Irrigation District (HID) serves the area and a copy of the public notice will be sent to the HID for District comment regarding easement requirements or other irrigation water requirements. Satisfaction of HID's requirements may be satisfied with a signature on the Final Partition Plat.

County Planning finds a precedent condition of approval that the applicant comply with HID's requirements is imposed. Satisfaction of HID's requirements may be satisfied with a signature on the Final Partition Plat.

- I. Considers energy conservation measures (e.g. road, lot and building orientation for solar and wind usage) unless vegetation, topography, terrain, or adjacent development will not allow these energy conservation measures. County Planning finds the proposed parcel sizes are adequate to accommodate on-site energy conservation measures.
- J. All required improvements have signed agreements with the Board of Commissioners to meet the standards of this chapter or improvements specified by the Planning Commission or Public Works Director, and are recorded in the Recorder's Office at the time, and as a condition of approval for a Type II Land Division. As development occurs, additional road impacts, future upgrading and road realignment often become necessary. With land division proposals, an Irrevocable Consent Agreement (ICA) is required by the county for adjoining land owners' involvement in the future financial participation in the upgrading and possible realignment of access easements and adjoining county roads.

County Planning finds 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 currently unnamed road for Parcels 1-3 is imposed.

- K. Adequately addresses any known development limitations within the proposed Type II Land Division, outlining appropriate measures to mitigate the limitation. All parcels will meet or exceed the FU-10 zone parcel size minimum of ten acres. All three proposed parcels have areas which are in the Special Flood Hazard Area (SFHA) and Parcels 1 and 2 contain designated wetlands. Development in these areas shall be extremely limited, and overall, development shall be placed elsewhere on the parcels.
- L. Addresses the comments of the appropriate water agency if the proposed Type II Land Division has a water right. (See H. above)

PLANNING COMMISSION REZONE REQUEST RECOMMENDATION OPTIONS

A. Motion to Recommend Approval Based on Evidence in the Record

I, Commissioner _____, make a motion to recommend approval of the Hunsaker Zoning Map Amendment, number Z-316-21, to the Board of Commissioners based on the foregoing Findings of Fact and Conclusions of Law.

B. Motion to Recommend Approval with Additional Findings

I, Commissioner _____, make a motion to recommend approval of the Hunsaker Zoning Map Amendment, number Z-316-21, to the Board of Commissioners with the following additional Findings of Fact: _____.

C. Motion to Recommend Denial Based on Evidence in the Record

I, Commissioner _____, make a motion to recommend denial of the Hunsaker Zoning Map Amendment, number Z-316-21, to the Board of Commissioners based on the foregoing Findings of Fact and Conclusions of Law.

ZONE CHANGE DECISION: BASED ON THE ABOVE STATED FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UMATILLA COUNTY BOARD OF COMMISSIONERS HEREBY APPROVES THE HUNSAKER ZONING MAP AMENDMENT, Z-316-21.

DATED this ____ day of _____, 2021.

UMATILLA COUNTY BOARD OF COMMISSIONERS

George M. Murdock, *Commissioner*

John M. Shafer, *Commissioner*

Daniel L. Dorran, *Commissioner*

PLANNING COMMISSION LAND DIVISION REQUEST DECISION OPTIONS

A. Motion to Approve Based on Evidence in the Record

I, Commissioner _____, make a motion to approve the Hunsaker Land Division, number LD-4N-1054-21, based on the foregoing Findings of Fact and Conclusions of Law.

B. Motion to Approve with Additional Findings

I, Commissioner _____, make a motion to approve the Hunsaker Land Division, number LD-4N-1054-21, with the following additional Findings of Fact:

_____.

C. Motion to Deny Based on Evidence in the Record

I, Commissioner _____, make a motion to deny of the Hunsaker the Hunsaker Land Division, number LD-4N-1054-21, based on the foregoing Findings of Fact and Conclusions of Law.

LAND DIVISION DECISION: BASED UPON THE ABOVE FINDINGS THE HUNSAKER TYPE II LAND DIVISION REQUEST, #LD-4N-1054-21, IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

Precedent Conditions: The following precedent conditions must be fulfilled prior to final approval of this request, signified by the recording of the Final Partition Plat:

1. Receive rezone approval for the subject parcel to amend the UGB Zoning Map to FU-10, Future Urban 10-acre Zoning, prior to submitting a Partition Plat.
2. Pay public notice fees to County Planning.
3. Dedicate a 50-foot radius turnaround area to supplement the existing 60-foot access easement. The dedication and easement must be shown on the Final Partition Plat.
4. Improve the 50-foot radius turnaround area to the County P-2 road standard. [Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.]
5. Submit written confirmation from Umatilla County Fire District #1 that the improved 50-foot radius turnaround is adequate to County Planning.
6. Submit evidence to County Planning that the access easement has been improved to the County P-2 road standard, or evidence that the applicant has improved the easement to the County P-2 road standard. Verification the improvements are in place and meet the P-2 standard must be provided. [Verification may be a combination of pictures of the access easement road and turnaround constructed to the P-2 standard and receipts indicating the amount of gravel and type of road work completed by the road contractor, or provide written verification by a licensed civil (road) engineer that the County road improvement standards have been met.]
7. Submit a road naming application with applicable fees, including road sign installation fees, to the County Planning Department.
8. Receive road naming approval from the County Rural Addressing Coordinator.
9. Comply with HID's irrigation easement and irrigation water right requirements. Satisfaction of HID's requirements may be satisfied with a signature on the Final Partition Plat.
10. Sign and record an Irrevocable Consent Agreement (ICA) for future participation in road improvements to the 60-foot currently unnamed road for Parcels 1-3. The ICA document will be provided by County Planning.
11. Submit a Preliminary Partition Plat to County Planning, GIS and Surveyor for review and

comment.

12. Pay and pre-pay all taxes prior to recording the Final Partition Plat.

Subsequent Condition: The following subsequent condition must be fulfilled following satisfaction of all precedent conditions and approval of the Preliminary Partition Plat.

1. Record the Final Partition Plat, prior to signing deeds.

Dated this _____ day of _____, 2021.

UMATILLA COUNTY PLANNING COMMISSION

Suni Danforth, *Planning Commission Chair*

PAGE INTENTIONALLY LEFT BLANK

file

EXHIBIT A

Sept. 1983
JMA

HERMISTON PLANNING AREA
JOINT MANAGEMENT AGREEMENT

CITY OF HERMISTON ORDINANCE # 1481

UMATILLA COUNTY RESOLUTION
20 SEPTEMBER 1983

A. PARTIES

This Agreement is made and entered into this 20TH day of SEPTEMBER 1983, by and between the City of Hermiston, an Oregon Municipal Corporation, hereinafter referred to as "City", and Umatilla County, a political subdivision of the State of Oregon, hereinafter referred to as "County".

B. RECITALS

1. This Joint Management Agreement is the culmination of a lengthy planning process and a series of actions intended, to facilitate the orderly and efficient development of land in and around the City of Hermiston. Such actions include the preparation and adoption of city's comprehensive plan, the cooperative establishment of an urban growth boundary and urban/urbanizable areas, coordination with affected governmental units and mutual review of the City and County Comprehensive Plan. This process has been accomplished pursuant to Oregon's Statewide Land Use Planning Program as enumerated by Oregon Revised Statutes (ORS) and the Oregon Land Conservation and Development Commission. (LCDC)

2. The City adopted a Comprehensive Plan, hereinafter referred to as the "Comprehensive Plan", on the 12th day of September 1983, to replace the Comprehensive Plan of 1978 and to comply with applicable Statewide Planning Goals.

3. The City and County desire to plan for the orderly management and development of the entire Hermiston Planning Area as provided in their respective Comprehensive Plans and through their joint efforts and cooperation. Therefore, they enter into this Joint Management Agreement pursuant to Oregon Statewide Planning Law and as authorized by ORS 215.100.

C. DEFINITIONS

1. The City's 1983 Comprehensive Plan has designated areas outside but adjacent to the City's corporate limits, and within the jurisdiction of the County, as "Urban Areas" and "Urbanizable Areas". Both areas are within a designated "Urban Growth Boundary". These terms are defined as follows:

- a. Urban Growth Boundary (UGB) means the boundary encompassing land needed to accommodate the growth of the CITY over the next 20 years.
- b. Urban Area means the unincorporated portion of the Urban Growth Boundary immediately adjacent to the CITY's corporate limits where urban development in the near future is most likely to occur and where a full complement of urban services, including water and sewer, can be extended readily.

In addition, properties included in this area are characterized by one or more of the following:

1. Property is planned or committed to urban level development.
2. Property owner has indicated an interest in annexation.
3. Eventual annexation will result in the creation of more rational and easily identifiable city limits.

c. Urbanizable Area means outlying unincorporated areas of the Urban Growth Boundary not immediately needed for urban development and to which urban level services cannot be extended in an orderly and efficient manner, at this time.

2. There is a need to designate official "Areas of Mutual Concern" for planning and land development purposes on behalf of the City and the County within each other's area of jurisdiction. Within these "Areas of Mutual Concern" each jurisdiction has a valid interest in and may be impacted by planning programs or land use actions of the other jurisdiction, and should be invited to participate in or review and comment on such activities.

a) The City's "Area of Mutual Concern" extends outward from the city limits and UGB to include rural residential, agricultural, industrial, and commercial areas around the City. This area extends north to Baggett Lane, east to Edwards Road, south to Feedville Road and I-84, and west to the approved route of I-82.

b) The County's "Area of Mutual Concern" extends inside City Limits and includes County roads, areas served by County roads, areas around County facilities, as well as all lands which adjoin the City's corporate limits and which therefore abut lands under County Jurisdiction. (See Exhibit B).

3. The Urban Area and the Urbanizable Area are depicted in Exhibit A attached hereto and by this reference herein incorporated. The City's and County's "Areas of Mutual Concern" are depicted in Exhibit B attached hereto and by this reference incorporated herein. Detailed definition of these boundaries are illustrated on applicable Umatilla County Tax Assessors' Maps available for viewing and reproduction at City Hall and County Planning Department offices.

4. Hermiston Planning Area means the combined area of the City, Urban Growth Boundary and the Areas of Mutual Concern. The City and County shall notify one another according to the provisions of this Agreement, of all proposed comprehensive planning and development actions within the Hermiston Planning Area, including all land use requests requiring a public hearing, as well as notification of actions on such requests and all staff permit approvals. Such approvals include but are not limited to building permits, zoning permits, minor variances, and minor partitions.

5. Words and phrases used in this Joint Management Agreement shall be construed in accordance with the City's Comprehensive Plan, Zoning Ordinance, Subdivision Ordinance, and Annexation Ordinance.

D. CONSIDERATION

The consideration for this Agreement is the mutual benefit of the City and County.

E. AREAS WITHIN THE UGB, OVERALL PROVISIONS

It is agreed by and between the parties as follows:

1. The County shall adopt by ordinance as an amendment to the County Comprehensive Plan, the City's Comprehensive Plan including the Urban Growth Boundary, Plan Map, Plan Policies and Street Plan to apply to land within the UGB.
2. The County shall adopt by ordinance as an amendment to the County's Land Development Code for application within the UGB only:
 - a) The zone descriptions, standards, and definitions of the City's Zoning Ordinance.
 - b) The development standards of the City's Subdivision Ordinance.
3. All applications for land use requests within the UGB, including but not limited to subdivisions, variances, conditional uses, zoning permits and minor and major partitions within the UGB shall be made through the County's Planning Department.
4. The County Planning Department will refer to the City Planning Commission for review and comment all land use requests within the UGB for which a public hearing is required. Such notice shall be sent at least ten (10) days prior to the date of the first public hearing on each request. The County shall send the City the staff reports on such requests at least one week prior to the first public hearing.
5. If adequate time is available, the City Planning Commission will review and comment on each such UGB land use request notice; otherwise the City Manager will review and comment on the behalf of the City Planning Commission, and will so notify them at the next City Planning Commission meeting. The City will relay to the County comments on each such request by the date of the first public hearing or at said public hearing, even if the City's response is "no comment."
6. The County Planning Department will refer back to the City prior to final action any such request in the UGB for which amendments by the applicant or County were made subsequent to the first or additional public hearings together with relevant new staff comments. The same ten-day notice period will apply.
7. The County Planning Department will notify the City Planning Commission in writing of all actions on such requests as well as all staff permit approvals within the UGB, within five business days of such action or approval.
8. The City and County will jointly prepare and adopt a comprehensive transportation plan for the UGB within five years. This plan will include future arterial and connector street corridors, and will be amended to include local streets as "area plans" are prepared and adopted.

9. The County will utilize the jointly prepared street plan for the UGB and will require construction of designated roads or will require dedication of designated rights-of-way as necessary, pursuant to the County's adopted Land Development Code. The County will require all property owners to record an irrevocable consent to participate in a local improvement district or appropriate funding mechanism acceptable to the City and County for future road development or improvement, as part of each subdivision, partition, or series of partitions.

10. Amendments to the Comprehensive Plan and sections of the implementing ordinances applicable to the UGB may be initiated by the City, the County or an affected person. Amendments initiated by the City will be referred to the County for review and comment at least ten (10) days prior to the City Planning Commission public hearing. The City will refer back to the County for review and comment any changes proposed in such amendments at least ten (10) days prior to adoption. The amendments will be adopted by ordinance by the City prior to referral to the County for co-adoption review, via the County Planning Commission.

Amendments initiated by the County or an affected person shall be made through the County Planning Department, and shall be referred within five (5) working days to the City for review, recommendation and action. The City Planning Commission and City Council will hold public hearings on the proposals and make recommendations to the County within forty-five (45) days of receipt of the referral. If the City approves the amendments, either as proposed or in an altered form, they shall adopt such amendments as soon as practical.

The County Planning Commission and Board of Commissioners will hold public hearings on all proposed amendments following receipt of City recommendations or co-adoption referrals. The County will take final action on all proposed amendments within 120 days after the application is deemed complete, unless the applicant allows this time limit to be waived, or in accordance with applicable future changes in Oregon Revised Statutes. If approved, the amendments will be adopted by ordinance into the County Comprehensive Plan and Land Development Code, for application only within the UGB, following formal amendment by the City of its Comprehensive Plan and implementing ordinances.

Attempts to resolve differences between City and County versions of an acceptable amendment will occur prior to Board of Commissioners' adoption. Should the City and County fail to concur on amendment proposals, the Board of Commissioners or City Council's decision may be appealed to the appropriate tribunal, following final action by the Board of Commissioners. Unless the County co-adopts amendments approved by the City, such amendments may not apply within the UGB.

Annexations related to Plan amendments shall be regulated by ORS Chapter 222.

11. Decisions of the County Board of Commissioners regarding appeals of land use decisions within the UGB and amendments to the Comprehensive Plan, and Implementing Ordinances for the UGB may be appealed to the appropriate tribunal. The applicant for a land use request or amendment bears the burden of proof regarding the request or amendment and the responsibility of defending an appeal. The applicant affected by an appeal shall be required to notify the County in writing within five (5) days of receiving notice whether he desires to undertake his own defense or will withdraw the requested land use action or amendment. In the absence of such written communication, the County may either:

- a) Tender the defense to the applicant, or
- b) Elect to defend its decision at County expense, should the issue be determined to be of county-wide significance.

The County Board of Commissioners and/or the City may elect to participate jointly or singly in all or a portion of the cost of defending such an appeal, if the issues are determined to be of county-wide or city-wide significance.

In any suit or action instituted under the provisions of this Section E-11, there shall be taxed and allowed to the prevailing party as a part of the costs of the action, a reasonable amount to be fixed by the court as attorney fees in such suit or action, both at trial and on appeal.

F. URBAN AREA: SPECIAL PROVISIONS

1. The County will rezone all property in the Urban Area from County Zones to City Zones corresponding with the land use designations on the City Comprehensive Plan Map, in accordance with the following table, excepting that property presently zoned "Exclusive Farm Use (EFU)" will be rezoned to the County's EFU-40 acre zone if so requested in writing by the owners.

Corresponding Designations	
Comprehensive Plan	Zoning Ordinance
Low Density Residential (LDR)	R1
Medium Density Residential (MDR)	R3
Medium Density Residential (MDR/MH)	R4
Commercial (C)	C2
Industrial (I)	M1
Mixed Commercial/Industrial (C/I)	C2/M1 with PUD overlay
Community Service (CS)	All zones with CS overlay
Open Space (OS)	OS

2. The City shall refer all annexation proposals to the County Planning Commission, Board of Commissioners, and Road Department for review and comment at least ten (10) days prior to the first public hearing on the annexation. The City will allow additional County review and comment changes to be made in the annexation proposal following initial or subsequent hearings. All annexations shall be governed by ORS Chapter 222.

3. The City may extend water, sewer and streets into the urban area after either:

- a) Annexing the land into the city; or
- b) In accordance with ORS 225, governing extraterritorial service extensions.

4. The City will provide notice to the County and allow the County a ten (10) day period within which to review and comment on any proposal to extend water, sewer and street services within the Urban area.

5. Any adjacent County road rights-of-way will be included within the boundaries of all annexations.

6. With County approval, the City may sponsor Local Improvement Districts (LID) for portions of County roads either entirely or partially within City limits. The County may also allow affected properties outside City limits to be included in such LID's provided the properties are within the Urban area, and are therefore eligible for annexation and development in the near future.

7. The City will neither accept nor maintain any County road within an annexed area or elsewhere in the Urban area unless and until it meets City standards in effect at the time and is acceptable to the City. The County may transfer control and responsibility for any such improved County road to the City if so agreed by the County Board of Commissioners and the City.

8. As a result of annexation, the City will require the applicant to agree to improve to City standards any included or impacted portions of County roads by either:

- a) Irrevocable consent to participate in a future Local Improvement District to improve the road to City standards, shared by all affected property owners; or
- b) Actual construction to City standards prior to development of the said property.

9. Streets platted after the effective date of the agreement shall be designed and constructed to City standards.

10. The City is responsible for public facilities planning within the Urban area, particularly with regard to extension of water, sewers, and minor streets.

11. If residential property is desired to be developed prior to annexation, the County may grant a zoning permit and approve subdivisions and partitions for the construction of conventional single-family houses or mobile home units according to the City Zones providing:

- a) The parcels are of sufficient size to qualify for a septic tank permit from DEQ;
- b) The property owner agrees in writing to hook up to City sewer system when available;
- c) The property owner presents a legally-binding "shadow plat" dividing the remaining portion or entire parcel into future urban lots as permitted by underlying City zoning designations, and illustrating location of future internal roadways and easements. Properties zoned R1 shall be divided into lots of 9,000 square feet; property zoned R3 or R4 shall be divided into lots of 6,000 square feet.

12. If it is desired to develop the property at urban densities, the property owner will be required to annex to the City, as the latter will not extend urban services extraterritorially except in special cases.

13. Industrial and commercial properties may be developed without annexation, but only at rural densities with adequate site area for and State approval of septic systems and wells.

G. URBANIZABLE AREA: SPECIAL PROVISIONS

1. The County will adopt by ordinance as an amendment to the Land Development Code a "Future Urban -10- Acre Zone" (FU-10) and will apply this zone throughout the Urbanizable area except as follows:

- a) Land presently zoned Exclusive Farm Use will remain so zoned, with the County's new EFU-40 Zone.
- b) Land presently zoned County commercial or industrial (C-1, C-2, M-1, M-2) will be rezoned to the appropriate City zones (C-2, M-1, M-2) so as to insure consistency of development standards.

The FU-10 zone will allow one single family dwelling (house, mobile home, or modular home) and accessory structures on vacant pre-existing parcels less than 10 acres in size, and on new parcel of 10 acres or more, conditioned upon septic tank and well permits approved by the State of Oregon.

2. The City will not annex land in the Urbanizable area, without first converting it to Urban status.

3. The City will not extend water, sewer, or other urban services into the Urbanizable Area, except in cases of proven health hazard authorized by the State Health Division. Such extensions will be done in accordance with ORS 225, governing extraterritorial service extensions, and following ten (10) day prior notice to the County for review and comment.

H. CONVERSION OF LANDS FROM URBANIZABLE TO URBAN

1. Conversion of property(ies) from urbanizable status to Urban status may be considered at any time as a major plan amendment, which shall be processed per subsection E-10 above.

2. Conversion areas must contain at least 40 acres in a single, contiguous area and/or that is separated from adjoining areas by natural and/or man-made features. Such areas should include the service areas on both sides of an included County road, for ease and equitability in financing necessary road upgrading associated with urban development of the area.

3. The City will prepare detailed land use and public facilities plans for each such conversion area prior to approval of and as part of the conversion plan amendment.

4. The City will annually review the stock of vacant land in Urban status, and will initiate conversion of Urbanizable land as needed, so as to include a 5-year inventory of adequate lands for needed housing, commercial, industrial, and community service development.

5. Conversion areas must adjoin existing urban areas or the city limits.

I. CITY'S AREA OF MUTUAL CONCERN

It is agreed by and between the parties as follows:

1. The County will send the City notice on all land use requests requiring public hearings and on all actions on such requests, as well as staff permit approvals, within the City's Area of Mutual Concern in the same manner as for areas within the UGB pursuant to sections E-4 through E-7.
2. The County will coordinate with the City the development of new roads and road routings within the City's Area of Mutual Concern.
3. The City will review and comment on the development and future amendment of the County Comprehensive Plan and Implementing Ordinances for the City's Area of Mutual Concern.
4. The County will adopt by ordinance as an amendment to the Land Development Code any FAA-approved, City adopted amendments to the boundaries and standards of the City's Airport Hazard Zone, as mapped by the City with respect to the area outside the City's corporate limits.

J. COUNTY'S AREA OF MUTUAL CONCERN

It is agreed by and between the parties as follows:

1. The City will send notices to the County on all land use requests requiring public hearings, and on all actions on such requests, as well as staff permit approvals within the County's Area of Mutual Concern in the same manner as the County notifies the City for the area within the UGB pursuant to sections E-4 through E-7.
2. The City will require all applicants whose property requires access to a County road to obtain a necessary access permit from the County Road Department before creating, altering, or significantly expanding the use of access to the County road in question.

To improve access regulation, and therefore public safety, the City will send notification directly to the County Road Department on all land use requests requiring public hearings and on actions on such requests as well as all staff permit approvals, in the same manner as provided in sections E-4 through E-7, when the property involved requires access to a County Road within the City limits.

3. The County will review and comment on the development of any future updates, revisions, or amendments to the City's Comprehensive Plan and implementing regulations with respect to the County's Area of Mutual Concern following notification per section E-10.

K. GENERAL PROVISIONS

It is agreed by and between the parties as follows:

1. This Agreement represents the final and complete written agreement of the parties with respect to joint management of planning and land development activities within the Hermiston Planning Area, and replaces all existing oral

or written agreement.

2. The provisions of the Joint Management Agreement are severable. If an article, sentence, clause, or phrase shall be adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Agreement.

3. If the City Comprehensive Plan, Zoning Ordinance, Subdivision Ordinance, or Annexation Ordinance, or the County Comprehensive Plan and Land Development Code, as applied to the Hermiston Planning Area fail to comply with Oregon Revised Statutes, the non-conforming document will be amended as necessary as soon as practicable, after the expiration of all appeal periods.

4. This agreement may be amended only by mutual agreement by the City Council and County Board of Commissioners.

5. In the event the City disagrees with County action within the land use area of this Agreement, the City has standing to appeal the decision to the appropriate tribunal at City expense. Likewise, if the County disagrees with the City action, within the County Area of Mutual Concern, the Commissioners may appeal the decision to the appropriate tribunal at County expense.

6. Adoption actions required by this Agreement shall take place within sixty (60) days of the effective date of this agreement by the respective parties.

7. In the event additional review time for a land use request or amendment is required, the City or County with consent of the applicant, may request and/or grant a fourteen (14) day extension of the mutual review and comment periods provided for in this Agreement upon notice prior to the public hearing.

(Note: The applicant has the right to request additional review time or a postponement of the public hearing on his/her request).

8. Action on a land use request requiring a public hearing or issuance of a staff permit approval will be considered final if not appealed within fifteen (15) days.

APPROVED ON behalf of the CITY OF HERMISTON this 12TH day of SEPTEMBER, 1983.

(City Seal)



Mayor Raymond Schroth

ATTEST:



Robert Irby, City Recorder

APPROVED on behalf of UMATILLA COUNTY this 20TH day of SEPTEMBER, 1983.

Umatilla County Board Of Commissioners



(County Seal)

Robert Ten Eyck
Chairman Robert Ten Eyck

A.L. Draper
Vice-Chairman A.L. Draper

William S. Hansell
Commissioner William Hansell

ATTEST:

J. Dean Fouquette, Sr.
J. Dean Fouquette, Sr., County Recorder

APPROVED AS TO FORM:

Rustin Brewer
Rustin Brewer, City Attorney

Stuart Spring
Stuart Spring, County Council

SUBMITTED BY:

Steve Randolph
Steve Randolph, County Planning
Coordinator

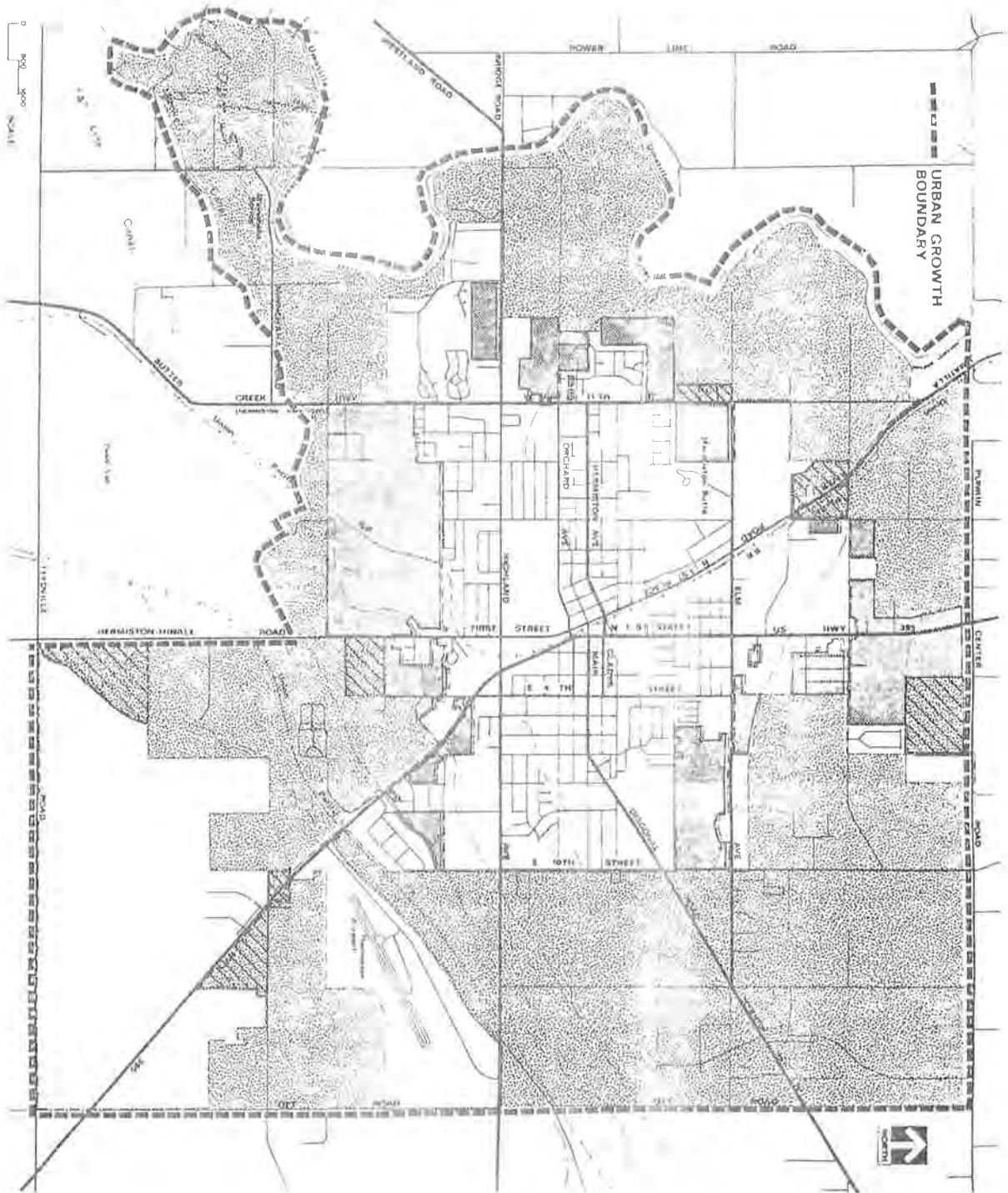






Figure 5

**URBAN AND
URBANIZABLE
AREAS***

ATTACH 17

-  CITY OF HERMITON
 -  URBAN
 -  URBANIZABLE
 -  *As shown on 1983 map*
- *Includes Unincorporated Portion of UGB only

**HERMITON
COMPREHENSIVE PLAN
1983**

12-5607-83

City of Hermiton
Cogen & Associates

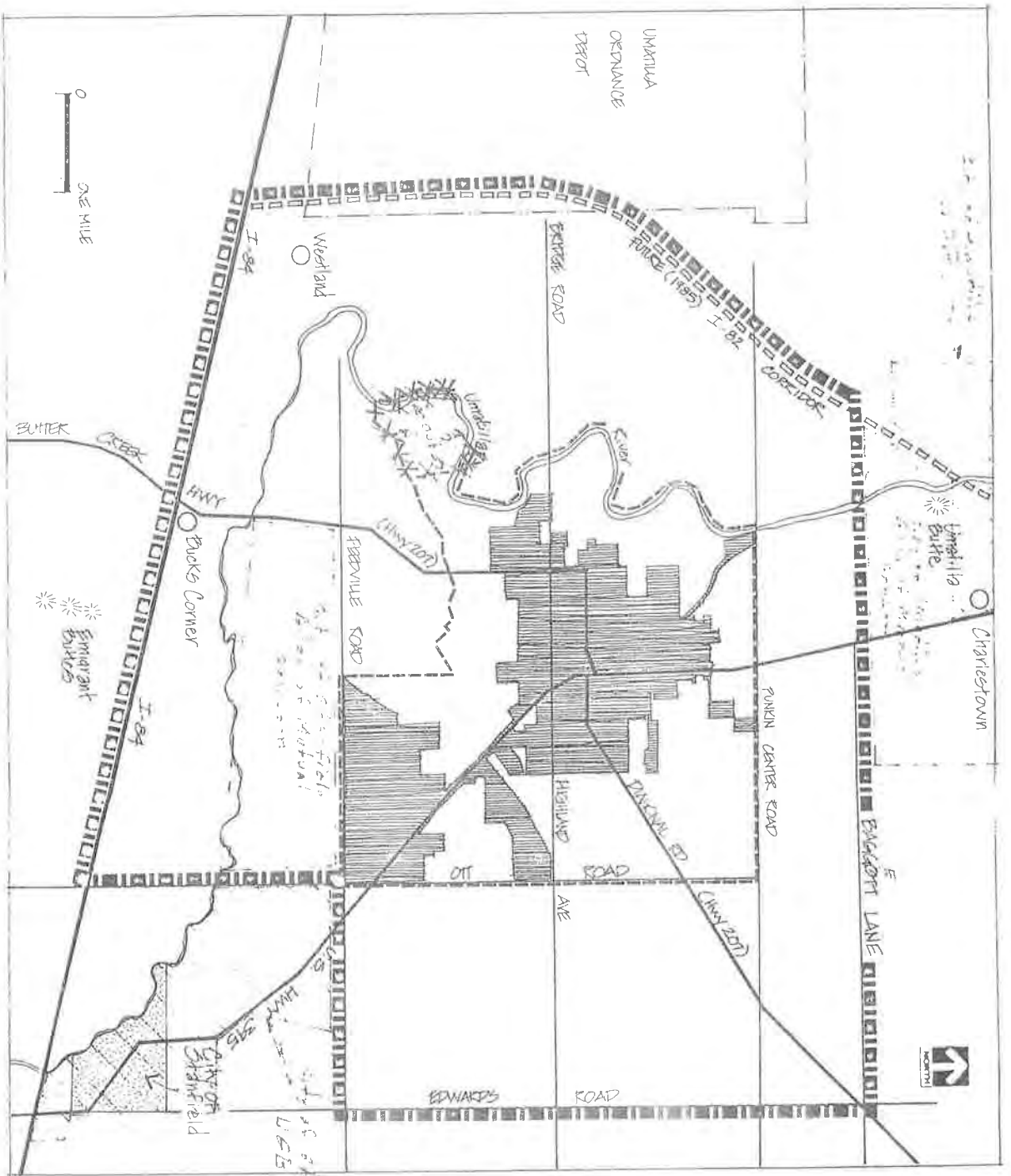





Figure 6
AREA OF
MUTUAL
CONCERN

ATTACH. B

-  CITY OF HERMISTON
-  URBAN GROWTH BOUNDARY
-  AREA OF MUTUAL CONCERN BOUNDARY

12 SEP 83
HERMISTON
COMPREHENSIVE PLAN
1983

Kramer, Chin & Wong, 1100 10th Street, E. Ste. 200, Portland, OR 97232
 Oregon & Assoc. Cities 15 W. Oak Street, Portland, Oregon 97204 (503) 255-0902

Sept. 1983

ORDINANCE # 83-07

UMATILLA COUNTY

STATE OF OREGON

AN ORDINANCE CO-ADOPTING THE CITY OF HERMISTON COMPREHENSIVE PLAN, (ORD.#1487); THE ZONE DESCRIPTIONS, STANDARDS AND DEFINITIONS OF THE CITY OF HERMISTON ZONING ORDINANCE, #1480; AND THE DEVELOPMENT STANDARDS OF THE CITY OF HERMISTON SUBDIVISION ORD #858; AND ESTABLISHING A FUTURE URBAN 10 ACRE (FU-10) ZONE, ALL FOR APPLICATION WITHIN THE HERMISTON URBAN GROWTH BOUNDARY, AND THEREBY AMENDING THE FOLLOWING ORDINANCES:

UMATILLA COUNTY COMPREHENSIVE PLAN OF 2 APRIL 1972, AS AMENDED;

UMATILLA COUNTY DEVELOPMENT ORDINANCE OF 9 MAY 1982;

WHEREAS, On July 20 1977, the Umatilla County Board of Commissioners adopted by resolution procedures and standards for County review of City Comprehensive Plans, in fulfillment of County's mandated coordination responsibilities pursuant to ORS 197.190 and 197.255; and

WHEREAS, pursuant to said resolution, the original 1978 City of Hermiston Comprehensive Plan and Urban Growth Area Joint Management Agreement were formally reviewed by Umatilla County in the Winter and Spring of 1979; and

WHEREAS, due to disagreement between the City and County as to the City's approach to planning within the Urban Growth Area, the City and County petitioned the Oregon Department of Land Conservation and Development (DLCD), in June 1979, to conduct a draft review of the City's plan; and

WHEREAS, following several DLCD Staff reviews of City proposed amendments, over a period of several years, the Oregon Land Conservation and Development Commission (LCDC) in January 1983, ordered the City to produce an acceptable plan and resolve the City-County differences by September 1 1983 or face an Enforcement Order; and

WHEREAS, in early 1983 the City hired Cogan and Associates of Portland, to remake their 1978 Plan into an "acknowledgeable" document and one that Umatilla County would co-adopt; and

WHEREAS, following City and DLCD review of Cogan and Associates draft proposals and considerable negotiations between the City and County via Sumner Sharpe and Bev Bookin of Cogan and Associates and Steve Randolph, the County Planning Coordinator, the City formally adopted a new Comprehensive Plan, and Amendments to the Implementing Ordinances, on August 15 1983; and

WHEREAS, following additional negotiations and review, the City adopted a number of minor amendments to the Comprehensive Plan and implementing ordinances and approved the 6th draft of the new City-County Hermiston Planning Area Joint Management Agreement (JMA) on 12 September 1983; and

WHEREAS, the City sent out notices of the new Plan proposals and a public hearings schedule to all City water users, and to all property owners, in mid-July 1983; and

WHEREAS, said notice included scheduled County co-adoption public hearings as follows:

UMATILLA COUNTY PLANNING COMMISSION
25 August 1983; 7:30 p.m.
LARIVE JR. HIGH SCHOOL, HERMISTON

UMATILLA COUNTY BOARD OF COMMISSIONERS
31 August 1983; 3:30 p.m.
LARIVE JR. HIGH SCHOOL, HERMISTON;

and

WHEREAS, notice of said hearings were published in the East Oregonian on August 13 1983 and August 20 1983; and

WHEREAS, at both hearings Sumner Sharpe and Steve Randolph discussed the Plan proposals with the Commissioners, and, in the absence of significant public opposition, the Planning Commission recommended the Hermiston Plan be approved and the Board, indeed, approved the Plan in concept, and recessed the hearing to 10:00 a.m., Tuesday, 20 September 1983, in Room 114 of the Umatilla County Courthouse in Pendleton; and

WHEREAS, following favorable staff review of the City's 12 September 1983 Amended Plan, the new JMA, and proposal of the language for Future Urban-10 Acre (FU-10) Zone to be applied in much of the Urban Growth Area (UGA), and in the absence of significant public opposition, the Board concurred with the new, amended Hermiston Comprehensive Plan, and approved and signed the Hermiston Planning Area JMA;

NOW THEREFORE,

In fulfillment of the Hermiston Planning Area Joint Management Agreement, the Umatilla County Board of Commissioners hereby ordains the following:

1. That the Hermiston Comprehensive Plan of 12 September 1983, as contained in Attachment "B", is co-adopted and amended into the Umatilla County Comprehensive Plan of 1972, as amended, and
2. That the Zone descriptions, standards, and definitions of the Hermiston Zoning Ordinance #1480 of 12 September 1983, as contained in attachment "B", are co-adopted and amended into the Umatilla County Development Ordinance as an appendix, and
3. That the Standards of the Hermiston Subdivision Ordinance #858, of 14 April 1975, as contained in Attachment "B", are co-adopted and amended into the Umatilla County Development Ordinance as an appendix, and

4. That Chapter 3 of the Umatilla County Development Ordinance be amended to include the FU-10, Future Urban - 10 Acre Zone, as contained in Attachment "A"; and
5. That, all property within the designated "Urban Area" of the Hermiston Comprehensive Plan, be rezoned from County Zones to the corresponding City Zones, as shown on the City's Comprehensive Plan Map and as identified via Policy 4 of the City's Comprehensive Plan, all contained in Attachment "B"; and
6. That, all property within th designated "Urbanizable Area" of the Hermiston Comprehensive Plan, be rezoned as follows:

R-1, R-1A, R-2, R-3 to FU-10

County or C-1 or C-2 to City C-2

County M-1 or M-2 to City M-1


Excepting that property zoned F-1 or F-2 is not rezoned at this time, pending contact with property owners to determine if they desire rezoning to the FU-10 or EFU-40 Zones, and


7. That, above items 1 through 6 of this Ordinance are applicable only within the Hermiston Urban Growth Boundary.

The Umatilla County Board of Commissioners does hereby declare that an emergency exists, in order to formally submit the Hermiston Plan to LCDC, and that this Ordinance is effective at 5:00 p.m. the day it is signed.

APPROVED this 20th day of September, 1983

UMATILLA COUNTY BOARD OF COMMISSIONERS


Robert E. Ten Eyck, Chairman


A.L. "Bud" Draper, Vice-Chairman


William Hansell

ATTEST:


J. Dean Fouquette, Sr.
Umatilla County Recorder

NOTE: Attachment "B", the Hermiston Comprehensive Plan Book, which includes the Zoning Annexation, and Subdivision Ordinances, and JMA, is also on file at Hermiston City Hall and the Umatilla County Planning Department.

FU-10 FUTURE URBAN ZONE

Section (number to be assigned at a later date)

Description and Purpose

The FU-10 Future Urban Zone is designed to implement the growth management policies within the Hermiston Urban Growth Boundary; to provide for interim uses consistent with the plan policies until conversion to urban uses; to retain the land suitable for future urban development in large parcels which will enable more cost effective urban redevelopment of the land. Lots are kept large as urban services are not yet available to these areas and development is limited to the land capability of accepting septic tanks and drainfield while still providing safe drinking water. This zone is only applied to lands designated Urbanizable within the Hermiston Urban Growth Boundary.

Section

Uses Permitted Outright

In a FU-10 Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to section 1.080:

- (1) Farm Use, as defined in ORS 215.203, except live-stock feed yards and sales yards, hog or poultry farms and the raising of fur-bearing animals and except the dwellings and other buildings customarily provided in conjunction with farm uses referred to in paragraph (9) of sub-section (2) of ORS 215.203.

Section

Uses Permitted with a Zoning Permit

In a FU-10 Zone, the following uses and their accessory uses are permitted upon the issuance of a zoning permit, pursuant to section 1.050.

- (1) Dwelling, single family:
- (2) Mobile Home:
- (3) Non-commercial greenhouse or nursery:
- (4) Public or semi-public use:
- (5) Signs: Type 2,3,4,5,6:

Section

Conditional Uses Permitted

In a FU-10 Zone, the following uses and their accessory uses are permitted conditionally subject to the requirements of section 7.010 - 7.060:

- (1) Church:
- (2) Day Care or nursery:
- (3) Commercial greenhouse or nursery:
- (4) Roadside stand for the sale of agricultural products grown by the owner:
- (5) Grange hall or community center, park, playground or recreational facility owned and operated by a government agency or non-profit community agency:
- (6) Rest home, home for the aged, nursing home, or convalescent home:
- (7) Utility facility:
- (8) Boarding of horses for profit:
- (9) Horse boarding stable:
- (10) Special exemption as provided in section 5.100 - 5.204:
- (11) Cemetery:
- (12) Home occupations:

Section

Limitations on Use

Notwithstanding any other section of this ordinance, the following limitations and conditions shall apply in the FU-10 Zone:

- (1) Cows, horses, goats, or sheep, or similar sized animals shall not be kept on lots having an area less than 20,000 square feet. The total number of all such animals over the age of six months allowed on a lot shall be limited to the square footage of the lot divided by the minimum area required for each animal as listed below:
 - Horses.....2 per acre
 - Cows.....2 per acre
 - Goats.....2 per acre
 - Sheep.....2 per acre

Limitations on Use Cont'd

- (2) The number of chickens, fowl, rabbits, or similar sized fowl or fur-bearing animal shall be confined on not more than 25% of the total lot area:
- (3) Adequate fences and corrals shall be required of the animal owner to keep animals off from adjacent lands:
- (4) Barn, corrals, pens, sheds, and other structures sheltering animals shall be located a minimum of 35 ft. from a side or rear property line and 75 feet from the front property line:
- (5) All structures and enclosures designed for animals shall be kept reasonably free and clean of flies, and accumulated animal waste materials, and shall be subject to health regulations (County, State or Federal) as may be now hereafter established:

Section

Dimensional Standards

In a FU-10 zone the following standards shall apply:

- (1) Minimum lot size:
 - a. For all "Uses permitted with a zoning permit" and "Conditional Uses Permitted" except as modified in (b) below - 10 acres:
 - b. Pre-existing, non-conforming lots of records:
Lots which were lawfully in existence prior to September 20, 1983 and which do not meet the 10 acre minimum parcel size stated in (a) above may be occupied only by a single family dwelling, mobile home or modular home upon approval by the DEQ, or other authorized agent which may succeed them, to place a septic tank and drainfield on the pre-existing non-conforming lot:
- (2) Setback Requirements: No buildings shall be located closer than 20 feet from a lot line, except on the street side of a corner lot used for a side yard, the setback shall be 25 feet from the lot line:
- (3) Lot coverage and Building Heights
 - a. Lot Coverage: The main building and accessory buildings located on any building site or lot

Dimensional Standards Cont'd

shall not cover more than thirty(30) percent of the total lot area:

- (b) Building Height: No building or structure shall be erected or enlarged to exceed two (2) stories or more than twenty-five (25) feet in height, except split level buildings, which may be increased in height to thirty (30) feet.
- (4) Stream Setback: To permit better light, air, vision, stream or pollution control, protect fish and wildlife areas, and to preserve the natural scenic amenities and vistas along the streams and lakes, the following setback shall apply:
 - a. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the mean high-water line or mark along all streams or lakes 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 Department of Environmental Quality finds that a closer location will not endanger health, the Planning Director may permit the location of these facilities closer to the stream or lake, but in no case closer than 50 feet:
 - (b) All structures, buildings or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high water line or mark.

May 1994

ORDINANCE # 84-02

UMATILLA COUNTY
STATE OF OREGON

AN ORDINANCE CO-ADOPTING THE REVISED CITY OF HERMISTON COMPREHENSIVE PLAN, ORD. 1505, AND ZONING ORDINANCE 1504, WHICH THE CITY ADOPTED ON 9 APRIL 1984, AND REZONING THE OREGON STATE HIGHWAY DIVISION GRAVEL PIT SITES ON HIGHWAY 395 AND THE OLD RIVER ROAD TO THE CITY'S M-2, HEAVY INDUSTRIAL ZONE, AND FORMALLY DESIGNATING THE U.S.G.S. 1969 "FLOOD PRONE AREA" MAP AS THE OFFICIAL, INTERIM 100-YEAR FLOODPLAIN MAPPING FOR THE UMATILLA RIVER IN THE HERMISTON VICINITY, AND THEREBY AMENDING THE UMATILLA COUNTY COMPREHENSIVE PLAN AND THE DEVELOPMENT ORDINANCE

WHEREAS, The City of Hermiston's Comprehensive Plan and Development Regulations were co-adopted by Umatilla County as Ord. 83-07 on 20 September 1983, for application within the Hermiston Urban Growth Area (UGA); and

WHEREAS, The Hermiston Planning Area Joint Management Agreement (JMA) was approved that same day; and

WHEREAS, The City, assisted by their planning consultants, Cogan and Associates, of Portland, have revised their Comprehensive Plan and Zoning Ordinance in response to LCDC recommendations in order to bring their planning program into compliance with the state-wide planning goals; and

WHEREAS, Section E-10 of the J.M.A. establishes procedures for county co-adoption of revisions to the Plan and Development Regulations so that they may be applied within the U.G.A, which remains under county jurisdiction; and

WHEREAS, A co-adoption public hearing was set and held by the Umatilla County Planning Commission on Thursday, 19 April 1984, at 7:30 p.m., in the County Courthouse, for which legal notice was published in the East Oregonian on 7 April, 1984, and in the Hermiston Herald on 11 April 1984; and

WHEREAS, A co-adoption public hearing was set and held by the Umatilla County Board of Commissioners on Wednesday, 25 April 1984, at 1:15 p.m., in the County Courthouse, for which legal notice was published in the East Oregonian on 14 April 1984; and

WHEREAS, Steve Randolph, County Coordinator prepared memos summarizing the revisions and enumerating the two related zone changes and the floodplain mapping designation the County needed to accomplish, which constitute attachments A, B and C to this Ordinance; and

WHEREAS, No adverse public testimony was received either at or prior to the hearings; and

WHEREAS, Both the Planning Commission and City Council concurred with the findings

of the Hermiston City Council that the revisions would comply with the Statewide Planning Goals, and with the recommendations of Mr. Randolph that the revisions would be consistent with the County Comprehensive Plan; and

WHEREAS, Both the Planning Commission and Board of Commissioners agreed that the proposed floodplain map designation was necessary to protect lives and property via implementation of the Flood Hazard Overlay Zone along the Hermiston stretch of the Umatilla River; thereby fulfilling State Goal 7, Natural Hazards and complying with the National Flood Insurance Program; and

WHEREAS, Both the Planning Commission and Board of Commissioners agreed that rezoning the Oregon State Highway Division gravel pit sites from Future Urban FU-10, F-1, and F-2 to the City's M-2, Heavy Industrial Zone, was necessary and desirable since the FU-10 zone does not allow gravel pits and since the city's new gravel pit standards provide for buffering and operational limitations that should mitigate many negative impacts on adjoining urbanizing properties,

NOW THEREFORE,

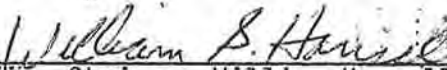
IN FULFILLMENT OF THE HERMISTON PLANNING AREA JOINT MANAGEMENT AGREEMENT, THE UMATILLA COUNTY BOARD OF COMMISSIONERS DOES HEREBY ORDAIN THAT:

1. The revised Hermiston Comprehensive Plan Ord. #1505, attachment D, is co-adopted and amended into the Umatilla County Comprehensive Plan, thereby replacing the earlier co-adopted Comprehensive Plan Ord. # 1482, for application within the Hermiston UGA; and
2. The revised Hermiston Zoning Ordinance #1504, attachment E is co-adopted and amended into the Umatilla County Development Ordinance, thereby replacing the earlier co-adopted Zoning Ordinance #1480, for application solely within the Hermiston UGA; and
3. The USGS "Map of Flood Prone Areas," issued in 1969 for the Hermiston 7.5' quadrangle, is designated as the interim 100-year floodplain mapping for the Umatilla River between the new Hermiston sewage treatment plant and the confluence of Butter Creek, thereby putting into effect the Flood Hazard Overlay Zone of the Development Ordinance for this stretch of the River, (Map Attachment H); and
4. The Oregon State Highway Division's existing and future gravel pits, described as follows, are re-zoned to the City of Hermiston's M-2, Heavy Industrial Zone, to better conform with the Hermiston Plan Revisions.
 - A. Site at Highway 395 and S. Airport Road: (Map attachment F)
 - TL 500 of 4N 28D, 40 acres (now F-2)
 - TL 3400 of 4N 28A, 35.17 acres (now F-1)
 - B. Site on Old River Road across from new sewage treatment plant: (Map attachment G) TL 201 of 4N 28 03B, 40.18 acres (now FU-10)
5. An emergency is declared to exist in order to submit the co-adopted revisions to LCDC as soon as possible.

APPROVED This 21ST day of May 1984.

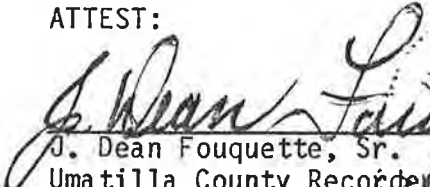
UMATILLA COUNTY BOARD OF COMMISSIONERS


Chairman A.L. "Bud" Draper


Vice-Chairman William Hansell


Commissioner Robert Ten Eyck

ATTEST:


J. Dean Fouquette, Sr.
Umatilla County Recorder



Steve Randolph, *Planning*, Umatilla County Planning Coordinator
 County Courthouse Office
 P.O. Box. 1427
 Pendleton, Oregon 97801
 503-276-7111, ext.253

Ranch Office
 Star Route, Box 850
 Pendleton, Oregon 97801
 503-276-9070

April 23, 1984

TO: Board of Commissioners

RE: Hermiston Comprehensive Plan Revisions

INTRODUCTION: The city has added or improved inventories, modified policies, and made one Plan Map change in response to the DLCD Staff Report. A summary of the changes is itemized below.

PLAN MAP CHANGE: In response to objections by the Oregon State Highway Division, the city has re-designated land they own across Old River Road from the new sewage treatment plant from "Future Residential" to "Future Industrial." The site includes a couple of abandoned rock quarries, and the state bought the property for a future aggregate source for highway construction and repair. This is not an ideal location since adjoining land to the north and east is designated for residential use by the city and county plans. However, Hermiston's new gravel pit standards provide for buffering and operation limitations to protect residential development, so, the plan change seems to represent an acceptable, if not ideal, compromise.

TECHNICAL REPORT: Growth and Urbanization

- Upgraded land use inventory of Urban Growth Area.
- Improved justification of UGB (600 acres more land than "needed").
- Elaborated on shallow aquifer pollution problem.
- Added justification of including Cook Industrial tract in UGB, with emphasis on the uniqueness of its large size, utility availability and transit access (its already in city limits).

TECHNICAL REPORT: Inventories

- Upgraded fish and wildlife information.
- Identified two critical wildlife habitats:
 1. Three acre pond at Elm and E. 10th.
 2. Riparian vegetation along east bank of Umatilla River.
- More information about basalt aquifer.
- Upgraded mineral and aggregate data; included the existing and proposed Highway Division pits on Hwy. 395 and Old River Road.
- Added reference to Umatilla River floodplain mapping.
- Energy efficiency in city facilities.
- Discussion of industrial site size, suitability, and availability.
- Eliminated references to Alumax.
- New information re: Acreage requirements for industry types likely to locate in Hermiston.
- Upgraded information on city water supply.

30: Transportation

Action - City has adopted an ingress/egress ordinance and will use ODOT's "Guidebook for Access Management"

- City is trying to provide for local jobs to reduce the need for commuting.

31: Rail/Air

Action - Protect airport with a special zone.

RECOMMENDATION: In general, I do not believe that the intent of the City's Comp. Plan has been changed by these modifications. Rather, for the most part, they represent a clarification and refinement. Also, there do not appear to be any changes that would conflict with County policies. Therefore, I recommend co-adoption of the City's 1984 Comprehensive Plan Map and Policy Revisions, and ratification of the revisions made to the Technical Report.



Steve Randolph, *Planning, Umatilla County Planning Coordinator*
County Courthouse Office
P.O. Box. 1427
Pendleton, Oregon 97801
503-276-7111, ext.253
Ranch Office
Star Route, Box 850
Pendleton, Oregon 97801
503-276-9070

April 19, 1984

TO: UMATILLA COUNTY PLANNING COMMISSION AND
BOARD OF COMMISSIONERS

RE: HERMISTON ZONING ORDINANCE: APRIL 1984 REVISIONS

INTRODUCTION: The following changes have been made in response to the DLCDC staff report. Under the terms of the Joint Management Agreement, they are being brought before the County for co-adoption so that they may be applied within the Urban Growth Boundary.

REVISIONS:

1. New Zone: "Airport"(A) which will be applied to the Hermiston Airport site in place of the current "Community Service" zoning; allows all the same uses as the C-2 and M-1 zones, subject to the dimensional standards of the M-2 zone and compliance with Hermiston Airport Master Plan.
2. Historic Preservation: The city will require alterations to historic structures "be harmonious" with the architecture and historic significance of the structure, through their mandatory conditional use process. Also, the Planning Commission can invoke a 120 day delay in issuance of demolition permits to arrange for purchase, relocation, or revision of plans.
3. Development Hazard Zone (DH): Clarifications: Main emphasis on preventing groundwater pollution, also will require an engineering report and necessary structural features for development on "cemented hardpan."
4. Section referring to city adoption of old county zoning in UGA has been eliminated.
5. Community Service Zone (CS): Airports removed from list of allowable uses.
6. Medium-Density Residential Zone (R-2): Neighborhood grocery, convenience, and drug stores, as well as beauty shops are now allowed as conditional uses with size limitations.
7. Multi-family Residential Zone (R-3): Same new conditional uses as R-2.

8. Central Commercial and Outlying Commercial Zone (C-2): Disallows new single-family homes, duplexes, and apartments (eliminates old "pyramid" provisions).
9. Light Industrial Zone (M-1): Eliminates most retail commercial uses from the list of allowable uses (another amendment of old "pyramid" provisions).
10. Heavy Industrial Zone (M-2): Again eliminates most retail commercial uses and adds "sand and gravel pits" as a conditional use.
11. Adds good standards for development, and operation, of sand and gravel pits, and requires reclamation. Several buffering requirements. This is new "Appendix C."

RECOMMENDATIONS: The Revisions listed above represent a positive refinement of Hermiston's Zoning Ordinance, and I can heartily recommend the co-adoption.



Steve Randolph, *Planning, Umatilla County Planning Coordinator*
County Courthouse Office
P.O. Box. 1427
Pendleton, Oregon 97801
503-276-7111, ext.253

Ranch Office
Star Route, Box 850
Pendleton, Oregon 97801
503-276-9070

April 19, 1984

TO: Umatilla County Planning Commission and
Board of Commissioners

RE: Necessary County Plan and Zoning Revisions:
Hermiston Urban Growth Area and Vicinity

In addition to co-adoption of city revisions to their Comprehensive Plan and Zoning Ordinance, the County will need to make the following changes

1. Rezone the State Highway Division gravel pits:
 - a. Undeveloped site across from sewage treatment plant: from FU-10 to City M-2, Heavy Industrial. City has changed the Comp. Plan designation from "Future Residential" to "Future Industrial";
 - b. Developed site across from Airport Road along Hwy 395; site is already designated "Future Industrial"; change from ~~FU-10~~ to City M-2 **F1+F2**

The City's M-2 zone, with its new sand and gravel pit standards would be the most appropriate present and future zoning for these large aggregate sites. The new City standards address buffering near existing and future residential uses. These changes result from objections by the State Highway Division and supported by DLCD

2. Formally designate the USGS, 1969, "Flood-Prone Area Map" as the interim mapping for the Umatilla River Floodplain both inside the UGB and outside from the sewage treatment plant upstream to Butter Creek. No flood hazard regulations are presently applied along this stretch of the river due to lack of accurate mapping. DLCD raised this issue, so using the USGS will be better than nothing. New Corps mapping is expected next year.

FUTURE WORK: (Don't have the time right now)

3. Contact all F-1 and F-2 zoned property owners within UGB to determine which parcels should be zoned EFU-40, and which FU-10.

INSERT

UMATILLA COUNTY ORDINANCE 84-02

ATTACHMENT D (Part 2),
Hermiston Comprehensive Plan
Ordinance #1505

ATTACHMENT E
Hermiston Zoning Ordinance #1504

These lengthy documents are contained in the original copy of Ordinance 84-02, as filed and recorded in the Umatilla County Clerk's Office. However, they are not included in this copy of said ordinance. They can be viewed at Hermiston City Hall, the County Planning Department in Pendleton, and at LCDC in Salem.

ASSESSORS MAP #4N 28 03B 1"=400' N 33 34

4 3

201
40.18 Ac.



OREGON STATE HIGHWAY DIVISION
FUTURE GRAVEL PIT

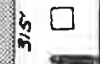
LOT
44.81 Ac

108
1.20



FU-10

106
1.834



202
0.45 Ac.



1100
0.62 Ac.

301

200
3.05 Ac.



600
4.30 Ac

700
3.46



WEST 11TH AVENUE + NO. 602

UNION PACIFIC RAILROAD

OLD RIVER ROAD
COLUMBIA

COUNTY ROAD #1275
RIVER HIGHWAY

G-2

OWRR. B

Hunsaker Rezone

Megan Green <megan.green@umatillacounty.net>
To: Clint Spencer <cspencer@hermiston.or.us>

Thu, May 13, 2021 at 11:49 AM

Hi Clint,

Hope all is well with you. I am working on the findings for the Hunsaker Rezone and have a few questions that I couldn't find answers to. I hope you can help me.

Can you tell me how close the water/sewer lines are to the Hunsaker parcels? Does the City anticipate expansion of the city limits in that direction in the near future?

Tracie has had to re-map most areas in the County due to a change in the DOR standards. The new map number is 4N 28 04, Tax Lots 1100 and 1200 - I've attached the new map for you.

Also, if the City has any comments I would love to include them in the Planning Commission's packets - they go out next Thursday. My hope is that you've received the public notice that went out last week.

Thank you,

Megan

--
Megan Green, Planner II / GIS
Umatilla County Department of Land Use Planning
Tel: 541-278-6246 | Fax: 541-278-5480
216 SE 4th Street | Pendleton, OR 97801
<http://www.umatillacounty.net/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.

 **4N2804.pdf**
269K

Hunsaker Rezone

Clinton Spencer <cspencer@hermiston.or.us>
To: Megan Green <megan.green@umatillacounty.net>

Thu, May 13, 2021 at 3:16 PM

Thanks Megan.

I did receive the notice on Monday and was getting ready to write up a response.

Water is very far from the property. I measure approximately 2,188 feet from the terminus of the existing line on Elm to the closest point of approach.

Sewer is closer but still very distant at 650 feet from the closest manhole to the closest point of approach.

We are not actively processing any applications for development in the area. We annexed a 20 acre parcel in 2019 in E Elm bringing the city limits within 1,300 feet but that is still a very long distance from the property. The annexed property has not had any development applications submitted but is bound by an agreement with the city that runs for 10 years to develop only as single-family residential property.

The City supports the applications for rezoning and partitioning. They represent a sensible application of the policies in our comprehensive plan and are in compliance with the joint management agreement. The development likely to occur post-partitioning is likely to be single-family and very low density. The impacts to E Elm Avenue are within the carrying capacity of its current condition (i.e. two additional single-family dwellings). The City recommends maintaining the 30 foot access easement as an easement for this partition. Maintaining the access as an easement will avoid dedication of right of way which later must be transferred to the city changing a county road to a city street. By maintaining the easement in its current status, the city can require right of way dedication as a city street when the property develops at urban density within the city limits at a later date.

Although we prefer to see the easement remain as private property until urban development occurs, we do request that the county require the easement to be brought up to the standard necessary for easements serving this level of development under county standards. If additional gravel base and additional gravel width is necessary, the city requests this be added as a condition of development.

From: Megan Green <megan.green@umatillacounty.net>
Sent: Thursday, May 13, 2021 11:49 AM
To: Clinton Spencer <cspencer@hermiston.or.us>
Subject: Hunsaker Rezone

STOP and VERIFY This message came from outside of the City of Hermiston.

[Quoted text hidden]

Hunsaker Parcels

EXHIBIT E

manager@hermistonid.org <manager@hermistonid.org>
To: Megan Green <megan.green@umatillacounty.net>

Mon, May 3, 2021 at 1:16 PM

Sorry Megan,

I am trying to get to all of my emails as quickly as possible.

I have attached the details of the Hunsaker properties.

Both Properties have water rights, placed as shown on the imagery map. The D Line Easement comes in from the east and ends at the southeast corner of tax lot 1200. The water rights are served by HID. Our water rights certificate is in the name of the Bureau of Reclamation, Certificate No. 89006.

Annette Kirkpatrick

District Manager

Hermiston Irrigation District

[366 E. Hurlburt Ave.](#)

[Hermiston OR 97838-2445](#)

Manager@HermistonID.org

Mobile: 541-571-7698

Office: 541-567-3024

Fax: 541-564-1069

[Quoted text hidden]

 **SKMBT_36321050313170.pdf**
891K

Hunsaker, Richard & Sandra



5/3/2021, 1:02:54 PM

- DistrictBoundary
- QuarterQuarters
- Sections
- Taxlots
- Canals
- Pipeline
- CountyRoads
- WaterRights

1:9,028



Oregon Statewide Imagery Program (OSIP) - Oregon Imagery Framework

Hermiston Irrigation District
Copyright Hermiston Irrigation District. All Rights Reserved.

ID: 13484 Active Voters Registration RRAForms Begin Date: 6/30/2016
 Last, First Names: Hunsaker Richard L & Sandra End Date:
 Address: PO Box 685
 City, State, Zip: Walterville OR 97489-0685
 Phone: Cell: (541) 554-7167
 (541) 968-4693
 Fax: Voting Division: 1
 Email: dickhunsaker@yahoo.com

02/04/19 Temp transferred 5.40 acres of water to Hofbauer, Matt in 2011 kvf

12/26/17 Mr. Hunsaker came in to talk about placement of his water right. He would like to split the 5.4 in half and apply to both properties (2/4/2019 Mr. Hunsaker has decided to sell these acres as he is already covered by HID and State WR's)

Account ID	Owner ID	Ditch Rider	WR Type	Property#	QQ/QQ	LAcres	WRAcres	Source	Gate#
117258	13484	West	Certificate	4N28B 1500	SESW	19.27	9	D-Line	
Physical Address: 1590 W Elm Ave Water Rights updated in Water Rights Certificate 89006 (12/12/2013). Bought property from Genesis Finance Corp. 6/30/16: Bought property from Gary Hughes LLC									
155513	13484	West	Certificate	4N28B 1505	SESW	19.05	10.1	D-Line	
Physical Address: Water Rights updated in Water Rights Certificate 89006 (12/12/2013). Bought property from Genesis Finance Corp. 6/30/16: Bought property from Gary Hughes LLC									

38.32 19.1

EXHIBIT 4
DEPARTMENT OF STATE LANDS COMMENTS



WN2021-0490 Response to Local Case File #Z-316-21 & LD-4N-1054-21

Matthew.Unitis@dsl.state.or.us <Matthew.Unitis@dsl.state.or.us>
To: megan.green@umatillacounty.net

Fri, May 28, 2021 at 7:42 AM

We have completed our review of the Wetland Land Use Notification that was prepared for Richard Hunsaker - Richard Hunsaker The WLUN form was submitted to the Department for review/response and given the file number WN2021-0490

The results and conclusions from that review are explained in the attached pdf documents. If the attached documents are illegible or difficult to open, you may contact the Department and request paper copies. Otherwise, please review the attachments carefully and direct any questions or comments to Jurisdiction Coordinator, Matthew Unitis at 503-986-5262 or Matthew.Unitis@dsl.state.or.us. Thank you for your interest in the project.

Additional resources that may be helpful:
[DSL Coordinator List](#)

[R/F Fee Schedule](#)

Aquatic Resource Management Program
Oregon Department of State Lands
775 Summer St. NE, Ste. 100
Salem, OR 97301-1279
Fax: (503) 378-4844
www.oregon.gov/dsl

2 attachments

 **Wetland Land Use Notice.pdf**
692K

 **Wetland Land Use Notice Response.pdf**
812K



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.

Responsible Jurisdiction

* City of County of Umatilla Municipality* Date* 4/26/2021

Staff Contact

First Name* Megan Last Name* Green
Phone* 5412786246 Email* megan.green@umatillacounty.net

Applicant

First Name* Richard Last Name* Hunsaker

Mailing Address*
Street Address
PO Box 685
Address Line 2
City State
Waltersville OR
Postal / Zip Code Country
97489 United States

Phone 541-554-7167 Email (?)

Is the Property Owner name and address the same as the Applicant?*
 No Yes

Activity Location

Township* (?) 04N Range* (?) 28E Section* (?) 04

Quarter-quarter Section (?)

C

Tax Lot(s) *

1100,1200

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

1590 W Elm Ave

Address Line 2

City

Hermiston

Postal / Zip Code

97838

State

OR

Country

United States

County *

Umatilla

Adjacent Waterbody

Umatilla R

Proposed Activity

Local Case File # *

Z-316-21 & LD-4N-1054-21

Zoning

F-2 (general rural) to FU-10 (future urban, 10-acre min)

Proposed

Building Permit (new structures)

Grading Permit

Site Plan Approval

Other (please describe)

Conditional use Permit

Planned Unit Development

Subdivision

Project *

Property Owners/Applicants propose a change to Umatilla County Zoning Maps for lands inside of the City of Hermiston's Urban Growth Boundary. The existing zoning is F-2 (general rural zone), and the proposed zoning is FU-10 (future urban, 10-acre minimum). The parcels do contain areas of the SFHA and are located along the Umatilla River. In addition, they contain some designated wetlands.

Required attachments with site marked: Tax map and site plan(s). (?)

Floodplain and Wetland Map.pdf	23.3MB
PC and BCC DLCD Notice.pdf	33.01KB
Proposed FU-10 Zoning Map.pdf	110.53KB
4N2804.pdf	268.98KB

Additional Attachments

Date

4/26/2021



Response Page

Department of State Lands (DSL) WN#*

WN2021-0490

Responsible Jurisdiction

Staff Contact	Jurisdiction Type	Municipality
Megan Green	County	Umatilla
Local case file #	County	
Z-316-21 & LD-4N-1054-21	Umatilla	

Activity Location

Township	Range	Section	QQ section	Tax Lot(s)
04N	28E	04	C	1500, 1505

Street Address

1590 W Elm Ave

Address Line 2

City

Hermiston

Postal / Zip Code

97838

State / Province / Region

OR

Country

Umatilla

Latitude

45.853124

Longitude

-119.323949

Wetland/Waterway/Other Water Features

- There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.
- The National Wetlands Inventory shows wetland, waterway or other water features on the property
- The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.
- The property includes or is adjacent to designated Essential Salmonid Habitat.

Your Activity

- A state permit will not be required for the proposed project because, based on the submitted site plan, the project avoids impacts to jurisdictional wetlands, waterways, or other waters.

Applicable Oregon Removal-Fill Permit Requirement(s)

- A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.
- A state permit is required for any amount of fill, removal, and/or other ground alteration in Essential Salmonid Habitat and within adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to the stream.

Closing Information

Additional Comments

A zoning change per se does not require a removal-fill permit, as no ground disturbance is proposed. However, I would advise a WLUN for any future proposed partition for these lots to determine if any may be largely wetlands and therefore difficult to develop.

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

- A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

Response Date

5/28/2021

Response by:

Matthew Unitis

Response Phone:

503-986-5262

EXHIBIT 5
APPLICANT'S APPEAL

Richard Hunsaker

P. O. Box 685

Walterville, OR 97489

541-554-7167

RECEIVED

π

JUL 06 2021

UMATILLA COUNTY
PLANNING DEPARTMENT

7/2/2021

Megan Green
Planner II
Umatilla Planning Dept.
216 SE 4th St.
Pendleton, OR 97801

RE: Appeal of Land Division / Conditions of Approval

Megan,

Please find, enclosed, my appeal application, written request for consideration, and my check for \$800.00 application fee.

Please schedule my appeal of the following conditions of approval from the Planning Commission's recommendations to the County Board of Commissioners.

I have included with my written testimony photos and a legend for the photos, as Exhibit B.

I have included as Exhibit A, a diagram of an accepted alternative for the emergency access turn around for the Commissioner's consideration.

Enclosed, find letters from the 2 property owners served by the private access easement for the Commissioner's consideration.

Sincerely,



Richard Hunsaker

Enclosure

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: 20516 Permit Number: LD-4N-1054-21
Transaction Date: 7/9/2021
Transaction Time: 9:52:32 AM
Payor: SANDRA HUNSAKER & RICHARD HUNSAKER
Paid in Cash: \$0.00
Paid via Check: \$800.00 Check# 3932 Bank#
Paid via EFT: \$0.00

Comments:

APPEAL OF LAND DIVISION CONDITIONS OF APPROVAL TO BOARD OF COMMISSIONERS

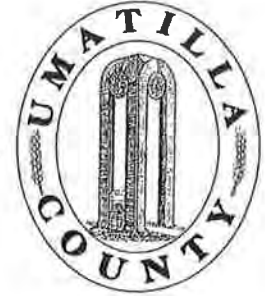
Fee Description	Quantity	Fee	Total
Appeal	1	\$800.00	\$800.00

Total:	\$800.00
Amount Received:	\$800.00
Amount Paid:	\$800.00
Change:	\$0.00
Amount Left Owing:	\$0.00

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\FForms_Master\Appeal_Notice.doc

JUL 06 2021

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: LD 4N 1054-21
- Type of Land Use Request Application: Appeal
- Decision-Making Body: Planning Director or Planning Commission
- Date of Decision (date on Findings): 6-17-2021
- Date you received notice of the decision or learned of the decision: 6/25/2021

Section 2: Contact Information

Name of Appellant(s): Richard & Sandra Hunsaker

Address: PO Box 685

City, State, Zip: Walterville, OR 97489

Telephone Number & Email Address: 541-554-7167

dickhunsaker@yahoo.com

Date of Submittal for the Appeal: 7/6/2021

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 conditions stipulated by the planning commission failed to consider the financial, physical and security of the property owners impacted by their "precedent conditions".

Precedent condition 1, 2 accepted.

Precedent condition 3 - appealed.

Failed to consider the acceptable alternative available through state fire code. See Exhibit A.

Precedent condition 4

Failed to inspect existing conditions and alternatives available.

Precedent condition 5 - as above.

Precedent condition 6

Failed to consider the City of Hermiston recommendation that the easement remain private stating "maintaining the access as an easement will avoid dedication of which later must be transferred to the City changing a county road to a city street."

"By maintaining the easement in its current status the City can require right of way dedication as a city street when the property develops at urban density within the City limits at a later date."

Attached are letters from the 2 property owners currently served by the easement.

Precedent condition 6, 7, and 8

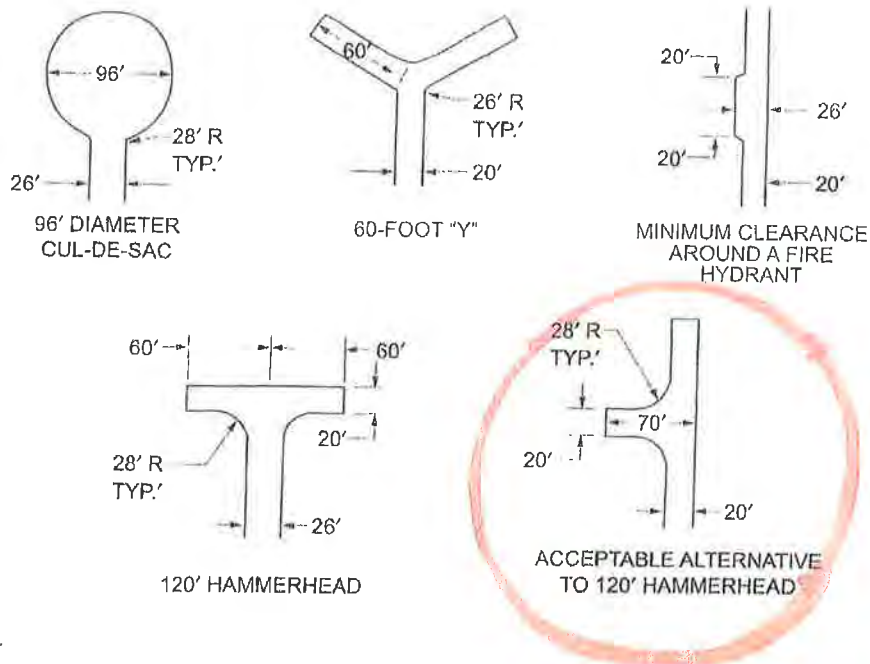
Failed to consider the long term implication of naming and signing the road and having to rename the same road in the future. If the road were to be named by the City today it would be NW 17th Street.

Please consider our request to amend the precedent conditions listed above by eliminating or modifying the conditions of 6, 7, and 8 as approved.

Precedent condition 9 - accepted.

The current road maintenance agreement will be modified to include to new tax lot created by the recent zone change and incorporated into new CCR's which will place conditions on all new development and constrictions including fire life safety issues.

APPENDIX D—FIRE APPARATUS ACCESS ROADS



For SI: 1 foot = 304.8 mm.

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

D103.5 Fire apparatus access road gates. Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. Where a single gate is provided, the gate width shall be not less than 20 feet (6096 mm). Where a fire apparatus road consists of a divided roadway, the gate width shall be not less than 12 feet (3658 mm).
2. Gates shall be of the swinging or sliding type.
3. Construction of gates shall be of materials that allow manual operation by one person.
4. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
5. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the fire code official.
6. Methods of locking shall be submitted for approval by the fire code official.
7. Electric gate operators, where provided, shall be listed in accordance with UL 325.
8. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F2200.

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.

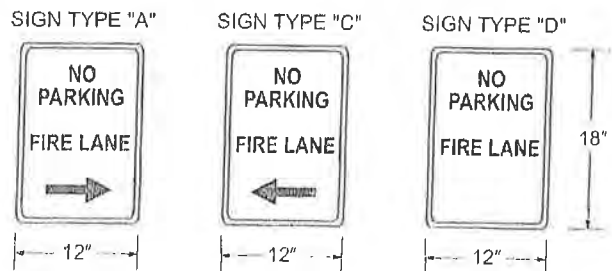


FIGURE D103.6
FIRE LANE SIGNS

D103.6.1 Roads 20 to 26 feet in width. 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).

D103.6.2 Roads more than 26 feet in width. Fire lane signs as specified in Section D103.6 shall be posted on one side of fire apparatus access roads more than 26 feet wide (7925 mm) and less than 32 feet wide (9754 mm).

SECTION D104

COMMERCIAL AND INDUSTRIAL DEVELOPMENTS

D104.1 Buildings exceeding three stories or 30 feet in height. Buildings or facilities exceeding 30 feet (9144 mm) or three stories in height shall have not fewer than two means of fire apparatus access for each structure.

EXHIBIT B / PHOTO LEGEND:

1. End of West Elm St. ROW indicating the condition of the public roadway
2. Turning north from the end of the public roadway onto the private access easement showing the condition of the roadway and the posted private driveway sign.
3. Continuing north down the private drive showing the mature trees buffering the easement.
4. Further north on the private drive showing the mature trees in the 30' easement.
5. Shows the current driveway into our property from the easement with adequate turnaround for emergency access.
6. North at our current driveway.
7. North past our current driveway shows the driveway at the Dimbats property with adequate turnaround for emergency access.
8. Shows the condition of the road surface facing south from our existing driveway.









Exhibit C



Amstad Farming Company
P O Box 890
Hermiston, OR 97838
Office (541) 376-8359
Fax (541) 376-8303

June 15, 2021

Umatilla County Commissioners
216 SE 4th St.
Pendleton, OR 97801

Attention: Megan Green

Re: Zoning Map Amendment Z-316-21

Dear Commissioners,

I am an adjacent property owner on the Richard & Sandra Hunsaker rezoning request. As such I would like to respond with my views of this request. While I am in favor of the planning commission recommendation for the zoning changes, I do not agree with any changes to the road size or name. Currently the drive sufficiently serves the existing number of homes on the road. If two more houses are added I do not believe it will make a significant difference to the traffic.

When I purchased my home, just over a year ago, one of the big draws of the property was the privacy it provided. If the driveway name is changed and the road size increased we will see even more unnecessary traffic. As home owners we have already spent countless hours and expense cleaning up trash from nonresidents. These people park at the end of the county road with no regard for traffic and leave piles of garbage behind. If the private drive is changed to appear as another county road it will attract more of these individuals and encourage them further onto the private drive. I am sure none of you would want that near your homes either.

At present, we home owners share the expense of road maintenance for the drive. We should be able to decide on any changes to the road ourselves. Thank you for your time and the opportunity to respond.

Sincerely,

Todd Dimbat

exhibit D



RICHARD A. FLAIZ, M.D., F.A.C.S
DIPLOMATE, AMERICAN BOARD OF OTOLARYNGOLOGY

EAR, NOSE & THROAT
FACIAL PLASTIC SURGERY
HEAD & NECK SURGERY
ALLERGY

600 N.W. 11th Suite # E-21 • Hermiston, OR 97838 • Phone (541) 567-2270 • Fax (541) 567-4153

June 15, 2021

Umatilla County board of County Commissioners

216 SE 4th St. Pendleton, OR 97801
Phone: 541-276-7111 Fax 541-278-5480

Attention: Megan Green

Re: Zoning map amendment Z-316-21

Dear commissioners,

As an adjacent property owner on the rezoning request by Richard & Sandra Hunsaker, I wish to enter the following testimony. I am in agreement with the planning commission recommendation for the zoning changes. I wish to object to the criteria for amendment in regard to naming of the driveway and requested changes to the size of the driveway. The current road is very adequate for the number of homes using this road. The small increase of two additional properties will not make a significant difference in my opinion. It may make a noticeable difference in the traffic volumes but we are able to pass each other easily already. Requesting us to increase the road size to 22' seems excessive and will lead to increased unwanted traffic diminishing the privacy that we currently enjoy. The driveway is currently named "W Elm Extension" an increase in visibility and signage will further detract from our privacy inviting unwanted traffic, gawkers and individuals trying to access the river.

Please allow the property owners to make their own decision regarding road size. Also we request no name changes

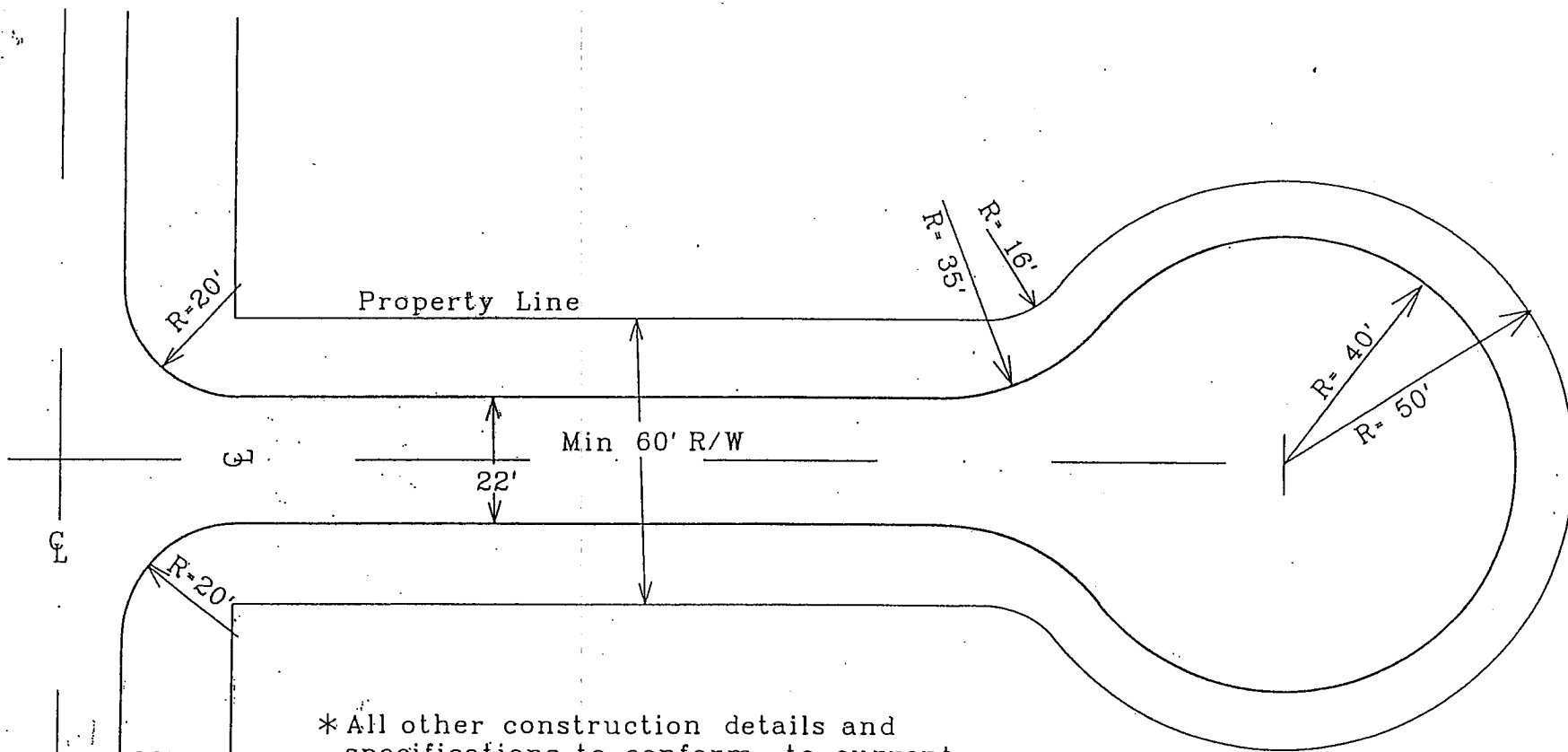
Thanking you for giving us the opportunity to respond.

Very sincerely yours

Richard A Flaiz

EXHIBIT 6
CO. TSP "C" CUL-DE-SAC DIAGRAM

"C" Cul-De-Sac



*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.

Umatilla Co. Rd. Dept.

"C" Cul-De-Sac

Drawn By: JG

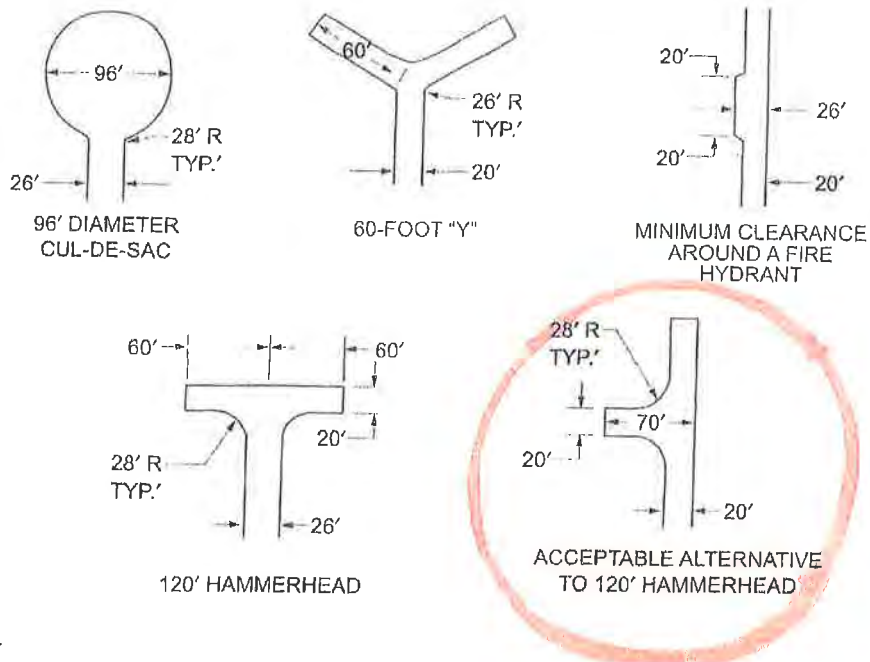
Checked By: GR

Date: July 1997

Road Standard

EXHIBIT 7
APPLICANT'S EXHIBIT A

APPENDIX D—FIRE APPARATUS ACCESS ROADS



For SI: 1 foot = 304.8 mm.

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

D103.5 Fire apparatus access road gates. Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. Where a single gate is provided, the gate width shall be not less than 20 feet (6096 mm). Where a fire apparatus road consists of a divided roadway, the gate width shall be not less than 12 feet (3658 mm).
2. Gates shall be of the swinging or sliding type.
3. Construction of gates shall be of materials that allow manual operation by one person.
4. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
5. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the fire code official.
6. Methods of locking shall be submitted for approval by the fire code official.
7. Electric gate operators, where provided, shall be listed in accordance with UL 325.
8. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F2200.

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.

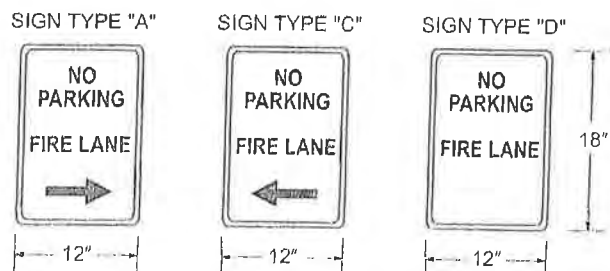


FIGURE D103.6
FIRE LANE SIGNS

D103.6.1 Roads 20 to 26 feet in width. 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).

D103.6.2 Roads more than 26 feet in width. Fire lane signs as specified in Section D103.6 shall be posted on one side of fire apparatus access roads more than 26 feet wide (7925 mm) and less than 32 feet wide (9754 mm).

SECTION D104 COMMERCIAL AND INDUSTRIAL DEVELOPMENTS

D104.1 Buildings exceeding three stories or 30 feet in height. Buildings or facilities exceeding 30 feet (9144 mm) or three stories in height shall have not fewer than two means of fire apparatus access for each structure.

EXHIBIT 8
APPLICANT'S PHOTOS

EXHIBIT B / PHOTO LEGEND:

1. End of West Elm St. ROW indicating the condition of the public roadway
2. Turning north from the end of the public roadway onto the private access easement showing the condition of the roadway and the posted private driveway sign.
3. Continuing north down the private drive showing the mature trees buffering the easement.
4. Further north on the private drive showing the mature trees in the 30' easement.
5. Shows the current driveway into our property from the easement with adequate turnaround for emergency access.
6. North at our current driveway.
7. North past our current driveway shows the driveway at the Dimbats property with adequate turnaround for emergency access.
8. Shows the condition of the road surface facing south from our existing driveway.







5



6



EXHIBIT 9
UMATILLA CO. FIRE DISTRICT #1
COMMENTS

Hunsaker Land Division Appeal

2 messages

Megan Green <megan.green@umatillacounty.net>
To: Scott Stanton <sstanton@ucfd1.com>

Fri, Aug 6, 2021 at 4:44 PM

Good Afternoon Scott,

Hope this finds you well and things are going smoothly. County Planning is processing an appeal of a land division request from Mr. Richard Hunsaker. Following is a summary of one of the issues and a question for the district.

The properties have an address of 1590 W Elm Extension, Hermiston. Although the Hunsaker land division was approved, Mr. Hunsaker was unhappy with the applied County standards and resulting conditions of the approval, thus he is appealing the decision.

One of the items that Mr. Hunsaker is appealing is the County's requirement for an emergency vehicle turnaround. The County Development Code (adopted by ordinance) requires a minimum of a 50-foot radius (cul-de-sac) turnaround to be improved to the County's applicable road standard. The applicable road standard requires 8 inches of compacted gravel. Additionally, Planning requires verification from the applicable fire district that the improved turnaround will be adequate for emergency vehicles, usually by email or letter, this requirement is also being appealed.

Mr. Hunsaker is suggesting a type of turnaround (diagram attached) that does not meet County requirements. Also provided are photos, (#5) shows what Mr. Hunsaker deems as an adequate emergency vehicle turnaround. This turnaround is part of a private driveway and does not meet County requirements because the private driveway is not dedicated as access turnaround. In addition, the private driveway area does not appear to meet the County's minimum radius turnaround requirement. The existing access easement currently serves 6 parcels and is proposed to serve 7 if this land division is finalized.

Question:

Has Mr. Hunsaker visited with UCFD1 about the emergency vehicle turnaround?

Insight from the Fire District would be much appreciated before the appeal decision goes to the Board of Commissioners, scheduled September 8, 2021.

Thank you,

Megan

--

Megan Green, Planner II / GIS
Umatilla County Transit Coordinator
Umatilla County Department of Land Use Planning
Tel: 541-278-6246 | Fax: 541-278-5480
216 SE 4th Street | Pendleton, OR 97801
<http://www.umatillacounty.net/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.

Scott Stanton <sstanton@ucfd1.com>
To: Megan Green <megan.green@umatillacounty.net>, Scott Goff <sgoff@ucfd1.com>

Fri, Aug 6, 2021 at 4:47 PM

Hi Megan,
I have copied this to my Fire Marshal, Scott Goff and he would be the one to refer all code and access question too.
Thanks,
Scott

Get [Outlook for iOS](#)

From: Megan Green <megan.green@umatillacounty.net>

Sent: Friday, August 6, 2021 4:44:00 PM

BCC Appeal Page 150

Hunsaker Appeal

4 messages

Scott Goff <sgoff@ucfd1.com>
To: "megan.green@umatillacounty.net" <megan.green@umatillacounty.net>

Mon, Aug 9, 2021 at 8:02 AM

Megan,

I have not had any contact from Mr. Hunsaker regarding vehicle turn-a-round.

The diagram you mentioned in the email to Chief Stanton was not attached. Can you send that to me?

Thank you,

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

CONFIDENTIALITY NOTICE: This transmission may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee, or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately. Keep the contents confidential, and immediately delete the message and any attachments from your system.

Megan Green <megan.green@umatillacounty.net>
To: Scott Goff <sgoff@ucfd1.com>

Mon, Aug 9, 2021 at 8:10 AM

Hi Scott,

Yes, I have attached the diagram and the photos Mr. Hunsaker sent us.

Thank you,

Megan

[Quoted text hidden]

Megan Green, Planner II / GIS
Umatilla County Transit Coordinator
Umatilla County Department of Land Use Planning
Tel: 541-278-6246 | Fax: 541-278-5480
216 SE 4th Street | Pendleton, OR 97801
<http://www.umatillacounty.net/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.

 **Hunsaker Appeal Materials.pdf**
340K

Scott Goff <sgoff@ucfd1.com>
To: Megan Green <megan.green@umatillacounty.net>
Cc: Scott Goff <sgoff@ucfd1.com>

Mon, Aug 9, 2021 at 8:43 AM

Megan,

Thank you for the additional information.

The page from the fire code is an acceptable means for fire apparatus turn-a-round provided the requirements are fully met.

That said, the County is not obligated to accept this as an alternative.

Based on what has been provided (a page from the fire code and a couple of pictures) I am not able to make a determination that the area proposed is adequate, or meets other requirements of Section 503 or Appendix D of the Oregon Fire Code.

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

CONFIDENTIALITY NOTICE: This transmission may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee, or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately. Keep the contents confidential, and immediately delete the message and any attachments from your system.

From: Megan Green <megan.green@umatillacounty.net>
Sent: Monday, August 9, 2021 8:11 AM
To: Scott Goff <sgoff@ucfd1.com>
Subject: Re: Hunsaker Appeal

STOP and VERIFY This message came from outside of the City of Hermiston.

[Quoted text hidden]

Megan Green <megan.green@umatillacounty.net>
To: Scott Goff <sgoff@ucfd1.com>
Cc: Scott Goff <sgoff@ucfd1.com>

Mon, Aug 9, 2021 at 8:44 AM

Thank you for your response.

Have a great day.

Megan

[Quoted text hidden]

EXHIBIT 10
APPLICANT'S SUPPORT LETTERS

Exhibit C



Amstad Farming Company
P O Box 890
Hermiston, OR 97838
Office (541) 376-8359
Fax (541) 376-8303

June 15, 2021

Umatilla County Commissioners
216 SE 4th St.
Pendleton, OR 97801

Attention: Megan Green

Re: Zoning Map Amendment Z-316-21

Dear Commissioners,

I am an adjacent property owner on the Richard & Sandra Hunsaker rezoning request. As such I would like to respond with my views of this request. While I am in favor of the planning commission recommendation for the zoning changes, I do not agree with any changes to the road size or name. Currently the drive sufficiently serves the existing number of homes on the road. If two more houses are added I do not believe it will make a significant difference to the traffic.

When I purchased my home, just over a year ago, one of the big draws of the property was the privacy it provided. If the driveway name is changed and the road size increased we will see even more unnecessary traffic. As home owners we have already spent countless hours and expense cleaning up trash from nonresidents. These people park at the end of the county road with no regard for traffic and leave piles of garbage behind. If the private drive is changed to appear as another county road it will attract more of these individuals and encourage them further onto the private drive. I am sure none of you would want that near your homes either.

At present, we home owners share the expense of road maintenance for the drive. We should be able to decide on any changes to the road ourselves. Thank you for your time and the opportunity to respond.

Sincerely,

Todd Dimbat

exhibit D



RICHARD A. FLAIZ, M.D., F.A.C.S
DIPLOMATE, AMERICAN BOARD OF OTOLARYNGOLOGY

EAR, NOSE & THROAT
FACIAL PLASTIC SURGERY
HEAD & NECK SURGERY
ALLERGY

600 N.W. 11th Suite # E-21 • Hermiston, OR 97838 • Phone (541) 567-2270 • Fax (541) 567-4153

June 15, 2021

Umatilla County board of County Commissioners

216 SE 4th St. Pendleton, OR 97801
Phone: 541-276-7111 Fax 541-278-5480

Attention: Megan Green

Re: Zoning map amendment Z-316-21

Dear commissioners,

As an adjacent property owner on the rezoning request by Richard & Sandra Hunsaker, I wish to enter the following testimony. I am in agreement with the planning commission recommendation for the zoning changes. I wish to object to the criteria for amendment in regard to naming of the driveway and requested changes to the size of the driveway. The current road is very adequate for the number of homes using this road. The small increase of two additional properties will not make a significant difference in my opinion. It may make a noticeable difference in the traffic volumes but we are able to pass each other easily already. Requesting us to increase the road size to 22' seems excessive and will lead to increased unwanted traffic diminishing the privacy that we currently enjoy. The driveway is currently named "W Elm Extension" an increase in visibility and signage will further detract from our privacy inviting unwanted traffic, gawkers and individuals trying to access the river.

Please allow the property owners to make their own decision regarding road size. Also we request no name changes

Thanking you for giving us the opportunity to respond.

Very sincerely yours

Richard A Flaiz

EXHIBIT 11
CITY OF HERMISTON COMMENTS

W Elm Ave Partition Appeal

1 message

Clinton Spencer <cspencer@hermiston.or.us>

Fri, Jul 9, 2021 at 11:27 AM

To: Robert Waldher <robert.waldher@umatillacounty.net>, Megan Green <megan.green@umatillacounty.net>

Cc: Heather LaBeau <hlabeau@hermiston.or.us>

Bob and Megan,

Thanks for meeting with me on the Hunsaker appeal before the county. I have reviewed the appeal materials submitted by the appellants and wanted to clarify the city's position with regards to the testimony previously submitted on May 13, 2021.

Per our conversation on July 9, 2021, the city understands that there is an existing 60-foot private easement serving the area proposed for partitioning and that this easement serves other lots as well. To avoid issues of county/city road jurisdiction, the city wishes to reiterate our original testimony that this easement should remain private for the time being and eventually improved to urban standards as a city street when this area is annexed to the city in the future. County standards for private easements should be applied as a condition of development as the city stated in our 5/13 testimony, *"If additional gravel base and additional gravel width is necessary, the city requests this be added as a condition of development."*

With regards to the street naming issue in the appeal, the city has specific requirements for street naming in Chapter 94 of the Hermiston Code. Specifically, E/W streets shall have proper names and be designated as Avenues. N/S streets shall be numbered and designated as streets. Currently as a county road, Elm is designated as W Elm Extension. There are existing houses serviced by the private easement and addressed off of Elm. To fully meet the criteria of the city's street naming ordinance, Elm should be designated as W Elm Ave and should not curve to the north along the private easement. The City TSP, co-adopted by Umatilla County, calls for the future extension of Elm across the Umatilla River and this future extension will need to retain the Elm designation. Addresses for the houses serviced by the private easement should be assigned in accordance with the county's addressing standards. If county addressing standards require each easement to be named, then the easement should be named in accordance with the city requirements for street naming and be designated as NW 17th Street (this easement falls in the city's 17 block for street numbers and is in line with SW 17th Street further to the south). If county standards require addresses to be assigned by the parent street, then the houses should be addressed off Elm until such time that the easement is dedicated as a city street in the future and all addresses would change at that point in time. For example, in the city, streets serviced by private driveways or easements are addressed by the parent street providing access to the easement and private street names such as "Jones Lane" are not allowed. Below is an example of two houses serviced by a private drive but addressed on NE 4th Street.



MINUTES

Adopted by the Umatilla County Planning Commission July 22, 2021

LAND DIVISION REQUEST #LD-4N-1054-21

**RICHARD & SANDRA HUNSAKER
APPLICANTS & OWNERS**

**PLANNING COMMISSION HEARING
MAY 27, 2021**

MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, May 27, 2021, 6:30 pm
Umatilla County Courthouse, 216 SE 4th Street, Pendleton, Oregon
Virtual meeting via Zoom

** **

COMMISSIONERS

PRESENT: Don Wysocki, Vice Chair, Tammie Williams, Tami Green, Hoot Royer,
Cindy Timmons & Sam Tucker

ABSENT: Suni Danforth, Chair, Jon Salter & Lyle Smith

STAFF: Bob Waldher, Planning Director, Megan Green, Planner II/ GIS & Tierney
Cimmiyotti, Administrative Assistant

** ****

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

CALL TO ORDER

Commissioner Wysocki called the meeting to order at 6:30 pm and read the Opening Statement.

NEW HEARING

ZONING MAP AMENDMENT #Z-316-21, Zone Change from F-2, General Rural Zone 19-acre minimum to FU-10, Future Urban Zone, 10-acre minimum & LAND DIVISION; TYPE II #LD-4N-1054-21. The applicant & property owners, Richard & Sandra Hunsaker, propose changes to the Umatilla County Zoning Map, Map 4N2804, Tax Lots 1000 & 1200 (formerly known as Map 4N28B, Tax Lots 1500 & 1505). The parcels are currently located within the Urban Growth Boundary (UGB) of the City of Hermiston and zoned F-2, General Rural Zone. The F-2 Zone is from Umatilla County’s 1972 Zoning Code and is primarily located within UGBs. The property owners are requesting a re-zone to FU-10 (Future Urban Zone - 10 acre minimum). Both F-2 and FU-10 Zoned properties inside of Hermiston’s UGB are managed by Umatilla County. The criteria of approval for Amendments are found in Umatilla County Development Code (UCDC) 152.750-152.755.

STAFF REPORT

Megan Green, Planner II/ GIS, presented the staff report. Ms. Green stated that property owners, Richard & Sandra Hunsaker, are requesting to rezone and partition 2 parcels located within Hermiston’s UGB. The properties are located north of West Elm Extension and east of the Umatilla River, approximately one-half mile west of Hermiston City Limits. The applicants’ properties and the surrounding properties are all located within the City of Hermiston’s UGB.

Ms. Green explained that the standards applied are from the Statewide Planning Goals, Joint Management Agreement, City Comprehensive Plan and County Zoning Ordinance. This request requires the Planning Commission to address two separate actions; a recommendation to the Board of Commissioners for approval or denial of the rezone and

the final appealable decision on the Land Division request. The criteria for approval for the Zoning Map Amendment are found in UCDC Sections 152.750-152.755. The criteria for approval of the Type II Land Division are found in UCDC Sections 152.680-152.686.

Ms. Green stated that the process of zone change approval by the county involves review by the Planning Commission with a recommendation on the rezone request to the Board of County Commissioners (BCC). The BCC must also hold a public hearing and make a decision whether or not to adopt the proposed zoning change. A public hearing before the BCC is scheduled for June 16, 2021 at 9:00 am.

Ms. Green explained to the Commissioners that staff has provided Findings and Conclusions that they may determine provide support, or do not support the criteria of approval. The conclusions the Planning Commission members reach and use for a recommendation on the rezone to the BCC, and for a decision on the land division request, must be based on substantial, factual, evidence in the record.

Commissioner Wysocki asked Ms. Green to explain more about the information in the hearing packet. Ms. Green stated that that the City of Hermiston provided comment in support of the requests. Clint Spencer, Hermiston City Planner, provided information indicating that water is located approximately 2,188 feet from the existing line on Elm to the subject properties. The sewer is located 650 feet away. Mr. Spencer stated that the city is not actively processing applications for development in this area. They annexed a 20 acre parcel in 2019 but have not received any development applications. Additionally, the property is bound by a 10 year agreement with the City of Hermiston to only develop single-family residential housing. Mr. Spencer stated that the city recommends maintaining the 30 foot access easement as an easement for this partition. He believes that maintaining the access as an easement will avoid dedication of right of way which later must be transferred to the city, changing a county road to a city street. He requested that the county require the easement to be brought up to the standard necessary for easements serving this level of development under county standards. Also, if additional gravel base and additional gravel width is necessary, the city requests this to be added as a condition of development. Ms. Green pointed out that the county's Land Division Standards for Approval require that the road be brought up to the P-2 Road Standard, which is referenced in the findings located on page 24 in the hearing packet.

Ms. Green received comments provided by Annette Kirkpatrick with Hermiston Irrigation District. Ms. Kirkpatrick stated that both properties included in the request have water rights in the name of the Bureau of Reclamation, Certificate #89006. She explained that the D Line Easement comes in from the east and ends at the southeast corner of tax lot #1200.

Ms. Green shared her screen and reviewed the email comment submitted by Jean Dahlquist representing the Fair Housing Council of Oregon (FHCO). She stated that the FHCO requested information and asked to review the Findings for this request because they were concerned about Statewide Planning Goal 10 related to housing. Ms. Dahlquist

commented that she felt it was a little unclear if the statement, "Housing is not a direct consideration of this request." is correct or not (page 20 in the packets, Preliminary Findings & Conclusions #20 Statewide Planning Goals, Goal 10, Housing). She suggested that a zone change from rural to future urbanizable, as well as a lot partition, would make future residential development more feasible on the site. She went on to say that if this were the case, she believes more elaborate Goal 10 findings would be required. However, she recognized that she is unfamiliar with the counties' particular urbanization process and requested clarification.

Ms. Green responded to the email from Ms. Dahlquist explaining that the current zoning is F-2, which is designated urbanizable. Likewise, the proposed zoning of FU-10 is designated urbanizable. She clarified that the only urban lands within Hermiston's UGB are those that are city zoned. Thus, the proposed zone change would not result in a change of the urbanizable status. Although the applicants' properties are located within the UGB, they are managed by the county under current and proposed zoning. The more dense residential zoned areas within the UGB are managed by the city. The F-2 Zone is a 19 acre minimum zone and allows one single-family dwelling (SFD) and one Accessory Dwelling Unit (ADU) per parcel. The FU-10 Zone is a 10 acre minimum zone and allows one SFD and one ADU per parcel. Once approved, the zone change and partition will create one additional parcel and therefore create the opportunity for one additional SFD and one additional ADU. Ms. Dahlquist replied thanking Ms. Green and stated that her summary clarified things nicely. She asked if there was a possibility that the explanation Ms. Green provided could be added to the Goal 10 Findings. Ms. Green responded that unfortunately, it was too late to add to the Goal 10 findings but she agreed to share the feedback with the Planning Commission. After review, the Commission can choose whether or not to add language to the Goal 10 findings as part of their recommendation to the BCC.

Commissioner Tucker asked if there would be any disadvantages to incorporating the language suggested by Ms. Dahlquist and the FHCO. Ms. Green replied that she does not believe it would be a disadvantage to add the requested the language for clarification purposes.

Applicant Testimony: Richard Hunsaker, 1590 W Elm Avenue, Hermiston, Oregon. Mr. Hunsaker was present, but he had technical difficulties and was unable to get his microphone to work so he was not able to provide verbal testimony.

Ms. Green read Mr. Hunsaker's written testimony and displayed the Umatilla County Wetlands Inventory Map, Flood Insurance Rate Map (FIRM) Panel 41056C0577G and Partition Plat #1999-37 provided by the applicant to staff in advance of the hearing:

“Chairperson and Commissioners, Umatilla County Planning Commission:

Thank you for the opportunity to add my testimony to the written record prior to your decision and recommendation to the Board of Commissioners in response to my

applications for comp plan amendment zone change and partition plat. My written testimony will be offered in the same order as the staff addresses each issue.

Page 6 Flood plain / Wetlands Map: What is marked Umatilla Co. wetlands does not match the wetlands inventory provided to me by the county (attached copy for your reference). The area on page 6, referred as wetland, is a seasonal irrigation pond. The source of water for the pond is D line from the Hermiston Irrigation District normally from April to October each year. The remainder of the year the pond is completely dry.

Page 25 / 26 F2: I request that the Planning Commission make this condition applicable as a condition of the issuance of a building permit for the development of each parcel. Currently the condition is met for each of the parcels (3) served by the easement. It is unknown as to location of any new dwelling on any of the newly created parcels as this condition places an undue burden on the property owner at this time.

Page 26 / F3, Page 27 4,5,6: The existing easement has historically been called “West Elm Extension”. US Mail delivers to mailing address on Elm St. To name the road differently would cause undue hardship on the existing home owners served by the access easement. The US Mail is delivered to mail boxes on the dedicated portion of Elm St. The addition of 2 additional mail boxes at the current location makes common sense. Further, to name and sign the easement would encourage additional traffic on the existing private road. There is an existing turn around for local traffic at the end of the public ROW and “private drive” signs posted at the intersection of the private easement and public ROW. The property that abuts the easement (TL1802) to the east is not a beneficiary to the private road easement. I request that precedent condition of a road naming application, road naming approval, and the approved road name to be shown on the plat, be waived at this time.

When this rezone, comprehensive plan amendment, and zone change are approved, I will record CCR’s over the three newly created parcels that limit construction to 1 single family dwelling with no less than 2,850 square feet of living area in size on each parcel. I will transfer a pro rata share of the existing water right to each newly created parcel, modify the access easement, and easement maintenance agreement to reflect the required changes. I have met, discussed, and agreed to these issues with my neighbors, Dr. Richard Flaize and Todd Dimbat. Thank you for this opportunity to add my testimony and I would be glad to answer any questions.”

Proponent Testimony: No comments.

Opponent Testimony: No comments.

Public Agencies: No additional comments.

Commissioner Wysocki closed the hearing for deliberation.

DELIBERATION

Commissioner Tucker asked for more information about the two deviations Mr. Hunsaker requested in his written testimony regarding the Standards of Approval. Planning Director, Bob Waldher, started by addressing Mr. Hunsaker's request that Precedent Condition of a road naming application, road naming approval and the approved road name to be shown on the plat, be waived at this time. Mr. Waldher reiterated that under UCDC 152.684(A), County Land Division Standards for Approval require that the road be brought up to the P-2 Road Standard which requires a 60 foot right of way with a 22 foot improved surface. He pointed out that this is a lesser requirement than what is required by the City of Hermiston's Transportation System Plan (TSP). The city requirement includes a 24 foot wide paved surface. However, the city has requested that the county road standard be applied at this time. When the subject parcels are annexed into the city the road will need to be improved because the City of Hermiston's TSP road standards will apply.

With regard to the comments about addressing and the emergency vehicle turn-around request, staff recommends that the conditions remain the same. This request is a Land Use Decision and applicants must meet all of the Standards for Approval and there is no option to pick and choose which standards will apply. Mr. Waldher acknowledged that some of the standards may seem impractical given the rural location of the property. However, he explained that the standards exist for a reason and any deviation could set precedence for future applicants to deviate from the required standards as well.

Commissioner Timmons stated that this property is located in the middle of the Lower Umatilla Basin Groundwater Management Area (LUBGWMA). She noted that she is concerned about high levels of nitrate in this critical groundwater area and the addition of dwellings will add to the problem. Mr. Waldher stated that the LUBGWMA is a Department of Environmental Quality (DEQ) designation indicating high nitrate levels and there are a number of studies taking place to determine the leading contributing factors and how they can be addressed. Mr. Waldher stated that Commissioner Timmons concern is valid. However, the Planning Department does not have any provision or language in our code which would preclude this property from being rezoned as part of this request.

Commissioner Tucker made a motion to recommend approval of the Hunsaker Zoning Map Amendment #Z-316-21 to the Board of County Commissioners based on the foregoing Findings of Fact and Conclusions of Law with the addition of staff comments addressing Goal 10 added to the record. Commissioner Williams seconded the motion. Motion passed with a vote of 6:0.

Commissioner Williams made a motion to approve the Hunsaker Land Division #LD-4N-1054-21 based on the foregoing Findings of Fact and Conclusions of Law. Commissioner Wysocki seconded the motion. Motion passed with a vote of 6:0.

MINUTES

Commissioner Wysocki called for any corrections or additions to the minutes from the April 22, 2021 meeting. Commissioner Timmons moved to approve the minutes as presented. Commissioner Royer seconded the motion. Motion carried by consensus.

OTHER BUSINESS

Mr. Waldher stated that the County has been working on a project for the last 8 months to update Umatilla County's Natural Hazard Mitigation Plan (NHMP). The plan has been reviewed by the Oregon Office of Emergency Management (OEM) & Federal Emergency Management Agency (FEMA) and comments provided have been addressed by the stakeholder committee. Once approved, the NHMP will be adopted by all 12 cities within the county, as well as several special districts.

Mr. Waldher stated that the Planning Department is seeking to fill a full-time Planner II position. The ideal candidate will have experience in Land Use Planning (or a related field) as well as a GIS background. We are advertising on multiple platforms but it has been challenging to find the right candidate. Ms. Green will soon be transitioning to her new role as Transit Coordinator.

ADJOURNMENT

Commissioner Wysocki adjourned the meeting at 7:25 pm.

Respectfully submitted,

Tierney Cimmiyotti,
Administrative Assistant

Minutes adopted by the Planning Commission on July 22, 2021