

A G E N D A
UMATILLA COUNTY BOARD OF COMMISSIONERS

Meeting of Thursday, June 3, 2014, 10:00 a.m.

Milton Freewater Public Library, Albee Room, 8 SW 8th Ave., Milton Freewater OR

A. CALL TO ORDER

B. NEW HEARING:

- **APPEAL of Planning Commission decision to approve, #LUD-163-13 for East End Rod & Gun Club. The application is to continue operation of a firearms training facility located at 54752 Milton Cemetery Road, approximately one mile east of Milton Freewater on tax lot 1200 of Assessor's Map 5N 36. A public hearing was held before the Umatilla County Planning Commission on December 19, 2013 and continued to January 23, 2014. Planning Commission approved the application with conditions. The standards of review for the Land Use Permit are found in the Umatilla County Development Code, Section 152.617(II)(5) and 152.063.**

C. ADJOURN

H2014\agendasjune032014bcc

BOARD OF COMMISSIONER RECORD

Section 1 Memo To Board of Commissioners

public notice
vicinity map, plot plan (also in original packet to planning commission.)

Section 2 Appeal Documents for Board of Commissioners

Final Findings of Fact and Conclusions of Law, adopted by Planning Commission and signed by Chair Randall on February 3, 2014

Letter dated February 5, 2014, notice of decision to applicant and interested parties with copy of Final Findings

February 5, 2014, Affidavit of Mailing

Minutes from December 19, 2013 Planning Commission hearing for EERGC #LUD-163-13

Minutes from January 23, 2014 Planning Commission continued hearing for EERGC #LUD-163-13

Letter and a Notice of Appeal received February 18, 2014 from Patrick Gregg, attorney for the Rea Family.

Letter and a Notice of Appeal received February 19, 2014 from Michael Robinson, attorney for the East End Rod & Gun Club.

Letter received February 28, 2014 from Gregory S. Bond EERGC member. In support (email)

Letter received March 4, 2014 from Irene Gilbert. In support (email)

Letter received March 7, 2014 from Suni Danforth referencing chapters in ORS and OAR with regard to noise standards for gun ranges.

Letter dated May 19, 2014 from Patrick Gregg, attorney for Rea Family.

Section 3 Record adopted by Planning Commission

not numbered Original packet mailed to Planning Commission

Exhibit # 1 Letter dated December 13, 2013, received December 16, 2013, from Lawrence Ranches, Inc. signed by Susan Lawrence Talbot. Neighboring property owner in opposition.

2 Letter dated/received December 17, 2013 from Sheri M. Miller, interested person in support.

3 Letter dated/received December 17, 2013 from Don Zimmerman, Boy Scout Troop 305, in support.

4 Letter received December 17, 2013 from Sam and Donna LeFore, Sam Lefore Fruit Farms, Inc., owners of property within two miles. Includes map. In opposition with recommended conditions if approved.

5 December 17, 2013 email from Dave Reeves and Tamara LeFore-Reeves, residents of Milton-Freewater, concerned about expansion.

6 Letter received December 17, 2013 from Kelly Peterson, Walla Walla resident and owner of neighboring farmland. Opposed to expansion.

7 Letter dated December 16, 2013, received December 18, 2013, from Sharon M. Schultz, owner of adjacent farmland. Concerns about facility, opposed to expansion, request denial.

8 December 16, 2013 letter received December 19, 2013, from Mike Davis, Oregon State Police SWAT and Explosive Disposal Unit, retired. In support.

9 Letter received December 19, 2013 from Mike Cibart, EERGC Member, in support.

10 Letter received December 19, 2013 from Larry Zalaznik, EERGC Director in charge of shotgun games. In support.

11 Letter received December 19, 2013, from Jan Bledsoe of VonDerAhe, Inc., representing subject landowners. In support.

- 12 Letter received December 19, 2013, from Larry Duckett, EERGC member, in support.
- 13 Letter dated December 17, 2013, received December 19, 2013, from Lt. Douglas Jones, US Dept of Veterans Affairs Police, Walla Walla. In support.
- 14 Letter received December 19, 2013, from John Shafer, 4-H shooting instructor, in support.
- 15 Letter dated December 16, 2013, received December December 19, 2013 from Robert Blach, Walla Walla Fun Club, in support.
- 16 December 19, 2013 Time Deposit Inquiry for East End Rod & Gun Club.
- 17 December 19, 2013 letter from Chad Ray, EERGC Member, in support.
- 18 Letter submitted December 19, 2013 from Scott Gilmore, Milton-Freewater Resident, in support.
- 19 Letter submitted December 19, 2013, from Stacy Alexander, NRA Certified Instructor, in support.
- 20 2012 Aerial Photo, Umatilla County Oregon, showing subject property and one-mile vicinity.
- 21 List of landowners within one mile of VonDerAhe property.
- 22 Photos submitted by Dennis Rea and Nathan Rea.
- 23 Oversize Exhibit (audio cd) submitted by Dennis Rea and Nathan Rea.

Exhibits Submitted After December 19th hearing. These items are to be entered into record at January Hearing

- 24 Soil Capability class map of subject property (presented to commission at hearing but not formally adopted into record).
- 25 Letter dated December 21, 2013 from Jim Hartford, EERGC member and NRA member. In support.
- 26 Letter dated December 27, 2013, received December 30, 2013, from Grant Asher, Concealed Firearms Instructor, Retired Chief of Police from City of Hermiston, in support
- 27 Final Opinion, Oregon Court of Appeals, Conrady versus Lincoln County, December 18, 2013.
- 28 Letter dated January 8, 2014 from Jonathan Phillips, EERGC member . In support. (email)
- 29 Letter dated January 8, 2014 from Theodore Richerzhagen III, EERGC member. In support. (email)
- 30 Letter dated January 8, 2014 from Anthony Remboldt, EERGC member. In support. (email)
- 31 Letter dated January 8, 2014 from Arlene Isaacson, EERGC member. In support. (email)
- 32 Letter dated January 8, 2014 from Mark Mebes, EERGC member. In support. (email)
- 33 Letter dated January 8, 2014 from Gregory S. Bond, EERGC member. In support. (email)
- 34 Letter dated January 8, 2014 from Steve Filkins, EERGC member. In support. (email)
- 35 Letter dated January 9, 2014 from Paul Roquet, EERGC member. In support. (email)
- 36 Letter w/photos dated January 9, 2014 from Ken Sloan, EERGC member. In support. (email)
- 37 Letter dated January 8, 2014 from Richard A. Ullian, EERGC member. In support. (USPS)
- 38 Letter dated January 9, 2014 from Paul Stephens, EERGC member. In support (email)
- 39 EERGC Articles of Incorporation; EERGC By laws; EERGC Property Insurance documents submitted by Verl Pressnall on January 10, 2014. (email)
- 40 Letter dated January 10, 2014 from Brian Schnick, EERGC member. In support. (email)
- 41 Letter received January 10, 2014 from Casey McClellan, EERGC member. In support. (USPS)
- 42 Letter received January 10, 2014 from Lorne Harvey, EERGC member. In support. (USPS)
- 43 Letter received January 10, 2014 from Adam Sherman, EERGC member. In support (USPS)

- 44 Letter received January 10, 2014 from Douglas Humphrey, EERGC member. In support (USPS)
- 45 Letter dated January 8, 2014 from Rich Eagon, EERGC member. In support. Received 01/10/14 (email)
- 46 Letter dated January 10, 2014 from Terry Hayes, EERGC member. In support. (email)
- 47 Letter dated January 11, 2014 from Berton K Kinman, surrounding property owner. In opposition. (email)
- 48 Letter dated January 11, 2014 from Brian Lovgren, EERGC member. In support. (email)
- 49 Letter dated January 12, 2014 from David Juhasz, EERGC member. In support. (email)
- 50 Letter received January 13, 2014 from Michael Ferguson, EERGC member. In support. (USPS)
- 51 Letter received January 13, 2014 from Steve Brinker, EERGC member. In support. (USPS)
- 52 Letter dated January 9, 2014 from Jess & Sandi Roddick, EERGC members. In support. Received 01/13/14 (USPS)
- 53 Letter dated January 9, 2014 from Paul E Roquet, EERGC member. In support. Received 01/13/14 (USPS)
- 54 Letter dated January 10, 2014 from Lucian Turner, EERGC member. In support. Received 01/13/14 (USPS)
- 55 Letter received January 13, 2014 from Jim Buettner, EERGC member. In support. (USPS)
- 56 Letter dated January 8, 2014 from Darrel Unrue, EERGC member. In support. Received 01/13/14 (USPS)
- 57 Letter dated January 9, 2014 from Richard Backlund, EERGC member. In support. Received 01/13/14 (USPS)
- 58 Letter dated January 12, 2014 from Deanna D Ferguson, EERGC proponent. In support. Received 01/14/14 (USPS)
- 59 Letter dated January 13, 2014 from Bill Timmermann, EERGC member. In support. Received 01/14/14 (USPS)
- 60 Letter received January 14, 2014 from Patrick Gregg, Attorney for Rea family. In opposition. Counter delivery.
- 61 Notarized statement received January 15, 2014 from Gary VanBlokland, EERGC and NRA member. In support. (USPS)
- 62 Letter received January 15, 2014 from Joseph C Harshman, EERGC member. In support (USPS)
- 63 Letter received January 15, 2014 from Walt Caton, EERGC member. In support (USPS)
- 64 Letter received January 15, 2014 from Richard McCann, EERGC and FWWM gun club member. In support (USPS)
- 65 Letter received January 15, 2014 from Evert Stanley Ray, EERGC member. In support (USPS)
- 66 Letter received January 15, 2014 from April Dyntaxa, EERGC member. In support (USPS)
- 67 Email correspondence between Verl Pressnall, EERGC President and Rick Saager, Milton Freewater Rural Fire Department Chief stating there have been no emergency responses at the EERGC. Received 01/15/14 by email to Tamra Mabbott, Planning Dir.
- 68 Letter received January 16, 2014 from Sheldon Ferguson, EERGC member. In support. Also included is a list of signatures of people in support of EERGC. (email)
- 69 Letter and exhibits received January 16, 2014 from Michael Robinson, Attorney for EERGC. In support. (email)

**Exhibits Submitted after Planning Commission Packets were mailed on January 16, 2014.
Entered into record at the January 23, 2014 hearing.**

- 70 Notarized statement received January 16, 2014 from Jess Roddick, NRA member. In support (USPS)
- 71 Letter received January 16, 2014 from Douglas Tash, EERGC member. In support (USPS)
- 72 Letter received January 16, 2014 from Benjamin J Tice, EERGC member. In support (email)
- 73 Notarized statement received January 16, 2014 from R.V. Williams, NRA member. In support (email)
- 74 Notarized statement received January 16, 2014 from Richard Weaver, NRA member. In support (email)
- 75 Notarized statement received January 17, 2014 from Lorne Harvey, NRA member. In support (USPS)
- 76 Notarized statement received January 17, 2014 from Ken Sloan, NRA member. In support (USPS)

- 77 Notarized statement received January 17, 2014 from Jim Buettner, NRA member. In support (USPS)
- 78 Letter received January 17, 2014 from Roger Treis, EERGC member. In support (USPS)
- 79 Notarized statement received January 17, 2014 from Larry Zalaznik, NRA member. In support (USPS)
- 80 Letter received January 17, 2014 from Bryce Rugraff, EERGC member. In support (USPS)
- 81 Letter in support of EERGC, list of individuals and businesses who've donated labor, materials or equipment to EERGC and copy of article in the Valley Herald regarding EERGC. Received January 17, 2014 from Charles Danforth
- 82 Letter received January 17, 2014 from Lieutenant Cliff Pease/WA Dept of Corrections in support of EERGC. (email)
- 83 Letter received January 20, 2014 from Shanna Hatfield, EERGC Women on Target participant. In support (email)
- 84 Letter received January 20, 2014 from Scott Hatfield, EERGC member. In support (email)
- 85 Letter received January 21, 2014 from Mike Robinson, Attorney for EERGC in response to January 114, 2014 letter from Patrick Gregg, Attorney for the Rea family. In support of EERGC (email)
- 86 Notarized statement received January 21, 2014 from Parvin "Lance" Hallmark, NRA member. In support (USPS)
- 87 Notarized statement received January 21, 2014 from Brian Schnick, NRA member. In support (USPS)
- 88 Letter received January 21, 2014 from Brian Hurst, EERGC member. In support (USPS)
- 89 Letter received January 21, 2014 from Victoria Hendrickson in support of EERGC (USPS)
- 90 Notarized statement received January 21, 2014 from Victoria Hendrickson, NRA member. In support (USPS)
- 91 Letter received January 21, 2014 from Janet Anderson in support of EERGC (USPS)
- 92 Notarized statement received January 21, 2014 from Janet Anderson, NRA member. In support (USPS)
- 93 Notarized statement received January 21, 2014 from Steve Anderson, NRA member. In support (USPS)
- 94 Letter received January 21, 2014 from Jeffrey Hendrickson, EERGC member. In support (USPS)
- 95 Notarized statement received from Jeffrey Hendrickson, NRA member. In support (USPS)
- 96 Letter received January 21, 2014 from John Geidl in support of EERGC. (USPS)
- 97 Notarized statement received January 21, 2014 from Randy Black, NRA member. In support (email)
- 98 Letter received January 21, 2014 from Kent & Andrea Bigler, EERGC member. In support (email)
- 99 Letter received January 22, 2014 from Brian Head in support of EERGC (email)
- 100 Letter received January 23, 2014 from John Kaufman, EERGC member. In support (USPS)

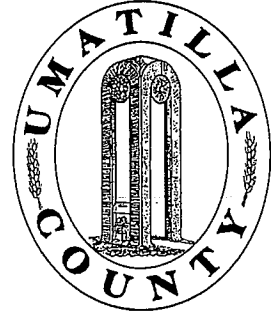
Exhibits Submitted during and after Planning Commission hearing on January 23, 2014.

Entered into the record and included in the packets for the Board of Commissioners hearing on April 3, 2014.

- 101 Letter received January 23, 2014 from Kurt Van Batavia, EERGC member. In support.
- 102 Letter received January 23, 2014 from Tim Simmons, Hunter Safety Instructor. In support.
- 103 Letter received January 27, 2014 from Ross Day, Attorney at Law for EERGC.
- 104 Copy of ORS 197.770 (1), (2), (a, b, and c) submitted January 23, 2014 with regard to Firearms training facilities.
- 105 Copy of OAR Chapter 660, Division 033, Rule 0120, Table 1 submitted January 23, 2014 with regard to uses authorized on agricultural land.
- 106 Copy of OAR 215.283 submitted January 23, 2014 with regard to uses permitted in exclusive farm use zones in nonmarginal lands.
- 107 Copy of Court of Appeals case: Citizens for Responsibility vs. Lane County submitted January 23, 2014.
- 108 Letter and attachments from Patrick Gregg, Attorney for the Rea Family re: Citizens for Responsibility vs. Lane County submitted January 23, 2014
- 109 Notorized Affidavit of Nathan Rea submitted January 23, 2014

Umatilla County

Board of County Commissioners



Commissioners

May 27, 2014

George L. Murdock
541-278-6202

W. Lawrence Givens
541-278-6203

William J. Elfering
541-278-6201

MEMO.

TO: Board of Commissioners
FROM: Tamra Mabbott *Tamra*
RE: East End Rod N Gun Club LUD Application #LUD-163-13
Hearing Date: Tuesday, June 3, 2014

Executive Secretary
Melinda Slatt
541-278-6204

County Counsel
Douglas Olsen
541-278-6208

Budget Officer
Bob Heffner
541-278-6209

The hearing scheduled for June 3, 2014 is an appeal of the Planning Commission decision to approve the land use application for East End Rod & Gun Club (EERGC). An appeal was filed by both the applicant and a neighboring property owner. The reasons for each appeal is summarized in the letters submitted by the attorneys, Michael Robinson for the applicant, and Patrick Gregg for the Rea Family, neighboring property owner.

The applicant supports the decision of the Planning Commission but has asked the Board to reconsider the conditions of approval. The Rea Family requests the Board reverse the decision of the Planning Commission, or, alternatively, if the Board votes to uphold the Planning Commission decision to reconsider several conditions of approval.

Staff believes that minor changes to the conditions of approval would be reasonable and not contrary to the intent of the Planning Commission. Certain conditions were drafted at a very late hour (11:00 pm) and although staff collaborated closely with both lawyers to reach a consensus on the exact language and intent of the conditions of approval, the parties have exercised their right to appeal and have requested changes to the decision and the conditions.

Staff concurs with Michael Robinson, attorney for EERGC, that the Findings should be amended to strike the reference to ORS 215.296. A "firearms training facility" is authorized by ORS 197.770 and ORS 215.296 is not technically an approval criterion. That is not to say that the county does not support ORS 215.296, which is intended to assure compatibility with farming and farming practices. However, as a technical matter, ORS 215.296 is not an approval criterion and therefore the Board's decision cannot rely on whether the application complies with ORS 215.296.

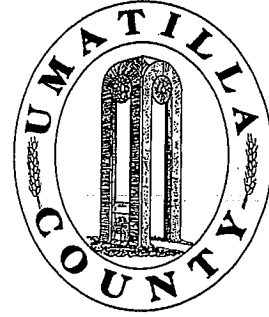
The hearing is de novo. New information may be presented to the Board and made a part of the record. The Board can either amend, rescind, affirm or remand the Planning Commission decision.

The entire record of the Planning Commission decision is part of your packet. It is a large volume of information to review and is also posted on our website for interested parties to review. Planning Commission held two hearings for the application and vetted the issues thoroughly. However, as noted above, reasonable parties can disagree on the decision and both have exercised their right for a hearing in front of the Board.

Umatilla County

Department of Land Use Planning

COPY



PUBLIC NOTICE

DIRECTOR
TAMRA MABBOTT

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

October 15, 2013

LAND USE REQUEST, #LUD-163-13
ASSESSORS MAP #5N 36, TAX LOT #1200

Andy Millar, for East End Rod N Gun Club, APPLICANT

As an affected agency or nearby property owner you are entitled to notice of a Land Use Request that the Planning Department has reviewed and is processing.

Enclosed is a copy of the Preliminary Findings and Conclusions that have been prepared with regard to this land use request. The document includes a description of the request, background information, and an analysis of how the request conforms to the standards for land use set forth in the Umatilla County Development Ordinance. If approved, a list of "conditions of approval" will be applied. Also, enclosed is a location map of the property and a proposed site plan.

If you have information you feel should be addressed in the Findings and Conclusions, please contact our office. You may request additional conditions of approval be applied without requesting a Public Hearing. If you object to the request or feel that certain aspects need to be discussed in a public forum, you may request a Public Hearing, however there will be a \$250.00 fee for the request of a Public Hearing.

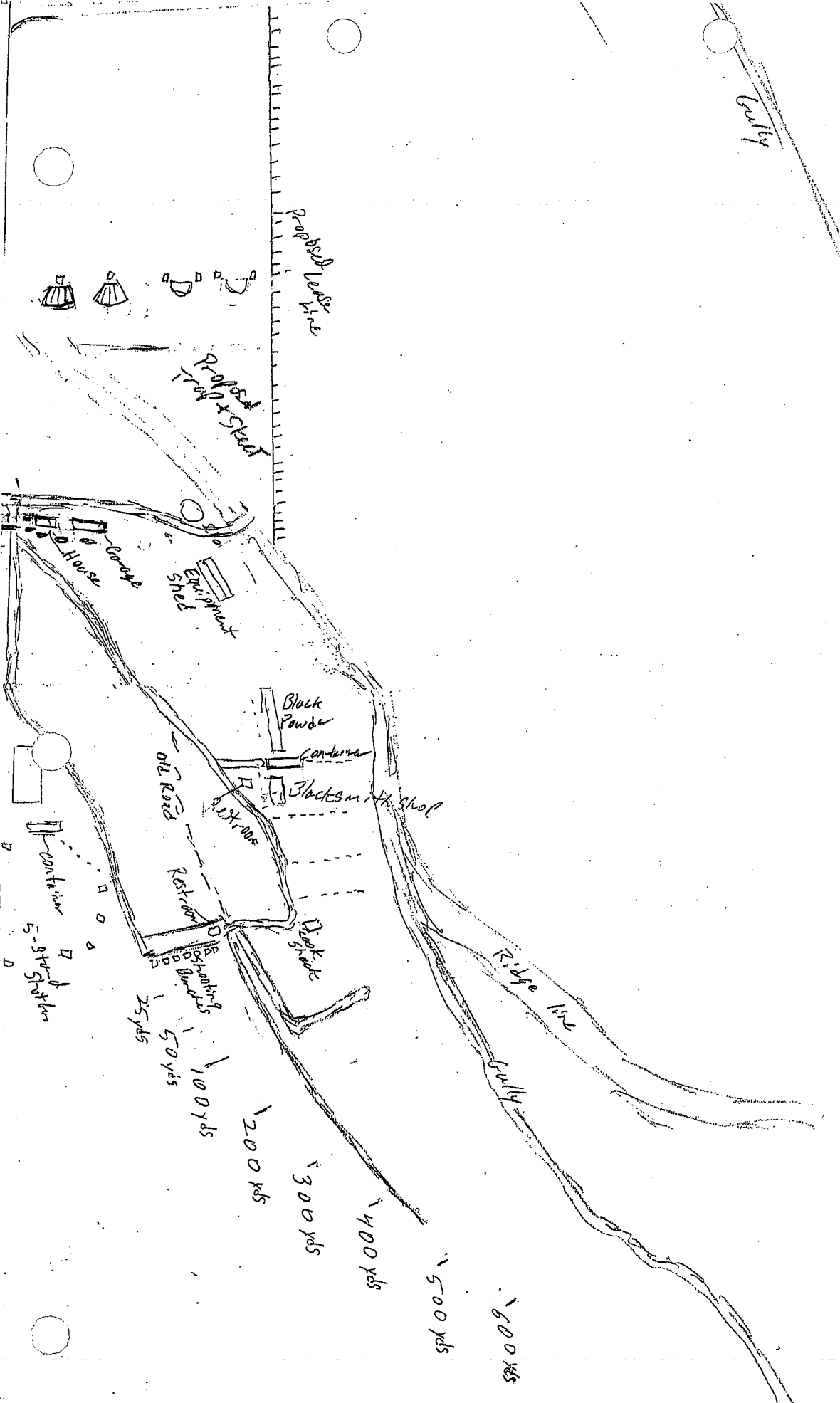
The deadline to submit additional information or request a public hearing is the close of business, (5:00PM) on:

NOVEMBER 5, 2013

For further information, please contact our office.

Cordially,

Handwritten signature of Tamra J. Mabbott.
Tamra J. Mabbott
Planning Director



Caulk

Ridge line

Proposed Street

Black Powder

Blacksmith Shop

Ridge line

Caulk

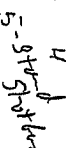
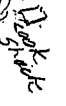
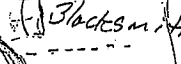
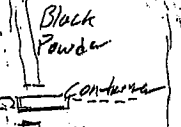
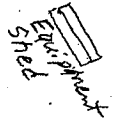
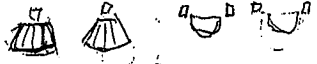
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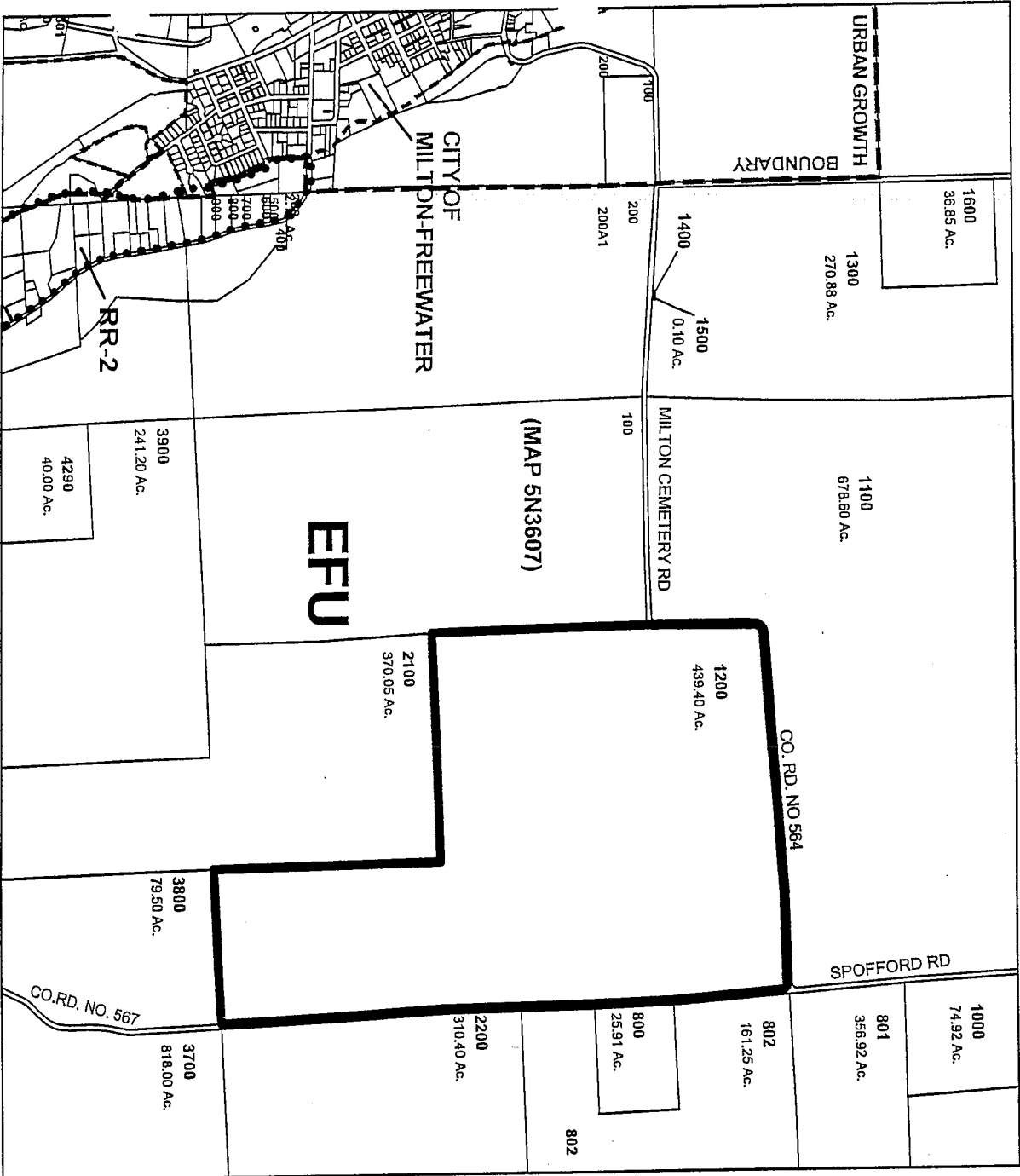
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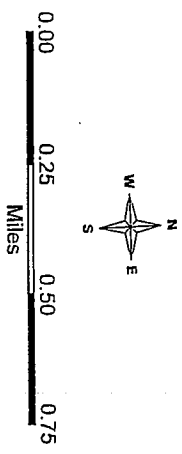
600 yds





PROPERTY OWNERS WITHIN 750'
NOTICE AREA OF SUBJECT PARCEL

- MAP 5N36**
- 800 FARMERS PRODUCE OUTLET INC
 - 801 PETERSON LES A & MARY M
 - 802 FARMERS PRODUCE OUTLET INC
 - 1100 REA DENNIS C
 - 1200 VONDERAHE INC
 - 2100 GARRIOTT MARGENE (TRS)
 - 2200 KINMAN BERTON & BEVERLY
 - 3700 C/O BERTON K KINMAN
 - 3800 TALBOTT SUSAN (TRS) & LAWRENCE RANCHES
 - C/O LAWRENCE RANCES INC
 - KINMAN BERTON & BEVERLY
 - C/O BERTON K KINMAN
- MAP 5N3607**
- 100 SCHULTZ GARY



DATE: 9/18/13

LAND USE DECISION #LUD-163-13
EAST END ROD & GUN CLUB, APPLICANT
MAP 5N36, TAX LOT 1200

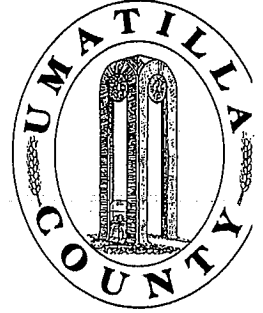
SUBJECT PARCEL

MAP DISCLAIMER: No warranty is made by Unalaska County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by J. Alford, Unalaska County Planning Dept. y:\workspace\planning\vicinity maps\E-H\EastEnd\ID_163_13.gws

Umatilla County

Department of Land Use Planning

COPY



DIRECTOR
TAMRA
MABBOTT

February 5, 2014

LAND USE
PLANNING,
ZONING AND
PERMITTING

Verl Presnall, President
East End Rod & Gun Club
P.O.Box 251
Milton-Freewater, OR 97862

✓ Mike Robinson, Attorney
Perkins Coie
1120 NW Couch St, Tenth Floor
Portland, OR 97209-4128

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

Re: Final Approval
Land Use Decision #LUD-163-13 and

GIS AND
MAPPING

Dear Mr. Presnall and Mr. Robinson:

RURAL
ADDRESSING

Enclosed is a copy of the Final Findings approving land use application #LUD-163-13 to continue operation of a firearms training facility. The Findings were signed by the Planning Commission Chair on Monday, February 3, 2014. The approval is subject to the Conditions attached to this letter and also included on pages 12 and 13 of the Final Findings.

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

A statutory 15-day appeal period commenced the day this final approval letter was mailed, February 5, 2014. An appeal must be submitted in writing by 5:00 pm on February 20, 2014.

The Final Findings and this letter is also posted on our county website at <http://www.co.umatilla.or.us/planning/plan-packets.html>

Thank you for your participation in this process. Please let me know if I may be of further assistance.

~Cordially,

Handwritten signature of Tamra J. Mabbott in cursive script.

Tamra J. Mabbott,
Planning Director

cc: Patrick Gregg, Attorney, Corey, Byler & Rew w/ attachment
Hearing participants/interested persons w/out attachment

UMATILLA COUNTY PLANNING COMMISSION
FINAL FINDINGS OF FACT AND CONCLUSIONS OF LAW
EAST END ROD & GUN CLUB LAND USE REQUEST, #LUD-163-13
MAP # 5N 36, TAX LOT # 1200, Account # 134104

1. APPLICANT: East End Rod & Gun Club, Verl Pressnall, P. O. Box 251, Milton-Freewater, OR 97862

2. OWNERS: Von DerAhe, Inc, 420 Parkview, Milton-Freewater, OR 97862

3. REQUEST: The applicant, East End Rod and Gun Club (EERG or Gun Club) requests land use approval to operate a firearms training facility under the provisions of ORS 197.770. Approval would justify the continued use of an 85 acre lease area on the VonDerAhe property for use as a gun club by the East End Rod & Gun Club. The initial application included a request to expand the gun club to include a 35-acre expansion area. The expansion area portion of the application was withdrawn by the Gun Club and is not a part of this land use decision.

Initial use of the property as a gun club began in the spring of 1994 with sporting clay shoots operated under the auspices of the National Sporting Clays Association. The shooting facility and gun club has operated continually since spring of 1994. The gun club was established on the VonDerAhe property to advance safe shooting sports including youth programs such as 4-H, Boy Scouts and Oregon State Hunter Safety programs. The club also holds an annual women's safety clinic and provides a place for its general membership to safely pursue a variety of shooting disciplines for competitive shooting.

The existing lease area includes developed multiple firearms ranges including a 600 yard rifle range, a 5-stand range, a muzzleloader range, a cowboy action/pistol range and a specified rim-fire range. There are three existing buildings consisting of a 12' x 150' muzzleloader lean-to, a 16' x 32' lean-to and a 12' x 16' cook shack and also one 8' x 20' shipping container and two 8' x 40' shipping containers. There are five proposed buildings: two 20' x 40' open front buildings, one 12' x 160' roof over existing shooting benches, one 24'x 60' modular classroom and one 16'x 32' lean-to within the 35 acre proposed expansion area. Four trap fields with two skeet overlay fields, a 16'x 32' lean-to, four 4.5'x 5' trap houses and four 8'x 8' skeet houses are proposed on the 35 acre lease expansion area.

4. LOCATION: The property is located along Cemetery road, approximately 1½ miles east of the City of Milton-Freewater.

5. ACREAGE: The parcel, Tax Lot 1200 = 439.40 acres (assessed). Current lease area = 85 acres, proposed expansion lease area is approximately 35 acres.

6. COMP PLAN: North/South Agriculture Region

7. ZONING: Exclusive Farm Use Zone (EFU, 160 acre parcel size)

8. ACCESS &

ROAD TYPE: Members of the East End Rod & Gun Club and occupants of an existing dwelling located on the property have access from Cemetery Road, County Road No. 564MC. Cemetery Road is two lane paved county road. Tax Lot 1200 also adjoins Spofford Road, County Road No. 567, a

gravel county road along the east property boundary.

9. EASEMENTS: No easements were listed for the property in the application materials.

10. LAND USE: In addition to the East End Rod & Gun Club activities the VonDerAhe property is used for dry land grain crops to the north of the club lease area and along the east side of the property.

11. ADJACENT USES: There is predominately dry land farming activities on lands surrounding the subject property. An area planted in grape vineyards is developed on Tax Lots 800 & 802 to the east ¼ miles from the current gun club lease area.

12. LAND FORM: Walla Walla Valley

13. IRRIGATION: There are no irrigation water rights on Tax Lot 1200

14. FARMLAND &

SOIL TYPES: Lands in Eastern Oregon, classified as predominantly Class I through VI soils, are "Agricultural Land" and include those lands necessary to permit farm practices on adjacent or nearby agricultural lands. Additionally, land in capability classes other than Class I through VI within a farm unit are likewise inventoried as agricultural land even though that land may not be cropped or grazed. A tract of land composed predominantly (greater than 50 percent) of soils classified as Class I or II are considered "High-Value Farmland."¹ The subject property and adjacent properties are predominately composed of Class II soil and therefore, as defined, the tract of land is considered predominately "High-Value Farmland." The table below lists the soils, as depicted in the NRCS Soil Survey for Umatilla County, in descending order of predominance. (See attached soil maps)

Soil Name, Unit Number, Description	Land Capability Class		Acreage
	Dry	Irrigated	
61C-Oliphant silt loam, 3 to 12 percent slopes.	2e	2e	309.55ac
62C-Oliphant silt loam, 3 to 25 percent slopes.	3e	---	78.20 ac
8C-Athena silt loam, 7 to 12 percent slopes.	3e	3e	32.85 ac
8B-Athena silt loam, 1 to 7 percent slopes.	2e	2e	15.15 ac
61A-Oliphant silt loam, 0 to 3 percent slopes.	2c	1	3.45 ac
112D-Waha silty clay loam, 12 to 25 percent slopes.	4s	---	.20 ac

Soil Survey of Umatilla County Area, NRCS. The suffix on the Land Capability Class designations are defined as "e" – erosion prone, "c" – climate limitations, "s" soil limitations and "w" – water.

15. BUILDINGS: On the property is an existing dwelling, garage and pump house. In addition, there are various buildings in support of the gun club consisting of a blacksmith shop, black powder building, equipment shed, cook shack and several cargo containers used for storage. There is a gated and locked entrance to the Gun Club, which members are able to open and close with a card key.

16. UTILITIES: Milton-Freewater Light and Power and Century Link (Qwest) serve the area.

17. WATER/SEWER: The dwelling is served by an onsite septic system and water is provided by a

¹ OAR 660-033-0020 (8)(a) "High-Value Farmland" means land in a tract composed predominantly of soils that area; (A) irrigated and classified prime, unique, Class I or II; or (B) Not irrigated and classified prime, unique, Class I or II."

domestic well located near the dwelling. There is no other water or sewer on site.

18. FIRE SERVICE: The applicant subscribes to the rural Milton-Freewater Fire Department for fire protection.

19. FLOODPLAIN: The property is not in a floodplain.

20. PROPERTY OWNERS & AGENCIES NOTIFIED: October 15, 2013 notice to agencies and surrounding property owners was mailed. Comment Closing Date was November 6, 2013.

21. PUBLIC HEARING: A request for a public hearing was timely filed by the Rea Family Farm. Planning Commission held a public hearing on December 19, 2013. The hearing was continued and a second hearing was held on January 23, 2014.

22. COMMENTS RECEIVED: Prior to the initial administrative review process information was received from the Umatilla County Public Works Director, Tom Fellows, regarding Cemetery Road. The Public Works Director indicated that Cemetery Road is in good shape and should hold up to events held at the applicant's site. The Public Works Director added no other access locations would be better suited for access onto the property. All parking is able to be entirely off the county right of way and therefore the Public Works Department had no real concerns about parking.

A large number of exhibits were submitted into the record. Numerous letters were submitted in support of the club. Letters from several adjacent property owners were submitted declaring their opposition to the gun club operation. A list of the exhibits is attached.

Where the letters and testimony addressed specific approval standards, the findings herein provide a response to those issues. Additionally, Planning Commission adopted conditions to insure compatibility with the neighboring properties.

23. NOTIFIED AGENCIES: Oregon Department of Environmental Quality Pendleton Office, Oregon Building Codes Agency Salem Attention Shane Sumption; Katherine Daniels – Department of Land Conservation & Development, Jim Johnson – Oregon Department of Agriculture, ODFW, Pendleton Office, Umatilla County Assessor, Umatilla County Public Works Director, Terry Rowan, County Sheriff, Milton-Freewater Rural Fire Department, Milton Freewater Ambulance District Board, City of Milton-Freewater Attention Gina Hartzheim and Linda Hall, Milton-Freewater Light & Power and Century Link (Qwest).

24. Gun Club History:

Affidavits submitted with the application show that organized shooting activities have been conducted on the property beginning in Spring of 1994. On April 24, 1993, the club offered Hunter Safety Education Training as part of the Oregon Department of Fish & Wildlife certification program.

On October 11, 2002, Bob Perry, then Umatilla County Assistant Planning Director, returned a conditional use permit application for a "sportsman recreation facility" that included firearm ranges and a training facility for hunter education on the VonDerAhe property. Accompanying the returned application was a letter to the applicant, Attorney R. A. "Andy" Millar. In the letter, Mr. Perry summarized the reason he was returning the application and made a recommendation to Mr. Millar to

contact Ron Eber, then the Farm/Forest Specialist for the Department of Land Conservation and Development (DLCD), for details on whether a firearms shooting range or gun club had been recently added to the list of EFU uses. In 2002, it was Mr. Perry's understanding that uses allowed in an EFU zone did not include "new" firearm facilities. In a letter to Mr. Millar Mr. Perry mentioned the possibility of applying for a private park, a use allowed in EFU, although he indicated was not encouraged due to state law. Mr. Perry did not explain the option of being permitted in accordance with Oregon Revised Statute (ORS) 197.770² which allows that certain existing firearm facilities can continue operating.

On November 1, 2003, the then, and current property owner, VonDerAhe, Inc., and the East End Rod and Gun Club, an Oregon non-profit Corporation, came into a real property lease agreement for: "The premises shall be used for an archery and firearms range and for archery and firearms safety education center to be constructed by Lessee and all other lawful uses reasonable associated with such activity." The lease also provided that notice required or permitted under the lease would be sent to the parties of: VonDerAhe, Inc., in care of L. E. "Pete" Von Der Ahe, 84387 Grant Road, Milton-Freewater, OR 97862, and R. A. "Andy" Millar, East End Rod and Gun Club, P. O. Box 388, Milton-Freewater, OR 97862. Prior to promulgation of a formal lease agreement, the Gun Club operated in accordance with the verbal permission of the landowner.

In November 2011, two zoning permit applications for equipment storage units (containers) were received by the Planning Department for storage of materials related to the East End Rod & Gun Club at the subject location. Carol Johnson, Planner, responded to the request for the zoning permits with a letter explaining that the zoning permits, associated with the gun club, could not be processed until the gun club was permitted. That correspondence included a copy of the 2002 letter from Mr. Perry to Andy Millar. Since the zoning permit requests were associated with an unpermitted use (gun club) operating on the property, the two zoning permits were returned to the East End Rod & Gun Club on December 20, 2011.

On September 20, 2012, Planning Director, Tamra Mabbott, visited the gun club property accompanied by Andy Millar and Verl Presnall. The options for permitting the gun club were discussed generally.

On November 14, 2012 the Gun Club submitted a land use application to permit the use as a "private park." Upon review, given the restrictions for a "private park" on high value farmland, it was determined that the Gun Club would not satisfy the minimum requirements set forth in Oregon Revised Statute. The Gun club later withdrew the application.

On September 11, 2013, Andy Millar, on behalf of the Gun Club, submitted the subject application to permit the facility as a "firearms training facility under the provisions of ORS 197.770." Along with the application is an affidavit from Andy Millar describing the Gun Club activities that date back to April 1993. Additionally, five letters were submitted, signed by original, founding members of the Gun Club demonstrating that the organized, formal sporting clay events began in Spring of 1994.

² Umatilla County has adopted uses in the EFU zoned code for the continuation of certain existing fire arms training facilities. Umatilla County Development Code (UCDC) § 152.059 (E): "Continuation of a fire arms training facility in existence on September 9, 1995 and meeting the intent and purposes in ORS 197.770 (2) and as provided in §152.617 (II) (5)."

25. SUMMARY OF APPLICABLE STANDARDS, CRITERIA, PROCEDURE:

A. Oregon Revised Statutes and Oregon Administrative Rules

ORS 215.296
OAR 660-033-0120
OAR 660-033-0130

B. Chapter 152 of the Umatilla County Development Code

Section 152.059(E) EFU Land Use Decisions – Firearms Training Facility

Section 152.617 (II) (5) EFU Land Use Decisions Standards of review

Section 152.063, EFU Development Standards – See details below.

C. Section 152.059, EFU Land Use Decisions Procedural Process

In an EFU Zone uses may be permitted through a land use decision via administrative review (152.769) and subject to applicable criteria found in 152.617. Once approval is obtained a zoning permit (152.025) is necessary to finalize the decision.

26. Oregon Revised Statutes 215.296

215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards. (1) A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;

or (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

This ORS standard is the same as Umatilla County Development Code Section 152.061 Standards for all Conditional Uses on EFU Zoned Lands.

Finding: The farming activity on the subject property and surrounding properties in the area is dry land wheat/grains. Also located ¾ of a mile to the west is a grape vineyard. There are no forested areas on the property or nearby.

The applicant states that most of the property is outside of the “shot fall area” except for property directly west of the shotgun 5-stand area. One small portion of the land to the west will have a limited amount of shotgun lead shot possibly falling on fields currently used for dry land crops. Lead shot has not been shown to have a significant effect on dry land farming. At the current rate of use it would take over 40 years to build up enough lead in the fall zone, located outside of the leased area on the neighboring property, to become a minimum hazard. Once this happens the lead would

be mined from all fall zones at the convenience of the property owner. The lease area would be monitored by private lead removal miners until it becomes viable to remove.

The closest dwelling to the lease area, not owned by the property owner, is located $\frac{3}{4}$ mile to the east of the range area and $\frac{1}{2}$ mile from the east edge of the lease area. There is a 1974 mobile home and a stick built structure built in 1910. These dwellings are owned by, Cecil Zerba, dba Farmers Produce Outlet. North approximately 1.34 miles from the subject property is a dwelling owned by neighboring property owner, Dennis Rea. West approximately 1.25 miles are residences in the City of Milton-Freewater and to the south along the Walla Walla River the closest dwelling is 1.8 miles. Handgun cartridge firearms only are fired to the east, with limited range. No firearms are fired to the north; however, if the proposed expansion area under a new lease occurs then this area would be developed for shotguns for Trap and Skeet shooting with a shot drop of approximately 150 yards. The only firearms fired to the east are shotguns with a maximum shot fall zone of approximately 150 yards. The main firing line is to the south over approximately a 500 feet elevation rise. When there is farming activities the range areas are closed in the vicinity of farming practices.

Accepted farm practices for dry land grain crops includes plowing, planting, fertilizing, weed spraying using tractors, sprayers, etc., and harvesting a grain crop with harvesters and grain trucks. The applicant did not address farming activities associated with growing a grape vineyard. This may be due to the distance between the applicant's lease area and the vineyard located on the east side of Spofford Road.

Conclusion: Based on the information provided by the applicant and testimony presented at the hearings, Planning Commission finds that the Gun Club has been in existence at this location since 1994 and has operated without presenting conflicts with farming practices and, that it can continue to operate without presenting conflicts with farming practices.

The applicant stated clearly that when farming activities occur near the firing range that range would be closed in the vicinity of the farming practices. The EERGC utilizes the black flag warning to insure firing does not occur down range when farming activities occur. Further, the EERGC will comply with National Rifle Association range safety standards. Finally, to insure safety of neighboring properties, the Planning Commission imposed a condition of approval requiring the EERGC to implement a black flag safety procedures (cease fire) when a farmer is working in a field down range from shooting. See subsequent condition #7.

Based on the above, Planning Commission finds that the East End Rod & Gun Club will not force a significant change in farm practices on surrounding lands devoted to farm use, or significantly increase the cost of accepted farm practices on lands devoted to farm use. Planning Commission also finds that the East End Rod & Gun Club will not force a significant change in forest practices on surrounding lands or significantly increase the cost of accepted forest practices on lands devoted to forest use, because there are no forest practices occurring on the VonDerAhe property or surrounding properties.

Finally, to insure long term compatibility with neighboring farming operations and other lands, Planning Commission imposed a condition requiring the EERGC to host an annual meeting of the Executive Board and adjacent landowners, for the purpose of establishing communication protocol and to collaborate on concerns about the gun range operation. See Subsequent Condition #8.

**17. Oregon Administrative Rules OAR 660-033-0120 and OAR 660-033-0130
660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses**

The following standards apply to uses listed in OAR 660-033-0120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

(2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

Finding: The applicant provided information describing the structures on the property associated with the operation of the East End Rod & Gun Club. There is a small cook shack associated with the operation of the gun club and two structures for storage proposed. In addition, in the future the applicant proposes an enclosed class room to accommodate 35 people. Although the existing and proposed enclosed structures are located approximately 1 ½ miles from the City of Milton-Freewater, and within three mile of the urban growth boundary, the cumulative design capacity of existing and proposed enclosed structures would not accommodate more than 100 people.

Conclusion: Planning Commission finds that the evidence in the record shows that the East End Rod & Gun Club does not have an enclosed structure or group of structures with a total design capacity of greater than 100 people. Further, the Planning Commission imposed a condition that explicitly limits the size of any future structures associated with the gun club to comply with OAR 660-04. See subsequent condition #9.

2(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010. Not applicable.

(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

Finding: The existing structures are drawn on the attached plot plan. New structures are also shown. The applicant is not proposing to expand any existing structure.

Conclusion: Planning Commission finds that the application complies with this standard and future expansion identified in the plot plan also complies with this standard. Any other additions would be required to comply with this standard.

28. Umatilla County Development Code Section 152.617 (II) (5) EFU LAND USE DECISIONS:

Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility. For purposes of this section a Firearms Training Facility is an indoor or outdoor facility that provides training courses and issues certifications required for law enforcement personnel, by the State Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting and safety.

Finding: As noted in section 24, the East End Gun Club has been in operation at the current location since April of 1993. An Affidavit was submitted to this fact by Andy Millar. Additionally, five founding members of the East End Gun Club submitted written statements attesting to the fact that the club activities, including recreational shootings, training and certification programs began in Spring of 1994. At the Planning Commission hearings further testimony was presented to support the fact that the gun club complies with this definition.

Conclusion: Planning Commission finds that the East End Rod and Gun Club qualifies as a Firearms Training Facility as defined in ORS 197.770 and UCDO 159.063.

29. Umatilla County Development Code Section 152.615 Additional Conditional Use Permit

Restrictions. In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority *may impose* the following conditions upon a finding that circumstances warrant such additional restrictions:

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

Finding: A condition limiting the use or restricting hours of operation was imposed to minimize effects resulting from noise, vibration, air pollution, glare or odor. The information in the record and presented at the hearings includes information to support the statements by the applicant that operation of the gun club does not cause vibration, air pollution, glare or odor. The applicant identified noise as a possible conflict with residences which included the location of nearby residences and a plan to plant a row of trees along the west side of the lease area to minimize noise to residences located to the west in Milton-Freewater. Additionally, as a condition of approval the Planning Commission imposed a limitation on hours of operation. See subsequent condition #5.

Conclusion: Planning Commission finds that the gun club operation does not cause vibration, air pollution, glare or odor. The EERGC has plans to plant a tree row along the west side of the lease area, or to implement other noise abatement recommendations of the National Rifle Association, in order to reduce noise to residences. Further, the Planning Commission imposed conditions to implement noise abatement measures and to limit hours of operation. See condition #10 and condition #5. At this time, a specific condition of approval to plant a row of trees is not imposed, however, that could be a noise abatement measure implemented in the future if recommended by the NRA.

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

Finding: A condition to establish a special yard, open space, lot area or dimension may be imposed. The applicant has an established 85 acre lease area (see applicant's site plan).

Conclusion: The lease area has been established along the west side of the VonDerAhe property as

depicted in the applicant's site plan. A condition to establish a special yard, other open space or lot area or dimension is not imposed.

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

Finding: A condition to limit the height, size or location of a building or other structure may be imposed. All buildings and structures constructed in the EFU zone must meet the standards in UCDC Section 152.063. According to the record information none of the existing structures constructed for the gun club's use are permanent structures. Most are either three sided single story wooden structures or metal cargo containers used by the gun club for storage. The height of the tallest building is 18 feet. Additionally, all cargo containers and structures over 120 square feet in size require a land use permit. None of the existing East End Rod & Gun Club structures or cargo storage containers previously received approved county land use permits.

Conclusion: Planning Commission finds that all existing structures over 120 square feet in size must be permitted. All buildings and structures must meet EFU standards found in UCDC Section 152.063. None of the existing East End Rod & Gun Club structures or cargo storage containers received approved county land use permits. Planning Commission imposed a condition requiring a Zoning Permit for existing and future structures associated with the Gun Club operation. See Precedent Condition #2.

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

Finding: A condition designating the size, number, location and nature of vehicle access points may be imposed. The record provides that the applicant has applied for an access permit from the County Road Department for an access approach from Cemetery Road. This point of access is the same access point that has been historically used by the property owner and by the East End Rod & Gun Club.

Conclusion: Planning Commission finds that an existing access approach is used by the property owner and by the East End Rod & Gun Club. The applicant has applied for an access approach permit from the Public Works Department (County Road Department) for access from Cemetery Road. Planning Commission imposed a condition requiring the EERGC obtain an Access Permit from County Public Works. See precedent condition #1.

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

Finding: A condition of approval requiring street dedication, roadway width or improvements within rights of ways may be imposed. Cemetery Road is a county road that is used by the public. The County Public Works Director has provided comment that Cemetery Road is in good condition and can accommodate gun club members and visitors.

Conclusion: Planning Commission finds that the verification from the County Public Works Director that Cemetery Road is in good condition and can accommodate traffic to and from the East End Rod & Gun Club was received. A condition of approval requiring street dedication, roadway width or improvements within the right of way is not imposed.

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

Finding: A condition of approval designating the size, location, screening, drainage, surfacing or other improvements of parking or loading areas may be imposed. The road system used by the members of

the East End Rod & Gun Club will be graded and graveled and constructed with water bars necessary for erosion control. Adequate off street parking must be provided for members, visitors, and delivery vehicles. The applicant proposes parking for 76 vehicles at five locations as follows: 14 at the 5-stand location, 12 facing south at the rifle range and 12 facing north, 10 at the .22 area, 10 at the muzzleloader range and 18 at the pistol/cowboy action range. Each of the five parking areas will be graded, graveled and have parking area perimeters delineated with railroad ties.

A classroom building to accommodate 35 people is proposed. Parking for the proposed classroom will be provided using the rifle range and the 5-stand parking areas.

The prescribed parking in UCDC Section 152.560 does not provide a specific parking space requirement for a firearms training facility. The parking requirements do require the parking areas to be identified and clearly marked. The applicant proposes to use 8" x 12" signs to identify each of the five parking areas and each parking area will be delineated with railroad ties.

Conclusion: Planning Commission finds that the internal road system used by the members of the East End Rod & Gun Club will be graded and graveled and constructed with water bars as necessary for erosion control and access. The EERGC will self-monitor and make improvements to the internal roadway system as necessary for gun range operations.

There are no specific parking space requirements for a firearms training facility in the county ordinance.

The applicant proposes parking for 76 vehicles at five locations as follows: 14 at the 5-stand location, 12 facing south at the rifle range and 12 facing north, 10 at the .22 area, 10 at the muzzleloader range and 18 at the pistol/cowboy action range. The proposed 5 parking areas must be identified with signs and railroad ties that clearly mark where vehicle parking is allowed.

Planning Commission did not impose a condition of approval relative to parking areas, rather, the Commission explicitly embedded the EERGC to self-monitor the needs of the range and make improvements for parking and roadway as necessary.

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

Finding: A condition of approval limiting or otherwise designating the number, size, location, height and lighting of signs may be imposed. Sign types one through six are allowed within the EFU zone as listed in the County Sign Ordinance in UCDC Section 152.545.

The parking requirements do require the parking areas to be identified and clearly marked. The applicant proposes 8"x 12" signs to mark the five parking areas.

Most of the East End Rod & Gun Club signs are information placards mounted on buildings and structures. There are proposed signs on the property to direct traffic to the rifle and 5-stand, the Pistol Range/Cowboy-Action area and the Muzzleloader area along with directional arrows. Located at the access gate is a 3' x 3' sign identifying the use of the area "East End Rod & Gun Club Shooting Park." This sign located near the gate may be replaced with a 16 square foot sign. One 4' x 4' sign with the rules of conduct and two 4' x 4' signs providing a list of sponsors are mounted on steel posts. Smaller signs for limitations on ammunition and what type of firearms may be used at different locations are located at the various ranges. Caution signs for firearms in use and keep out signs are placed at 75 yard

intervals around the perimeter of the lease area. None of the signs are lighted.

Conclusion: Planning Commission finds that UCDC Section 152.545 allows sign types one through six to be permitted outright or with land use approval. None of the signs are lighted. Planning Commission did not impose any further conditions relative to signage.

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

Finding: A condition of approval limiting the location and intensity of outdoor lighting and requiring its shielding may be imposed. The applicant proposed one pole type mounted outdoor light.

Conclusion: Planning Commission finds that outdoor lighting is not a regular feature but that if installed in the future it shall be installed so as to minimize glared to the residence on the property. See condition #3.

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

Finding: A condition of approval to require diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance thereof may be imposed. The applicant is applying for a land use permit to operate a gun club as a "firearms training facility." The facility consists of firearm ranges that require maintaining an open site space. The applicant has proposed to plant a row of evergreen trees along the west side boundary of the East End Rod & Gun Club lease area which also is in line with a portion of the VonDerAhe west property line. The applicant states that a variety of evergreen trees will be planted that requires very little water.

Conclusion: Planning Commission finds that the applicant is applying for a land use permit to operate a gun club as a "firearms training facility" which includes firing ranges with open site distances. The applicant proposes to plant a row of evergreen trees along west side of the East End Rod & Gun Club lease area although that was not made a condition of approval. A condition of approval for diking, additional landscaping or screening is not imposed.

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

Finding: A condition of approval designating the size, height, location and materials for a fence may be imposed. The applicant is applying for a conditional use permit to operate a gun club as a "firearms training facility." The facility consists of firing ranges that require maintained open site space. There is fencing installed to limit access and control traffic through the gun club security gate. Chain link fence 6 foot high is used in high security areas and t-post and 14 gauge 5 foot wire mesh will be used in low security areas as needed.

Conclusion: Planning Commission finds that the applicant is applying for a land use permit to operate a gun club as a "firearms training facility." Firing ranges require open site distances. The applicant has fencing installed to limit access and control traffic through the existing security gate. Other low security areas will utilize 5 foot wire mesh fencing as needed. A condition for additional fencing or limitations to existing or proposed fencing is not imposed.

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

Finding: A condition of approval protecting and preserving existing trees, vegetation, water resources,

wildlife habitat, or other significant natural resources may be imposed. The applicant's information provides there are no existing trees to protect and preserve or water resources within the lease area or within the 35 acre proposed lease area. Erosion of existing vegetation will be protected from runoff from gun club roads by installing and maintaining water bars. Areas where soil is disturbed will be seeded with similar grasses as found in the surrounding area. No significant natural resources are known to be located on the VonDerAhe property or within the current East End Rod & Gun Club lease area or proposed lease area.

Conclusion: Planning Commission finds that erosion will be prevented and runoff from gun club roads will be minimized by maintaining best management practices. No significant natural resources are known to be located on the VonDerAhe property or within the current East End Rod & Gun Club lease area.

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

Finding: A condition of approval for parking areas to meet the requirements in Sections 152.560 through 152.562 may be imposed. The applicant proposes parking for 76 vehicles at five locations as follows: 14 at the 5-stand location, 12 facing south at the rifle range and 12 facing north, 10 at the .22 area, 10 at the muzzleloader range and 18 at the pistol/cowboy action range. Each of the five parking areas will be graded, graveled and have parking area perimeters delineated with railroad ties. A proposed classroom will accommodate 35 people. Parking for persons using the proposed classroom will be the same as parking for the rifle range and the 5-stand parking areas.

The prescribed parking in UCDC Section 152.560 does not provide a specific parking space requirement for a firearms training facility. The parking requirements do require the parking areas to be identified and clearly marked. The applicant proposes to use 8" x 12" signs to identify each of the five parking areas and each parking area will be delineated with railroad ties.

Conclusion: Planning Commission finds that there are no specific parking space requirements for a firearms training facility parking in the county ordinance. Planning Commission did not impose a specific condition relative to parking but did recognize that the EERGC would develop and sign parking areas as needed for good range operations.

DECISION: Planning Commission approved the application based upon the foregoing Findings of Fact and Conclusions of Law subject to the following conditions of approval.

PRECEDENT CONDITIONS: The following conditions of approval must be completed prior to issuance of a Zoning Permit and Final Approval.

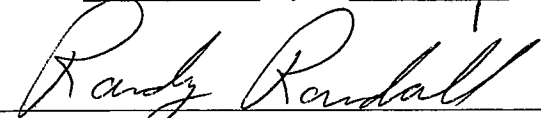
1. Obtain an Access Permit from County Public Works (if not already existing).
2. Obtain a Zoning Permit for all the existing buildings and proposed buildings including cargo containers, per section UCDO 152.063, associated with the Shooting Range.

SUBSEQUENT CONDITIONS: The following subsequent conditions apply to the use and shall be maintained throughout the life of the operation of the facility.

3. If outdoor lighting is installed, it shall be installed so as to minimize glare to the residence on the property.
4. Application shall be subject to an annual review by County Code Enforcement to insure compliance with the conditions of approval and this land use permit. Annual review shall be subject to a fee as set forth in the County Fee Schedule.
5. Hours of Operation shall be limited to daylight hours, except for training certification for law enforcement personnel. Discharge of firearms shall be allowed between 8:00 am and ½ hour before sunset during weekdays and 9:00 am and ½ before sunset on Saturday and Sunday. The Gun Club may host 6 nighttime events per calendar year; those events may not be held on consecutive weekends. Of the six nighttime events, only 4 may be for tactical training.
6. The shooting range shall be operated in compliance with NRA Range Safety Standards. The Gun Club will submit documentation to verify the range complies with NRA standards, within 6 months of permit approval.
7. Gun Club shall implement the black flag safety procedure (cease fire) when a farmer is working in a field down range from shooting.
8. The Gun Club (EERGC) Executive Board shall host an annual meeting with adjacent landowners (as shown on the vicinity map) to review concerns. Notes from the meeting shall be submitted to the County Planning Department. Gun Club shall mail notice of the meeting to all abutting landowners (as identified by County Planning Office) 21-days prior to the meeting. The purpose of the meeting is to establish communication protocol and to collaborate on concerns about the range operation.
9. New structures in support of the firearms training facility may be permitted with a Zoning Permit. Such structures shall comply with limitations set forth in OAR 660-033-0120 and OAR 660-033-0130 (no enclosed structure with a design capacity greater than 100 people).
10. Implement noise abatement measures as necessary and in order to comply with National Rifle Association noise recommendations.
11. Membership shall be limited to 1,000.
12. No alcohol is allowed on the range. No permanent on-site commercial food service is allowed. No on-site restaurant is allowed. Catering for special events is allowed.

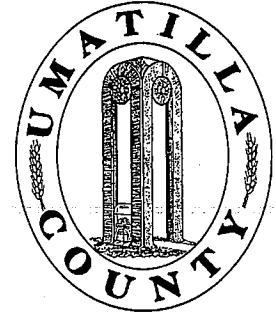
UMATILLA COUNTY PLANNING COMMISSION

Dated 3rd day of February, 2014


Randy Randall, Chair, Umatilla County Planning Commission

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA MABBOTT

AFFIDAVIT OF MAILING

LAND USE
PLANNING,
ZONING AND
PERMITTING

February 5, 2014

CODE
ENFORCEMENT

EAST END ROD AND GUN CLUB

SOLID WASTE
COMMITTEE

Letter of approval to hearing participants
from Planning Director Tamra Mabbott;

SMOKE
MANAGEMENT

Letter of approval & Final Findings and Conclusions for #LUD-163-13 to
Verl Pressnall, EERGC President, Michael Robinson, Attorney and
and Patrick Gregg, Attorney

GIS AND
MAPPING

RURAL
ADDRESSING

PUBLIC NOTICE

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

I hereby certify that the accompanying list of property owners, local, state and federal officials, utility company representatives, news media, and interested parties, were mailed notice for the land use request noted above, via first class mail on February 5, 2014.

Dated his 5 day of February, 2014.

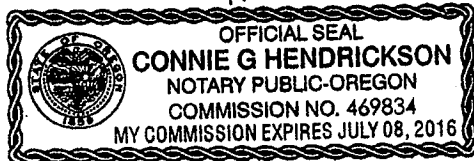
Gina Miller

Designated Mailing Officer

STATE OF OREGON)
) ss.
COUNTY OF UMATILLA)

Signed and personally appeared before me this 5 day of February, 2014, by

Gina Miller



Connie Hendrickson

Notary Public for Oregon

My Commission Expires: July 8, 2016

FEB 18 2014

COREY, BYLER & REW, L.L.P.
ATTORNEYS AT LAW

UMATILLA COUNTY
PLANNING DEPARTMENT

STEVEN H. COREY*
DAVID M. BLANC*
TIMOTHY P. O'ROURKE
STEVEN N. THOMAS
KARIN E. DALLAS
JENNIFER E. CURRIN
PATRICK M. GREGG

222 S.E. DORION AVENUE
P.O. BOX 218
PENDLETON, OREGON 97801-0218

TELEPHONE (541) 276-3331
FAX (541) 276-3148

DOUGLAS E. HOJEM, OF COUNSEL
HENRY C. LORENZEN, OF COUNSEL

ROBERT E. O'ROURKE, RETIRED

GEORGE H. COREY, DECEASED
ALEX M. BYLER, DECEASED
LAWRENCE B. REW, DECEASED

Email: gregg@corey-byler.com

*Admitted in Oregon and Washington

VIA REGULAR MAIL AND HAND DELIVERY

Mr. Bill Elfering, Chair
Umatilla County Board of Commissioners
216 SE Fourth Street
Pendleton, OR 97801

Re: Appeal of Planning Commission Decision #LUD-163-13
Our File No. 113-398

Dear Mr. Elfering, Mr. Murdock, and Mr. Givens:

I, along with the law firm of Corey, Byler & Rew, LLP, represent H.T. Rea Farming Corp. and the members of the Rea family (collectively "H.T. Rea Farming Corp.").

This appeal, filed on February 17, 2014, is timely filed within 15 days of the February 3, 2014, signing of the Final Findings and Conclusions by Randy Randall, Chair of the Planning Commission. Said Final Findings and Conclusions were received by H.T. Rea Farming Corp on February 5, 2014. H.T. Rea Farming Corp. has standing because H.T. Rea Farming Corp. is a neighboring landowner, appeared in opposition to the application, and is adversely affected by the decision of the Planning Commission. The bases for this appeal are set out below.

I. Introduction

The purpose of this appeal is to respectfully request that the Umatilla County Commissioners rescind the decision of the Planning Commission and deny LUD-163-13. The grounds for this request are generally that the East End Rod & Gun Club ("EERG") did not meet the requirements of ORS 197.770 to qualify as a "firearms training facility" and therefore should not be permitted to continue in its present location. Further grounds for appeal are set out in detail below.

II. Strike the Findings and Conclusions that approve Land Use Application LUD-163-13 filed by the East End Rod & Gun Club.

H.T. Rea Farming Corp. objects to the findings and conclusions at paragraph 28 on page 8 that the EERG met the requirements of ORS 197.770 (2) and Umatilla County Development Code § 152.617 II (5) and qualified as a "firearms training facility" as of September 9, 1995. The EERG did not meet its burden of proof under UCDC § 152.772 (3)(D) in presenting evidence establishing that ORS 197.770 was complied with. Further, the Planning Commission erred in not considering the contrary evidence in the record. Further, the Planning Commission improperly found that the

#110

Mr. Bill Elfering, et al
February 17, 2014
Page 2 of 2

EERG was actively conducting trainings within the meaning of ORS 197.770 as of September 9, 1995, when in fact the evidence established it was an individual who may have been conducting training. This finding was an incorrect legal application of ORS 197.770 to the facts presented. Accordingly, H.T. Rea Farming Corp. respectfully requests that the findings at page 8 paragraph 28 should be stricken and the EERG's application, LUD-163-13, denied.

III. Strike the Finding and Conclusion at page five paragraph 26.

H.T. Rea Farming Corp. objects to the factual findings and legal conclusions in paragraph 26, contained on pages 5 through 6, of the Final Findings and Conclusions of Law on the grounds that those findings are in error. The Findings are in error because they did not consider the impact on irrigated agriculture posed by the EERG's operations. The Conclusions that the EERG "will not force a significant change in farming practices on surrounding lands devoted to farm use, or significantly increase the cost of accepted farm practices on lands devoted to farm use" are in error, contrary to the evidence presented to the Planning Commission, and should be stricken. H.T. Rea Farming Corp. respectfully requests that the Commissioners find, consistent with the evidence to be presented, that the EERG will force a significant change in accepted farm practices as well as significantly increasing the cost of accepted farm practices pursuant to ORS 215.296 (1)(a)-(b).

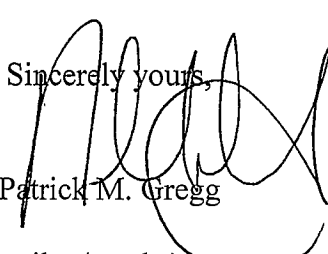
IV. Strike that portion of LUD-163-13 approving the construction of buildings and facilities that did not exist as of September 9, 1995, and strike Condition 9 on page 13 of the Final Findings and Conclusions.

H.T. Rea Farming Corp respectfully states that the Planning Commission erred in approving the portions of LUD-163-13 that approves construction of any buildings not in existence on September 9, 1995. The purported basis for the EERG's application, ORS 197.770 and UCDC § 152.617 II (5), do not permit expansion of a "firearms training facility" and any construction of buildings or permitting of buildings built since September 9, 1995, is improper, contrary to ORS 197.770, and not otherwise permitted under the Umatilla County Development code.

V. Conclusion

For the above reasons H.T. Rea Farming Corp. respectfully requests that the Commissioners reverse the Planning Commission's decision and deny LUD-163-13, the application submitted by the EERG.

Sincerely yours,


Patrick M. Gregg

cc: Mr. Michael C. Robinson (via email w/ encls.)
Ms. Tamra Mabbott (via email w/ encls.)

RECEIVED

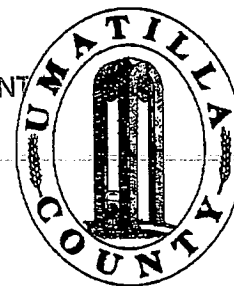
USPS

FEB 18 2014

Umatilla County

Department of Land Use Planning

UMATILLA COUNTY
PLANNING DEPARTMENT



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

Notice of Appeal

Process taken from UCDC 152.766

APPEALS

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

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

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

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

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

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

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

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

FILING FEE

Filing of an Appeal - \$800.00

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

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

Version: February 20, 2009

File Location: H:\shared\Forms_Master\Appeal_Notice.doc

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: LUD-163-13
- Type of Land Use Request Application: LAND USE DECISION
- Decision-Making Body: Planning Director or Planning Commission
- Date of Decision (date on Findings): FEBRUARY 3, 2014
- Date you received notice of the decision or learned of the decision: FEBRUARY 5, 2014

Section 2: Contact Information

Name of Appellant(s): H.T. REA FARMING CORP.

Address: 84224 Spofford Road

City, State, Zip: Milton-Freewater, OR 97862

Telephone Number & Email Address: (541)558-3993 nrea@htreafarms.com

Date of Submittal for the Appeal: February 17, 2014

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*):

Please see attached letter to Chair Elfering dated February 17, 2014.

Section 4: Certification

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

X *Dennis Rea*
Signature of Appellant

February 17, 2014
Date

Dennis Rea, H.T. Rea Farming Corp.
Printed Name of Applicant

X _____
Signature of Appellant

Date

Printed Name of Applicant

X _____
Signature of Appellant

Date

Printed Name of Applicant

X _____
Signature of Appellant

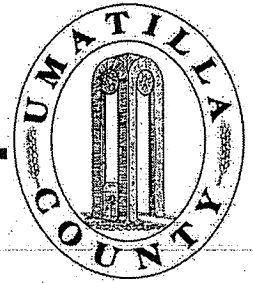
Date

Printed Name of Applicant



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: 14419
Transaction Date: 2/18/2014
Transaction Time: 1:56:35 PM
Payor: COREY, BYLER, REW, LORENZEN & HOJEM
Paid in Cash: \$0.00
Paid via Check: \$800.00 Check# 25552 Bank#
Paid via EFT: \$0.00
Comments:
APPEAL OF #LUD-163-13

<u>Fee Description</u>	<u>Quantity</u>	<u>Fee</u>	<u>Total</u>
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

RECEIVED

FEB 19 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Perkins
Coie

1120 N.W. Couch Street, Tenth Floor

Portland, OR 97209-4128

PHONE: 503.727.2000

FAX: 503.727.2222

www.perkinscoie.com

Michael C. Robinson
PHONE: (503) 727-2264
FAX: (503) 346-2264
EMAIL: MRobinson@perkinscoie.com

VIA OVERNIGHT MAIL

February 14, 2014

Ms. Tamra J. Mabbott, Director
Umatilla County Department of Land Use Planning
216 S.E. Fourth Street
Pendleton, OR 97801

Re: Appeal to Umatilla County Board of Commissioners February 3, 2014 Decision

Dear Ms. Mabbott:

This office represents the East End Rod and Gun Club. Please find enclosed a letter to the Umatilla County Board of Commissioners constituting an appeal of the Planning Commission's February 3, 2014 decision and meeting the requirements of Umatilla County Development Code 152.765 and 152.767. Attached to this letter is a completed and signed Umatilla County appeal form.

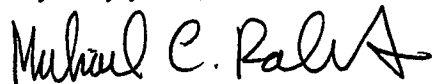
Mr. Verl Pressnall representing the East End Rod and Gun Club will submit under separate cover a check in the amount of \$800.00 for the appeal fee.

I am the appellant's representative. Please direct all correspondence, notices and staff reports to me. Please let me know if you have any questions or require additional information for the appeal.

Ms. Tamra J. Mabbott
February 14, 2014
Page 2

Thanks as always to you and your staff for your courtesy and assistance.

Very truly yours,



Michael C. Robinson

MCR:rsp
Enclosures

cc: Mr. Verl Pressnall (via email) (w/ encls.)
Mr. Patrick Gregg (via email) (w/ encls.)

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: LUD-163-13
- Type of Land Use Request Application: Approval of firearms training facility
- Decision-Making Body: Planning Director or Planning Commission
- Date of Decision (date on Findings): February 3, 2014
- Date you received notice of the decision or learned of the decision: February 5, 2014

Section 2: Contact Information

Name of Appellant(s): East End Rod and Gun Club

Address: P.O. Box 251

City, State, Zip: Milton-Freewater, Oregon 97862

Telephone Number & Email Address: 509-520-8467 / verl.pressnall@eergunclub.com

Date of Submittal for the Appeal: February 18, 2014

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*):

SEE ATTACHED LETTER
DATED FEBRUARY 14, 2014

Section 4: Certification

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

Verl Pressnall
Signature of Appellant

2-13-2014
Date

VERL PRESSNALL, PRESIDENT

Printed Name of Applicant

Signature of Appellant

Date

Printed Name of Applicant

Signature of Appellant

Date

Printed Name of Applicant

Signature of Appellant

Date

Printed Name of Applicant

Office Use Only

Date this paperwork was received: _____

Accepted by: _____
Signature of Planning Staff & Printed Name

Fee Paid? Yes No

Receipt Number: _____

Michael C. Robinson
PHONE: (503) 727-2264
FAX: (503) 346-2264
EMAIL: MRobinson@perkinscoie.com

February 14, 2014

Mr. Bill Elfering, Chair
Umatilla County Board of Commissioners
216 SE Fourth Street
Pendleton, OR 97801

Re: Appeal of Planning Commission Decision Approving the East End Rod and Gun Club Application; Umatilla County Land Use Decision # LUD-163-13

Dear Chair Elfering and Members of the Commission:

This office represents the East End Rod and Gun Club (the "Gun Club"). This letter constitutes an appeal of the Planning Commission's February 3, 2014 decision approving the Gun Club's application with twelve (12) conditions of approval.

This appeal is timely filed within fifteen (15) days of the February 3, 2014 signing of the decision by the Planning Commission Chair. Umatilla County Development Code ("UCDC") 152.765(B). Additionally, this appeal is filed in writing and states the reason for the appeal pursuant to the criteria for review. UCDC 152.765(B)(1). The appeal requests that the Board of County Commissioners (the "Board") amend the Planning Commission's decision by approving the Gun Club's application but with modified conditions of approval and findings. UCDC 152.765(B)(3). The Gun Club has standing to appeal the decision because it is the applicant and is adversely affected and aggrieved by the decision.

Before describing the basis for the appeal, the Gun Club members have asked me to emphasize how much they appreciated the work of both the Planning Department staff and the Planning Commission. The Planning Commission went out of its way to be thoughtful and considerate of everyone's testimony at the two public hearings. This appeal in no way disparages the good work of the Planning Department and the Planning Commission. This appeal is intended to clarify five (5) conditions of approval that are ambiguous or unnecessary and one part of the findings.

1. Description of Appeal Issues and Reasons Why the Board of County Commissioners Should Modify the Planning Commission's Decision.

The Planning Commission's decision (the "Decision") is attached as **Exhibit 1** to this letter. The twelve (12) conditions of approval are found at Decision pages 12 and 13.

A. The Board Should Delete the Findings at Decision Pages 5 and 6 Regarding ORS 215.296.

The Board should delete the findings on ORS 215.296 because the statute is not an applicable approval criterion. The Gun Club is authorized by ORS 197.770, "Firearms Training Facilities". (**Exhibit 2**) ORS 197.770 does not apply ORS 215.296 as an applicable approval criterion. Only the uses listed in ORS 215.283(2) are subject to ORS 215.296. (**Exhibit 3**) Further, UCDC 152.059(E), 152.063 and 152.617(II)(5) do not list ORS 215.296 as an applicable approval criterion. Therefore, ORS 215.296 is not a relevant approval criterion for the Gun Club's application.

B. The Board Should Delete the Findings at Decision Pages 8-12.

The Board should delete the findings on UCDC 152.615, "Additional Conditional Use Permit Restrictions," because this provision applies only to conditional uses. UCDC 152.060 lists conditional use in the Exclusive Farm Use ("EFU") zone. This section does not list "Firearms Training Facilities" as a conditional use. Therefore, findings based on UCDC 152.615 should not be adopted. The county may impose conditions of approval under UCDC 152.753(B), provided that section's requirements are satisfied.

C. Five (5) Conditions of Approval Should Be Either Modified or Stricken Because They are Inconsistent With UCDC 152.776(C).

UCDC 15.776(C) provides that the Planning Commission or Board may impose conditions of approval on any decision following the same standards and procedures as set forth in UCDC 152.753.

UCDC 152.753(B)(2) provides:

"Such conditions shall directly benefit the property described in the amendment and shall be imposed only if the County finds them necessary to prevent circumstances which may be adverse to public health, safety and welfare."

UCDC 152.753(B)(3) further provides:

“Such conditions shall be reasonably conceived to fulfill public needs emanating from the proposed land uses set forth in the petition in the following respects:

- (a) Protection of the public from potential deleterious effects of the proposed use; or**
- (b) Fulfillment of the need for public service demands created by the proposed use.”**

As explained below, the five (5) conditions of approval that the Gun Club requests that the Board strike or modify do not meet the requirements of UCDC 152.753(B)(2) and (3).

a. Condition of Approval 4

This condition of approval provides as follows:

“Application shall be subject to an annual review by County Code Enforcement to ensure compliance with the conditions of approval and this land use permit. Annual review shall be subject to a fee as set forth in the County Fee Schedule.”

The Gun Club asks that the Board strike this condition in its entirety because it is unnecessary and ambiguous. First, the condition is unnecessary because if there is evidence that the Gun Club is not complying with the permit’s conditions of approval, the County has authority under UCDC 152.765 to enforce the conditions. UCDC 152.765 provides, in part, “Enforcement of this chapter may be done through any means available of law, including, but not limited to, Chapter 38 of the Umatilla County Code of Ordinances.”

Second, the condition is ambiguous. The condition does not describe whether the annual review is a discretionary or ministerial act and, if discretionary, the review will require notice and an opportunity to request a public hearing. The Gun Club is concerned that such an exercise of discretion could unnecessarily lead to a challenge to its land use permit, perhaps on an annual basis.

The Gun Club respectfully requests that the Board strike this condition of approval and instead rely on the usual process for enforcement of Umatilla County Development Code standards and land use permit conditions.

b. Condition of Approval 5

This condition provides as follows:

“Hours of Operation shall be limited to daylight hours, except for training certification for law enforcement personnel. Discharge of firearms shall be allowed between 8:00 a.m. and 1/2 hours before sunset during weekdays and 9:00 a.m. and 1/2 hours before sunset on Saturday and Sunday. The Gun Club may host six nighttime events per calendar year; those events may not be held on consecutive weekends. Of the six nighttime events, only four may be for tactical training.”

The Gun Club requests that the Board modify this condition so that it provides as follows:

“Discharge of firearms shall be allowed between 8:00 a.m. and one-half hour before sunset during weekdays and 9:00 a.m. and one-half hour before sunset on Saturday and Sunday. The Gun Club may host six nighttime events per calendar year but the six (6) events may not be held on consecutive weekends. Nighttime events for law enforcement training certification are not subject to the hours limiting discharge of firearms or nighttime event restrictions.”

First, the condition as approved by the Planning Commission includes both the phrase “hours of operation” and “discharge of firearms.” This means that activities unrelated to the discharge of firearms are prohibited from occurring outside of daylight hours. There may be instances where Gun Club members and officers must be on the property before or after daylight hours to perform maintenance, prepare for events, or otherwise operate and maintain the club. The condition is reasonably related to the discharge of firearms but a prohibition on *hours of operation* outside of the discharge of firearms hours is not related to an impact to the public. Therefore, the Board should delete the first full sentence related to the hours of operation to allow the proper operation of the Gun Club.

Second, the Gun Club accepts the limitation on six (6) nighttime events. However, the Gun Club testified to the Planning Commission that the nighttime event limitation should not apply to requirements for law enforcement training certification. Many law enforcement agencies require nighttime training and the Gun Club anticipates that there could be more than four (4) such events in a calendar year. Because the Gun Club is one of the few areas in Eastern Oregon where such law enforcement training may occur, it is important to the public safety and welfare that such nighttime training be allowed without limitation.

The Gun Club respectfully requests that the Board modify condition of approval 5 as proposed.

c. Condition of Approval 7

This condition provides as follows:

“The Gun Club shall implement the black flag safety procedure (cease fire) when a farmer is working in a field down-range from shooting.”

The Gun Club requests that the Board modify this condition so that it provides as follows:

“The Gun Club shall implement the black flag safety procedure, or other similar notice procedure, for cease fire when a farmer is working in a field down-range from shooting.”

The Gun Club anticipates that it will continue using the black flag safety procedures but the National Rifle Association (“NRA”) may provide other procedures that are more effective. Condition of approval 7 should allow for implementation of those procedures.

The Gun Club respectfully requests that the Board modify condition of approval 7 as proposed.

d. Condition of Approval 11

This condition provides as follows:

“Membership shall be limited to 1,000.”

The Gun Club asks that the Board strike this condition.

Conditions of approval related to the benefit of the property or mitigation of impacts to the public are those that include the limitation on the discharge of firearms and cease fire provisions. However, a limitation on club membership is unrelated to the actual impact on the public.

The Gun Club testified to the Planning Commission that many events draw few members and many of the members do not regularly use the club. Therefore, while it is appropriate to impose conditions of approval related to impacts, membership is not such an impact.

Further, the condition of approval is contrary to the Gun Club’s By-Laws. By-Laws Article III, “Membership,” provides, “Any citizen of the United States 18 years of age or older may become a member of this organization on payment of the usual initiation fee and dues.” (Exhibit 4)

Condition of approval 11 prohibits the Gun Club from fulfilling its purpose of providing an opportunity for anyone to join the Gun Club. Because this condition of approval is unrelated to impacts on the public, the Gun Club respectfully requests that the Board strike the condition.

e. Condition of Approval 12

This condition provides as follows:

“No alcohol is allowed on the range. No permanent on-site commercial food is allowed. No on-site restaurant is allowed. Catering for special events is allowed.”

The Gun Club respectfully requests that the Board modify the condition of approval to provide as follows:

“Consumption of alcoholic beverages is allowed when shooting is not occurring, either outside of the hours of discharge of firearms in condition of approval 5 of this decision or during “cease fire” procedures in condition of approval 7. No permanent on-site commercial food service is allowed. No on-site restaurant is allowed. Catering for special events is allowed.”

A complete prohibition on alcohol consumption is unnecessary to protect the public. Provided that alcoholic consumption is limited to times when gun discharge is not occurring, there is no reason why alcoholic beverage consumption should be prohibited entirely.

The Gun Club respectfully requests that the Board modify this condition as proposed.

D. Conclusion

For the reasons contained in this letter, the Gun Club respectfully requests that the Board modify the Planning Commission’s decision and approve the Gun Club’s application.

Mr. Bill Elfering, Chair
February 14, 2014
Page 7

Very truly yours,



Michael C. Robinson

MCR:rsp
Enclosures

cc: Ms. Tamra Mabbott (via email) (w/ encls.)
Mr. Verl Pressnall (via email) (w/ encls.)
Mr. Patrick Gregg (via email) (w/ encls.)

197.770 Firearms training facilities. (1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.

(2) For purposes of this section, a "firearms training facility" is an indoor or outdoor facility that provides training courses and issues certifications required:

- (a) For law enforcement personnel;
- (b) By the State Department of Fish and Wildlife; or
- (c) By nationally recognized programs that promote shooting matches, target shooting and safety.

[1995 c.475 §2]

215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards. (1) A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:

- (2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

BY-LAWS
of the

EAST END ROD AND GUN CLUB

MILTON-FREEWATER, OR 97862

AFFILIATED WITH THE NATIONAL RIFLE ASSOCIATION OF AMERICA

ARTICLE 1 - Name

The name of this organization shall be EAST END ROD AND GUN CLUB.

ARTICLE II - Object

The object of this organization shall be the promotion of the conservation of our natural resources, hunter safety education, and shooting sports among the citizens of our community. It shall be our further object and purpose to forward the development of those characteristics of honesty, good fellowship, self-discipline, team plan and self-reliance which are the essentials of good sportsmanship and the foundation of true patriotism.

ARTICLE III - Membership

Any citizen of the United States 18 years of age or older may become a member of this organization on payment of the usual initiation fee and dues.

ARTICLE IV - Dues

(a) The member's annual dues to the club shall be \$ 50.00 prior to members anniversary date. A new member's anniversary date is determined by the date they first paid membership.

(b) No member of the club in arrears shall be eligible to vote or to enjoy any other of the privileges or benefits offered by this club.

(c) A member is in arrears if dues not paid by the day after members anniversary date.

ARTICLE V - Meetings

(a) Annual Meeting. The annual meeting of the club shall be held the second Wednesday of January each year. If the annual meeting shall not take place at the time fixed it shall be held within a reasonable time there-after, and the officers shall hold over until their successors shall have been elected.

(b) Regular Meetings. The regular business meeting of the club for the transaction of ordinary business shall be held on the second Wednesday of each month, as such time and place as may be fixed by the executive Committee.

(c) Special Meetings. A special meeting of the club may be held at any time upon the call of the President or upon the call of the executive Committee, or upon demand in writing, stating the object of the proposed meeting, and signed by not less than 20 percent of the members entitled to vote. Notice of the time, place and object of any special meeting shall be given all officers and members in good standing in writing by United States mail not less than seven days prior to the date fixed for the holding of the meeting. The place of such special meeting shall be fixed by the Executive Committee.

(d) Quorum. Those members in good standing present shall constitute a quorum at any meeting.

ARTICLE VI - Officers

(a) The officer of this club shall be a President, Vice-President, Secretary, Treasurer, three Directors, acting together, shall constitute the Executive Committee. They shall be elected by a majority vote by ballot of the members in good standing present at the annual meeting of the club. They shall hold office for two years or until their successors are elected.

(b) The Executive Committee shall have general supervision and control of all the activities of the club.

(c) Meetings of the Executive Committee shall be held at such time and place as the Committee may determine. Special meetings may be held at any time on the call of the President or on demand, in writing to the Secretary, by three members of the Committee.

(d) Four members of the Committee shall constitute a quorum.

(e) Resignation of any officer may be accepted by a majority vote of the remaining members of the Executive Committee.

(f) A vacancy in the Executive Committee may be filled by a majority vote of the remaining members of the Committee. However, if more than one vacancy exists, a special meeting of the club shall be called and new officers shall be elected to fill the vacancies until the date of the next annual meeting as provided in paragraph VI (a) above.

ARTICLE VII - Duties of the Officers

(a) President. The President shall preside at all meetings of the club and of the Executive Committee. He/she shall be a member ex-officio of all regular and special committees, and shall perform all such other duties as usually pertain to his office. The President shall conduct all official correspondence pertaining to the proper preparation and forwarding of all reports required of the club by the National Rifle Association and by the Director of Civilian Marksmanship.

(b) Vice-President. The Vice-President shall perform the duties of the President in his absence or at his/her request.

(c) Secretary/Webmaster. He/She shall notify the members of the Executive Committee of all meetings and shall notify all members of special and annual meetings, as required in Article V. He/She shall keep a true record of all meetings of the Executive Committee and of the club and have the custody of the books and papers of the club, except the Treasurer's book of accounts. Web maintenance shall be performed as needed to keep the online calendar and information up to date.

(d) Treasurer. The Treasurer shall have charge of all funds of the club and place the same in such bank or banks as may be approved by the executive Committee. Such money shall only be withdrawn by check signed by two officers which may or may not include the Treasurer and for the payment of such bills as shall have been approved by the Executive Committee. All applications for membership in the club shall be made to the Treasurer. The Treasurer shall keep an accurate account of all his/her transactions and render a detailed report with vouchers at any meeting when requested and an annual report to the organization at its annual meeting.

(e) Officers will receive their yearly membership gratis.

ARTICLE VIII - Suspension or Expulsion

(a) Any officer may be removed by a two-thirds vote of the members in good standing present at any special meeting called for this purpose. No vote on suspension or removal may be taken unless at least fifteen days' notice in writing shall have been given to the officer of the reasons for his/her removal and of the time and place of the special meeting at which such ballot on his removal is to be taken. At such special meeting the officer shall be given a full hearing.

(b) Any member may be suspended or expelled from the club for any cause deemed sufficient by the Executive Committee by a two-thirds affirmative vote of the members of the Committee present at any regular or special meeting. No vote on suspension or expulsion may be taken unless at least fifteen days' notice in wiring shall

have been given to the member of the charges preferred and of the time and place of the meeting of the Executive Committee at which such charges will be accorded a full hearing.

(c) Charges against any officer or member may be preferred by any member in good standing. They shall be in writing clearly stating the facts relied upon and accompanied by all affidavits or exhibits which are to be used in their support. Such charges shall be filed with the Secretary-Secretary-Treasurer, who will immediately notify the President. The President will call a meeting of the executive Committee to hear the charges. The Secretary - Secretary-Treasurer will give at least fifteen days' notice of the meeting to each member of the Executive Committee and to the accuser and to the accused, which notice shall be in writing and will include a true copy of the charges and of the supporting affidavits and exhibits.

(d) Any member suspended or expelled by the executive Committee may appeal to the full membership of the club. Such appeal shall be made in writing to the Secretary - Treasurer who will notify the President. The President will call a special meeting of the club for the purpose of acting on the appeal. The Secretary shall give at least fifteen days' notice in writing to all members of the club in good standing stating the date, time, place, and the reason for such special meeting. At the meeting of the full club, the Secretary will read the original charges, the supporting affidavit, and will read or display the accompanying exhibits, and will read the minutes of the special meeting of the Executive Committee at which the charges were heard and action taken. A full hearing will be ballot of the members in good standing present and a two-thirds vote shall be required to reverse the action of the Executive Committee.

ARTICLE IX - Amendments

Any proposed amendments to these by-laws may be introduced by any member of the club at any regular meeting or special meeting called for the purpose. A two-thirds vote of the members present will be necessary to pass or reject it.

I hereby certify that these revised by-laws have been adopted by this club.

President's Signature

Date

Secretary's Signature

Date

COREY, BYLER & REW, L.L.P.
ATTORNEYS AT LAW

STEVEN H. COREY*
DAVID M. BLANC*
TIMOTHY P. O'ROURKE
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LAWRENCE B. REW, DECEASED

Email: gregg@corey-byler.com

*Admitted in Oregon and Washington

May 19, 2014

RECEIVED

Ms. Tamra Mabbott
Planning Director
Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

MAY 19 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Re: East End Rod & Gun Club
Land Use Request #LUD-163-13
Our File No. 113-398

Dear Tamra:

As you know our firm represents H.T. Rea Farming Corp. and the Rea family (collectively "HT Rea"). HT Rea submits this letter for consideration by the County Commissioners in advance of the June 3, 2014, hearing on land use request #LUD-163-13 filed by the East End Rod & Gun Club. As discussed below, HT Rea believes the appropriate decision by the Umatilla County Commissioners is to deny #LUD-163-13.

HT Rea's appeal of the Umatilla County Planning Commission's decision proceeds on two primary grounds, each of which are discussed more fully below and were set out in the appeal filed on February 17, 2014. As an initial matter, the East End Rod & Gun Club's application should be denied by the Commissioners because the threshold for approval is simply not met. Specifically, the East End Rod & Gun Club has failed to establish that it meets the requirements of state law, ORS 197.770, which provides the only avenue for approving the Gun Club's land use request. There is insufficient evidence in the record at this time that the East End Rod & Gun Club met the requirements, as of the effective date of ORS 197.770, September 9, 1995, to be qualified as a firearms training facility. Since no other law, regulation, or ordinance permits approval, the application must fail.

The second basis for denying the East End Rod & Gun Club's land use request is that the request seeks approval of buildings—some of which are in place and some of which are proposed to be built—that cannot take advantage of ORS 197.770 because that statute's scope does not extend to expansion and growth of a facility. In other words, ORS 197.770 at most authorizes continued

operation of a firearms facility as it existed on the effective date of the statute, not unlimited future expansion. And, there is no other basis for the continued existence of a firearms training facility on Umatilla County land that is zoned for exclusive farm use. Thus, even if the Commissioners are inclined to approve the land use application—which is unsupported by the evidence—the most that could lawfully be approved is the East End Rod & Gun Club’s site, as it existed on September 9, 1995.

For the above reasons, as discussed in detail below, HT Rea respectfully requests that the Umatilla County Commissioners deny the Gun Club’s land use request.

i. The East End Rod & Gun Club must meet ORS 197.770 in order to receive approval of their application.

Notwithstanding the *de novo* nature of the hearing before the Commissioners the controlling legal criteria in this matter are precisely the same as they were before the Planning Commission, and quite straightforward. The East End Rod & Gun Club is presently located in an Exclusive Farm Use (“EFU”) zone. Shooting ranges and firearms training facilities are not permitted on EFU zoned land under the Umatilla County Development Code (“the Development Code”), nor under the Oregon Revised Statutes, except for the limited application of ORS 197.770. That statute provides as follows:

- (1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.
- (2) For purposes of this section, a “firearms training facility” is an indoor or outdoor facility that provides training courses and issues certifications required:
 - (a) For law enforcement personnel;
 - (b) By the State Department of Fish and Wildlife; or
 - (c) By nationally recognized programs that promote shooting matches, target shooting and safety. ORS 197.770.

The East End Rod & Gun Club has failed to provide sufficient evidence that their location was a “firearms training facility” as of September 9, 1995. The evidence in the record consists of letters in support of the facility from East End Rod & Gun Club members and an affidavit from Andy Millar, a former president of the East End Rod & Gun Club, and nonspecific testimony. None of these documents provides evidence sufficient to meet the requirements of ORS 197.770. The East End Rod & Gun Club has not shown that any training within the meaning of ORS 197.770 (2)(a) through (c) took place.

Further, the use of the word “and” in subsection (2) of ORS 197.770 means that training and

Ms. Tamra Mabbott

May 19, 2014

Page 3 of 6

the issuance of certifications both must have occurred with respect to any law enforcement activity. The same principle applies to any training courses or certifications issued on behalf of the Department of Fish and Wildlife and "nationally recognized programs that promote shooting matches, target shooting, and safety." Put another way: Two separate elements must be shown for any of the three categories (law enforcement, Fish and Wildlife, and nationally recognized programs promoting shooting). First, the training courses must have actually occurred at the current site used by the East End Rod & Gun Club. Second, the East End Rod & Gun Club must have actually issued certifications for that training.

No evidence has been presented that any certifications were issued for law enforcement personnel by the East End Rod & Gun Club. Even if law enforcement personnel trained at the facility before September 9, 1995, the lack of any certification being issued by the East End Rod & Gun Club is fatal. Thus, the location cannot qualify as a firearms training facility under ORS 197.770 (2)(a). Similarly, the only evidence in the record regarding issuance of certifications and training was contained in Andy Millar's affidavit which indicates that he personally conducted Hunter's Safety classes. Thus, the East End Rod & Gun Club does not qualify under ORS 197.770 (2)(b).¹ Finally, there was no evidence presented of any training or certifications conducted pursuant to "nationally recognized programs" as of September 9, 1995. Thus, the East End Rod & Gun Club cannot qualify under ORS 197.770 (2)(c).

Further, to the extent that any additional evidence is proffered at the hearing by the East End Rod & Gun Club two salient points should be considered. First, in order to meet the requirements of ORS 197.770, certifications issued to particular persons on or before September 9, 1995, under the ambit of the East End Rod & Gun Club must be provided. Mere self-serving letters that indicate a person went to the facility sometime in the vicinity of the early to mid-1990s, which the present record consists of, are insufficient to meet the requirements of ORS 197.770. Further, if additional evidence of use that satisfies ORS 197.770 is proffered the weight of this evidence should be considered in light of the fact that in 2002, when the East End Rod & Gun Club originally applied for land use approval for this facility, the application never proceeded under ORS 197.770, which was in existence at the time. Instead the East End Rod & Gun Club simply withdrew the application. The presentation of evidence and testimony tailored toward ORS 197.770 at this time, over a decade after the original application was withdrawn with no mention of ORS 197.770, should raise a significant question as to why that evidence was not originally provided.

Although the East End Rod & Gun Club is entitled to a *de novo* review before the Commissioners the lack of any certificate being presented, despite two prior hearings, and literally

¹ Even if Andy Millar's individual actions are viewed as applicable to the East End Rod & Gun Club there still must be some evidence provided from some person who actually participated in training at the facility and received a certification in order for the East End Rod & Gun Club to meet their burden of proof before the Planning Commission.

months of time to submit evidence and testimony, is instructive. Despite the aforementioned months of time, and the two hearings, the East End Rod & Gun Club has failed to present any documentary evidence of a certificate.

Further, there is evidence in the record that directly contradicts the statements of the East End Rod & Gun Club regarding the use of the property as of September 9, 1995, namely the affidavit of Nathan Rea. That affidavit expressly states that he took Hunter's Education courses under the authority of lead instructor Andy Millar. The "range safety" course—which the East End Rod & Gun Club insisted occurred on the existing site in 1995 and prior years, was in fact conducted at a completely different location and not on the VonDerAhe property when Nathan Rea took the class in 1999.

The final consideration that compels denial of the East End Rod & Gun Club's application is to examine the issue in light of the Development Code provision regarding the burden of proof at a public hearing. The Development Code unequivocally indicates that the burden is on the East End Rod & Gun Club. Specifically, UCDC § 152.772 (D), which provides that:

The burden of proof is upon the proponent. The more drastic the change or the greater the impact of the proposal in the area, the greater is the burden upon the proponent.
UCDC § 152.772 (D).

A careful reading of the above standard, when compared to the facts in this case, compels denial of the East End Rod & Gun Club's land use request. First, the burden of proof is upon the East End Rod & Gun Club to begin with, and they have not presented evidence that is required to establish compliance with ORS 197.770; specifically any certification of training. Further, the change here is unquestionably drastic. There is testimony in the record from HT Rea and written letters of opposition from many landowners who border or have land near the East End Rod & Gun Club's location attesting to the negative impact and the change on a rural area. The East End Rod & Gun Club brings more persons and more activities of a non-farming nature to a rural area that is overwhelmingly used for farming. Thus, the burden upon the East End Rod & Gun Club is significant.

Here, the evidence cannot be reconciled with that burden. The East End Rod & Gun Club has not provided sufficient proof that it was operating as a "firearms training facility" within the meaning of ORS 197.770 and thus #LUD-163-13 should be denied. This remains true even if the Commissioners find that there is some evidence in the record in support of the East End Rod & Gun Club's position. Some evidence is simply insufficient to meet the burden of proof here—which is significant given the drastic change that the East End Rod & Gun Club would work on the area.

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ii. *The East End Rod & Gun Club cannot rely on ORS 197.770 to gain approval of buildings and development at the location subsequent to September 9, 1995.*

If the Planning Commission finds that the East End Rod & Gun Club satisfied the elements of ORS 197.770 the protections of that statute only apply to the facility and continued use of the facility as it existed on September 9, 1995. Any buildings or portions of the facility constructed subsequent to that date—as well as any of the expansions to the facility proposed to be constructed should not be analyzed under ORS 197.770 because it does not apply to expansion.

Analysis of the text and context of ORS 197.770 makes it clear the statute was not intended to apply to any future expansions or alterations of a “firearms training facility.” First, the express language of the statute does not mention expansion, it only says that a facility which qualifies as of September 9, 1995, “may continue operating” as long as it is used as a firearms training facility. Further, the legislative history behind ORS 197.770 makes expressly clear that the statute was designed to allow permitting of firearms training facilities in existence at the time the law was passed so that they were not subject to a “moving goalpost” regarding land use approval.

Examination of the text of ORS 197.770 and the context of the statute—including the legislative history—makes clear that any structure added or proposed to be added after September 9, 1995, does not fall under the protections of the statute. This view of the statute also comports with the idea that the purpose of the statute was to prevent a “moving of the goalpost” for any firearms training facilities that were in existence as of the date of the statute. Additions made after September 9, 1995, are not facing a “moving goalpost.” Rather, they must simply satisfy the applicable land use criteria similar to any other proposed use. Here, because no other criteria permit a firearms training facility the application must be denied as to any construction of buildings or facilities after September 9, 1995.

This analysis is consistent with the most recent case law that discusses ORS 197.770. In the recent case of *Conrady v. Lincoln County* the Oregon Court of Appeals engaged in a detailed analysis of the legislative history behind ORS 197.770. In discussing ORS 197.770 the Oregon Court of Appeals said:

In the debate on the House floor, the bill’s carrier, Representative Adams, clarified that the bill specifically referring to those facilities ‘in existence’ and would not include expansion of existing facilities. The obvious implication, both from his remarks and from the text of the statute itself, is that firearms training facilities that were not in existence would continue to be subject to local zoning restrictions, as would those facilities that were in existence but had ceased being used as firearms training facilities as defined in the statute. *Conrady v. Lincoln County*, 260 Or App 115, 129 (2013)(citations omitted).

Thus, any portion of the East End Rod & Gun Club that was put in place after September 9,

Ms. Tamra Mabbott
May 19, 2014
Page 6 of 6

1995, and any proposed additions to the facilities contained in this application, must be analyzed under the remaining portions of the Umatilla County Development Code Chapter 152 and ORS 215.213, the Oregon revised statute dealing with those uses allowed in EFU zones. Unless the East End Rod & Gun Club can demonstrate its facility is an allowed use under those criteria then the land use application as to any portion of the facility added after September 9, 1995, or now proposed to be added, violates applicable land use law and the Development Code and cannot continue to exist in its present location.

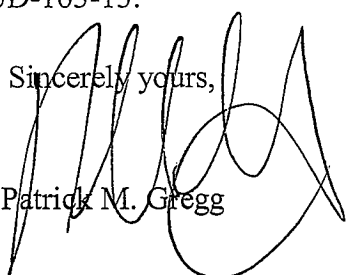
iii. Discussion of conditions on use is unnecessary.

The Planning Commission approved the East End Rod & Gun Club's land use request and imposed certain conditions. The imposition of those conditions are the basis of the East End Rod & Gun Club's appeal. HT Rea believes that the Commissioners do not need to reach this issue because the requirements of ORS 197.770 have not been met in light of the applicable burden of proof imposed on the East End Rod & Gun Club by the UCDC. The proper approach in light of the controlling law and ordinances and the facts presented is denial of the land use request in its entirety without consideration of conditions.

iv. Conclusion

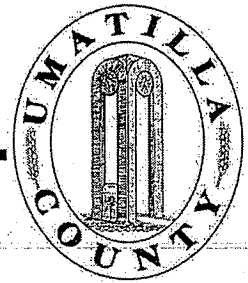
HT Rea appreciates the opportunity to present its position to the Commissioners and respectfully suggests that the appropriate decision by the Commissioners is denial of the East End Rod & Gun Club's land use request #LUD-163-13.

Sincerely yours,


Patrick M. Gregg

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: 14417
Transaction Date: 2/14/2014
Transaction Time: 11:15:01 AM
Payor: EAST END ROD & GUN CLUB - VERL PRESSNALL
Paid in Cash: \$0.00
Paid via Check: \$800.00 Check# 2814Bank#
Paid via EFT: \$0.00
Comments:
APPEAL OF #LUD-163-13

<u>Fee Description</u>	<u>Quantity</u>	<u>Fee</u>	<u>Total</u>
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

FEB 28 2014

Umatilla Board of County CommissionersUMATILLA COUNTY February 28, 2014
PLANNING DEPARTMENT

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. Further, that restriction on operations is actually detrimental to Umatilla County members as well as the general membership.

Oregon has had Land use zoning legislation in place for over 50 years that has been constantly evolving to meet the State's needs. Oregon's current statewide land use planning program — originated in 1973 under Senate Bill 100 — provides protection of farm and forest lands, conservation of natural resources, orderly and efficient development, coordination among local governments, and citizen involvement. According to the Oregon Department of Land Conservation, the guiding principles are:

- Provide a healthy environment;
- Sustain a prosperous economy;
- Ensure a desirable quality of life; and
- Provide fairness and equity to all Oregonians

These principles all carry the same weighted value. No one is more important than the other. Rather it is the whole or the majority that carries more value than any part. Therefore, one can not consider one principle over any other and that is true of good governance. The needs of the many must outweigh the needs of the few!

The availability of the range to our 800 plus members gives them a safe place to practice with their firearms. Our range is also used by government at several levels; by several small police departments that do not have access to any other local facility as well as the multi-state task force, Veterans Administration, and Department of Corrections for long range and Swat Entry training.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when anyone would be able to use it. The Land Use Planning

#112

Commission Final Finding #LUD-163-13 placed such restrictions on hours of operation; based upon Umatilla County Development Code Section 152.615 Subsection A (Limiting the manner in which use is conducted, including restricting hours of operation). Because of the potential noise pollution even though the Rea Family Farms did not provide any supporting evidence that noise levels did in fact raise to a level that causes noise pollution to surrounding property owners. It appears that this condition was based on the potential for noise pollution rather than the existence.

As you are aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. When I worked the farm we were up before daylight (well before 8 AM). While we often worked the fields until 5 PM, we also reserved the afternoons for equipment maintenance and repair back at the homestead. Therefore, I believe the question of potential noise pollution is insufficient to warrant restricting hours of use that will in fact affected the Club's 800 plus member usage.

Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights. The Umatilla Public Works has confirmed that operations do not negatively impact the public's use of the existing County road.

While it is true that many of the club members are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is only real safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food and gasoline, as well as purchase shooting supplies locally.

Shooting safety is a very serious concern to the Club that has been addressed by the board of directors and is constantly evolving. For example, Current and new member range safety orientation is a way to assure that everyone understands the safety rules that are in place, and the Club's 29 NRA certified Range Safety Officers are on alert for anything that may be of concern. Also, the range safety committee is constantly reviewing and revising the Club rule's as needed. Another example pertains when farmers are observed in the neighboring fields; a black flag is flown that closes appropriate portions of the

range as needed for safety; or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please consider the needs of the many Umatilla County shooters and please allow us to keep a safe place to train, practice; and even occasionally compete with our firearms.

Thank You,

Greggory S. Bond

10 Wilkenson Ct, Milton Freewater, Oregon 97862

RECEIVED

Subject: Testimony regarding the Umatilla County Commissioners decision on the East End Rod and Gun Club

From: "ott.irene@frontier.com" <ott.irene@frontier.com>

MAR 04 2014

Date: 4/4/2014 11:59 AM

To: "tamara@umatillacounty.net" <tamara@umatillacounty.net>, irene gilbert <ott.irene@frontier.com>

UMATILLA COUNTY
PLANNING DEPARTMENT

I am submitting this testimony for the public record on the above hearing. I am requesting that the Umatilla County Commissioners remove all conditions proposed for the East End Rod and Gun Club. The reason for this request is the following:

We own the Oregon Trail Trader which is a sporting goods store in La Grande, Oregon. Many of our customers participate in shooting events with the members of the Umatilla club. Individuals who participate in shooting sports provide a positive economic benefit not only to their local area, but also throughout the state.

In reviewing the state statutes, it appears that the Planning Department did not have the authority to impose restrictions on the club. The following statutes apply:

ORS 467.131

Exempts clubs from criminal liability based on noise or noise pollution from shooting range so long as they: "(1) The allegation results from the normal and accepted activity on the shooting range.

(2) The owner, operator or lessee complied with any applicable noise control law or ordinance existing at the time construction of the shooting range began or no noise control law or ordinance was then existing; and

(3) The allegation results from activity on the shooting range occurring between 7 a.m. and 10 p.m. OR conducted for law enforcement training purposes."

(Note, this club does not exist for the training of law enforcement officers, so those limitations do not apply)

ORS 467.133

Exempts shooting ranges in the state from any action for nuisance and no court in the state is allowed to place conditions on the range so long as the criteria in ORS 467.131 above is met.

ORS 467.136

This is the most important and relevant statute in this situation. It states that "Any local government or special district ordinance or regulation now in effect or subsequently adopted that makes a shooting range a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to a shooting range for which no action or claim is allowed under ORS 467.131 above."

This law says to me that Umatilla County is prohibited from requiring any conditions on this shooting range. The conditions regarding number of members, limiting shooting hrs. between 7 am and 10 pm, requiring annual meetings with neighbors, limiting evening events other than ones extending beyond 10 pm, and limiting the number of participants in those evening events would all be beyond the authority of the county according to ORS

467.136.

I urge the Umatilla County Commissioners to carefully review the statutes and the limitations being proposed for this shooting range and remove any limitations that are based upon county ordinances or regulations in place in 1995 or subsequently adopted, relate to noise, nuisance or fall within the statutorily defined shooting hrs.

Shooting ranges provide an economic benefit to the community, support positive family activity and provide opportunities for safe use of fire arms.

RECEIVED

Subject: Noise

From: Suni & Charlie Danforth <cdsj@yahoo.com>

MAR 07 2014

Date: 3/7/2014 10:14 AM

To: Tamra Mabbott <tamra@co.umatilla.or.us>

UMATILLA COUNTY
PLANNING DEPARTMENT

Hi Tamra

In researching noise standards for gun ranges I found they are exempt, under ORS 467.131 (3), if operated within the hours of 7am-10pm and are exempt at night for law enforcement training, ORS 467.138, for 4 events as long as they advertise the event before hand. Please look this over and see if you come up with the same conclusion. Also take a look at ORS 467.136 Preemption.

I referenced:

ORS 467.030 (4) <http://www.oregonlaws.org/ors/467.030>

ORS 467.131 (2)(3) <http://www.oregonlaws.org/ors/467.131>

ORS 467.133 (1-3) <http://www.oregonlaws.org/ors/467.133>

ORS 467.136 <http://www.oregonlaws.org/ors/467.136> Preemption of certain local regulation of shooting ranges.

ORS 467.138 <http://www.oregonlaws.org/ors/467.138> Law enforcement

I also reference OAR 340-035-0010 which has exceptions under ORS 467.030, OAR 340-035-0015 Definition (21) - "Impulse Sound", OAR340-035-0035 Noise Control Regulations for Industry and Commerce (1) Standards and Regulations (a) Except as otherwise provided in these rules , (B) All other impulse Sounds 100db peak response, between the hours of 7am and 10pm and 80 db, peak response, between the hours of 10pm and 7am. I don't think this is applicable.

Hope this helps,
Suni

#113

COREY, BYLER & REW, L.L.P.
ATTORNEYS AT LAW

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ROBERT E. O'ROURKE, RETIRED

GEORGE H. COREY, DECEASED
ALEX M. BYLER, DECEASED
LAWRENCE B. REW, DECEASED

Email: gregg@corey-byler.com

*Admitted in Oregon and Washington

May 19, 2014

RECEIVED

Ms. Tamra Mabbott
Planning Director
Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

MAY 19 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Re: East End Rod & Gun Club
Land Use Request #LUD-163-13
Our File No. 113-398

Dear Tamra:

As you know our firm represents H.T. Rea Farming Corp. and the Rea family (collectively "HT Rea"). HT Rea submits this letter for consideration by the County Commissioners in advance of the June 3, 2014, hearing on land use request #LUD-163-13 filed by the East End Rod & Gun Club. As discussed below, HT Rea believes the appropriate decision by the Umatilla County Commissioners is to deny #LUD-163-13.

HT Rea's appeal of the Umatilla County Planning Commission's decision proceeds on two primary grounds, each of which are discussed more fully below and were set out in the appeal filed on February 17, 2014. As an initial matter, the East End Rod & Gun Club's application should be denied by the Commissioners because the threshold for approval is simply not met. Specifically, the East End Rod & Gun Club has failed to establish that it meets the requirements of state law, ORS 197.770, which provides the only avenue for approving the Gun Club's land use request. There is insufficient evidence in the record at this time that the East End Rod & Gun Club met the requirements, as of the effective date of ORS 197.770, September 9, 1995, to be qualified as a firearms training facility. Since no other law, regulation, or ordinance permits approval, the application must fail.

The second basis for denying the East End Rod & Gun Club's land use request is that the request seeks approval of buildings—some of which are in place and some of which are proposed to be built—that cannot take advantage of ORS 197.770 because that statute's scope does not extend to expansion and growth of a facility. In other words, ORS 197.770 at most authorizes continued

operation of a firearms facility as it existed on the effective date of the statute, not unlimited future expansion. And, there is no other basis for the continued existence of a firearms training facility on Umatilla County land that is zoned for exclusive farm use. Thus, even if the Commissioners are inclined to approve the land use application—which is unsupported by the evidence—the most that could lawfully be approved is the East End Rod & Gun Club’s site, as it existed on September 9, 1995.

For the above reasons, as discussed in detail below, HT Rea respectfully requests that the Umatilla County Commissioners deny the Gun Club’s land use request.

i. The East End Rod & Gun Club must meet ORS 197.770 in order to receive approval of their application.

Notwithstanding the *de novo* nature of the hearing before the Commissioners the controlling legal criteria in this matter are precisely the same as they were before the Planning Commission, and quite straightforward. The East End Rod & Gun Club is presently located in an Exclusive Farm Use (“EFU”) zone. Shooting ranges and firearms training facilities are not permitted on EFU zoned land under the Umatilla County Development Code (“the Development Code”), nor under the Oregon Revised Statutes, except for the limited application of ORS 197.770. That statute provides as follows:

- (1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.
- (2) For purposes of this section, a “firearms training facility” is an indoor or outdoor facility that provides training courses and issues certifications required:
 - (a) For law enforcement personnel;
 - (b) By the State Department of Fish and Wildlife; or
 - (c) By nationally recognized programs that promote shooting matches, target shooting and safety. ORS 197.770.

The East End Rod & Gun Club has failed to provide sufficient evidence that their location was a “firearms training facility” as of September 9, 1995. The evidence in the record consists of letters in support of the facility from East End Rod & Gun Club members and an affidavit from Andy Millar, a former president of the East End Rod & Gun Club, and nonspecific testimony. None of these documents provides evidence sufficient to meet the requirements of ORS 197.770. The East End Rod & Gun Club has not shown that any training within the meaning of ORS 197.770 (2)(a) through (c) took place.

Further, the use of the word “and” in subsection (2) of ORS 197.770 means that training and

the issuance of certifications both must have occurred with respect to any law enforcement activity. The same principle applies to any training courses or certifications issued on behalf of the Department of Fish and Wildlife and "nationally recognized programs that promote shooting matches, target shooting, and safety." Put another way: Two separate elements must be shown for any of the three categories (law enforcement, Fish and Wildlife, and nationally recognized programs promoting shooting). First, the training courses must have actually occurred at the current site used by the East End Rod & Gun Club. Second, the East End Rod & Gun Club must have actually issued certifications for that training.

No evidence has been presented that any certifications were issued for law enforcement personnel by the East End Rod & Gun Club. Even if law enforcement personnel trained at the facility before September 9, 1995, the lack of any certification being issued by the East End Rod & Gun Club is fatal. Thus, the location cannot qualify as a firearms training facility under ORS 197.770 (2)(a). Similarly, the only evidence in the record regarding issuance of certifications and training was contained in Andy Millar's affidavit which indicates that he personally conducted Hunter's Safety classes. Thus, the East End Rod & Gun Club does not qualify under ORS 197.770 (2)(b).¹ Finally, there was no evidence presented of any training or certifications conducted pursuant to "nationally recognized programs" as of September 9, 1995. Thus, the East End Rod & Gun Club cannot qualify under ORS 197.770 (2)(c).

Further, to the extent that any additional evidence is proffered at the hearing by the East End Rod & Gun Club two salient points should be considered. First, in order to meet the requirements of ORS 197.770, certifications issued to particular persons on or before September 9, 1995, under the ambit of the East End Rod & Gun Club must be provided. Mere self-serving letters that indicate a person went to the facility sometime in the vicinity of the early to mid-1990s, which the present record consists of, are insufficient to meet the requirements of ORS 197.770. Further, if additional evidence of use that satisfies ORS 197.770 is proffered the weight of this evidence should be considered in light of the fact that in 2002, when the East End Rod & Gun Club originally applied for land use approval for this facility, the application never proceeded under ORS 197.770, which was in existence at the time. Instead the East End Rod & Gun Club simply withdrew the application. The presentation of evidence and testimony tailored toward ORS 197.770 at this time, over a decade after the original application was withdrawn with no mention of ORS 197.770, should raise a significant question as to why that evidence was not originally provided.

Although the East End Rod & Gun Club is entitled to a *de novo* review before the Commissioners the lack of any certificate being presented, despite two prior hearings, and literally

¹ Even if Andy Millar's individual actions are viewed as applicable to the East End Rod & Gun Club there still must be some evidence provided from some person who actually participated in training at the facility and received a certification in order for the East End Rod & Gun Club to meet their burden of proof before the Planning Commission.

months of time to submit evidence and testimony, is instructive. Despite the aforementioned months of time, and the two hearings, the East End Rod & Gun Club has failed to present any documentary evidence of a certificate.

Further, there is evidence in the record that directly contradicts the statements of the East End Rod & Gun Club regarding the use of the property as of September 9, 1995, namely the affidavit of Nathan Rea. That affidavit expressly states that he took Hunter's Education courses under the authority of lead instructor Andy Millar. The "range safety" course—which the East End Rod & Gun Club insisted occurred on the existing site in 1995 and prior years, was in fact conducted at a completely different location and not on the VonDerAhe property when Nathan Rea took the class in 1999.

The final consideration that compels denial of the East End Rod & Gun Club's application is to examine the issue in light of the Development Code provision regarding the burden of proof at a public hearing. The Development Code unequivocally indicates that the burden is on the East End Rod & Gun Club. Specifically, UCDC § 152.772 (D), which provides that:

The burden of proof is upon the proponent. The more drastic the change or the greater the impact of the proposal in the area, the greater is the burden upon the proponent.
UCDC § 152.772 (D).

A careful reading of the above standard, when compared to the facts in this case, compels denial of the East End Rod & Gun Club's land use request. First, the burden of proof is upon the East End Rod & Gun Club to begin with, and they have not presented evidence that is required to establish compliance with ORS 197.770; specifically any certification of training. Further, the change here is unquestionably drastic. There is testimony in the record from HT Rea and written letters of opposition from many landowners who border or have land near the East End Rod & Gun Club's location attesting to the negative impact and the change on a rural area. The East End Rod & Gun Club brings more persons and more activities of a non-farming nature to a rural area that is overwhelmingly used for farming. Thus, the burden upon the East End Rod & Gun Club is significant.

Here, the evidence cannot be reconciled with that burden. The East End Rod & Gun Club has not provided sufficient proof that it was operating as a "firearms training facility" within the meaning of ORS 197.770 and thus #LUD-163-13 should be denied. This remains true even if the Commissioners find that there is some evidence in the record in support of the East End Rod & Gun Club's position. Some evidence is simply insufficient to meet the burden of proof here—which is significant given the drastic change that the East End Rod & Gun Club would work on the area.

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ii. *The East End Rod & Gun Club cannot rely on ORS 197.770 to gain approval of buildings and development at the location subsequent to September 9, 1995.*

If the Planning Commission finds that the East End Rod & Gun Club satisfied the elements of ORS 197.770 the protections of that statute only apply to the facility and continued use of the facility as it existed on September 9, 1995. Any buildings or portions of the facility constructed subsequent to that date—as well as any of the expansions to the facility proposed to be constructed should not be analyzed under ORS 197.770 because it does not apply to expansion.

Analysis of the text and context of ORS 197.770 makes it clear the statute was not intended to apply to any future expansions or alterations of a “firearms training facility.” First, the express language of the statute does not mention expansion, it only says that a facility which qualifies as of September 9, 1995, “may continue operating” as long as it is used as a firearms training facility. Further, the legislative history behind ORS 197.770 makes expressly clear that the statute was designed to allow permitting of firearms training facilities in existence at the time the law was passed so that they were not subject to a “moving goalpost” regarding land use approval.

Examination of the text of ORS 197.770 and the context of the statute—including the legislative history—makes clear that any structure added or proposed to be added after September 9, 1995, does not fall under the protections of the statute. This view of the statute also comports with the idea that the purpose of the statute was to prevent a “moving of the goalpost” for any firearms training facilities that were in existence as of the date of the statute. Additions made after September 9, 1995, are not facing a “moving goalpost.” Rather, they must simply satisfy the applicable land use criteria similar to any other proposed use. Here, because no other criteria permit a firearms training facility the application must be denied as to any construction of buildings or facilities after September 9, 1995.

This analysis is consistent with the most recent case law that discusses ORS 197.770. In the recent case of *Conrady v. Lincoln County* the Oregon Court of Appeals engaged in a detailed analysis of the legislative history behind ORS 197.770. In discussing ORS 197.770 the Oregon Court of Appeals said:

In the debate on the House floor, the bill’s carrier, Representative Adams, clarified that the bill specifically referring to those facilities ‘in existence’ and would not include expansion of existing facilities. The obvious implication, both from his remarks and from the text of the statute itself, is that firearms training facilities that were not in existence would continue to be subject to local zoning restrictions, as would those facilities that were in existence but had ceased being used as firearms training facilities as defined in the statute. *Conrady v. Lincoln County*, 260 Or App 115, 129 (2013)(citations omitted).

Thus, any portion of the East End Rod & Gun Club that was put in place after September 9,

Ms. Tamra Mabbott
May 19, 2014
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1995, and any proposed additions to the facilities contained in this application, must be analyzed under the remaining portions of the Umatilla County Development Code Chapter 152 and ORS 215.213, the Oregon revised statute dealing with those uses allowed in EFU zones. Unless the East End Rod & Gun Club can demonstrate its facility is an allowed use under those criteria then the land use application as to any portion of the facility added after September 9, 1995, or now proposed to be added, violates applicable land use law and the Development Code and cannot continue to exist in its present location.

iii. Discussion of conditions on use is unnecessary.

The Planning Commission approved the East End Rod & Gun Club's land use request and imposed certain conditions. The imposition of those conditions are the basis of the East End Rod & Gun Club's appeal. HT Rea believes that the Commissioners do not need to reach this issue because the requirements of ORS 197.770 have not been met in light of the applicable burden of proof imposed on the East End Rod & Gun Club by the UCDC. The proper approach in light of the controlling law and ordinances and the facts presented is denial of the land use request in its entirety without consideration of conditions.

iv. Conclusion

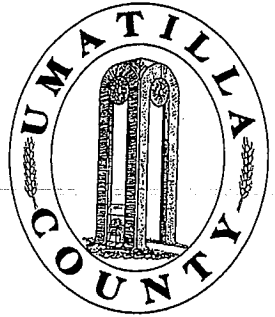
HT Rea appreciates the opportunity to present its position to the Commissioners and respectfully suggests that the appropriate decision by the Commissioners is denial of the East End Rod & Gun Club's land use request #LUD-163-13.

Sincerely yours,

Patrick M. Gregg

Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission
Public Hearing
Thursday, December 19, 2013, 6:30 p.m.
Justice Center Media Room
Pendleton, OR

Members of Planning Commission

Randy Randall, Chair
Gary Rhinhart, Vice-Chair
John Standley
Tammie Williams
Don Wysocki
David Lee
Don Marlatt
Suni Danforth
Cecil Thorne

Members of Planning Staff

Tamra Mabbott, Planning Director
Carol Johnson, Senior Planner
Richard Jennings, Senior Planner

1. Call to Order

2. Welcome new Planning Commission member.

Cecil Thorne has been appointed by the Board of Commissioners to fill the vacancy on the Planning Commission.

3. Approval of Minutes

Minutes of October 24, 2013

4. Public Hearing:

- REQUEST FOR A PUBLIC HEARING, #LUD-163-13. East End Rod & Gun Club submitted an application to continue operation of firearms training facility located at 54752 Milton Cemetery Road, approximately one mile east of Milton Freewater on tax lot 1200 of Assessor's Map 5N 36. The Planning Director issued a preliminary approval of the Land Use Permit and sent notice to adjacent property owners and agencies. Subsequently, a REQUEST FOR A PUBLIC HEARING was submitted on November 8, 2013. The standards of review for the Land Use Permit are found in the Umatilla County Development Code, Section 152.617(II)(5) and 152.063.

5. Public Hearing:

- REPLACEMENT DWELLING, #ZP-13-274 submitted by NORMAN KRALMAN. The applicant requests a zoning permit for a REPLACEMENT DWELLING in the EFU Zone. The subject property is located on Assessor Map 5N 36 21 tax lot 380 with the rural address being 81965 Linton MTN RD, Milton-Freewater, OR 97862. A zoning permit is reviewed using the administrative review procedures with clear and objective criteria. The question with this application is whether the original 1925 stick-built house was already approved for replacement with a double-wide manufactured home through the issuance of a 1979 zoning permit. Because the facts of the application are being questioned by the applicant the application is being sent to the Planning Commission per UCDC 152.775 (B). The standards of review for this use are found in the Umatilla County Development Code, Section 152.058 (F).

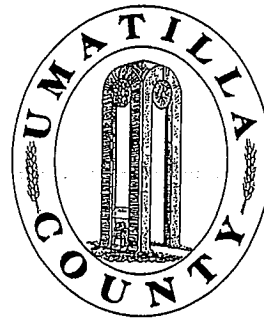
Adjourn

Next Scheduled Meeting:

Thursday, January 23, 2014, 6:30 p.m., Justice Center Media Room, Pendleton, OR

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA MABBOTT

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

December 12, 2013

MEMO

TO: Planning Commission

FROM: Tamra Mabbott *Tamra*

RE: Request for a Hearing for LUD-163-13

On October 15, 2013, staff mailed a Public Notice with preliminary Findings and preliminary approval for an application filed by the East End Rod N Gun Club. The Land Use application request was to allow the continuation of a "firearms training facility" as allowed under the provisions of ORS 197.770. The request also included an 35-acre expansion of the use.

On November 5, 2013, a request for a hearing was filed by neighboring property owners, Dennis Rea and Nathan Rea. The Rea's have retained an attorney to represent them before the Planning Commission.

Comments were submitted by the Rea's attorney, Patrick Gregg, on December 12, 2013 and are attached to the packet.

Staff will provide further an analysis of the issues at the Planning Commission hearing on December 19, 2013.

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1. October 15, 2013 Public Notice
2. Preliminary Findings of Fact
3. Drawing of firearms training facility submitted by applicant
4. Vicinity map of subject property and neighboring properties
5. Google map of facility submitted by applicant
6. Letter dated September 10, 2013 from Andy Millar, with attachments including:
 - a. Application
 - b. Affidavit from Andy Millar
 - c. Letters from: Robert Sallee, Malcolm Millar, Buddy Birdwell, Larry Zalaznik, Andy Millar
7. Letter dated December 12, 2013 submitted by Patrick Gregg, Attorney

UMATILLA COUNTY PLANNING DEPARTMENT
PRELIMINARY FINDINGS OF FACT AND CONCLUSIONS OF LAW
EAST END ROD & GUN CLUB LAND USE REQUEST, #LUD-163-13
MAP # 5N 36, TAX LOT # 1200, Account # 134104

1. **APPLICANT:** East End Rod & Gun Club, Verl Pressnall, P. O. Box 251, Milton-Freewater, OR 97862

2. **OWNERS:** Von DerAhe, Inc, 420 Parkview, Milton-Freewater, OR 97862

3. **REQUEST:** The applicant requests land use approval to operate a firearms training facility under the provisions of ORS 197.770. Approval would justify the continued use of an 85 acre lease area and the proposed expansion of 35 acres on the VonDerAhe property for use as a gun club by the East End Rod & Gun Club. Initial use of the property as a gun club began in the spring of 1994 with sporting clay shoots operated under the auspices of the National Sporting Clays Association. The shooting facility and gun club has operated continually since spring of 1994. The gun club was established on the VonDerAhe property to advance safe shooting sports including youth programs such as 4-H, Boy Scouts and Oregon State Hunter Safety programs. The club also holds an annual women's safety clinic and provides a place for its general membership to safely pursue a variety of shooting disciplines for competitive shooting.

The existing lease area includes developed multiple firearms ranges including a 600 yard rifle range, a 5-stand range, a muzzleloader range, a cowboy action/pistol range and a specified rim-fire range. There are three existing buildings consisting of a 12' x 150' muzzleloader lean-to, a 16' x 32' lean-to and a 12' x 16' cook shack and also one 8' x 20' shipping container and two 8' x 40' shipping containers. There are five proposed buildings: two 20' x 40' open front buildings, one 12' x 160' roof over existing shooting benches, one 24' x 60' modular classroom and one 16' x 32' lean-to within the 35 acre proposed expansion area. Four trap fields with two skeet overlay fields, a 16' x 32' lean-to, four 4.5' x 5' trap houses and four 8' x 8' skeet houses are proposed on the 35 acre lease expansion area.

4. **LOCATION:** The property is located along Cemetery road, approximately 1½ miles east of the City of Milton-Freewater.

5. **ACREAGE:** The parcel, Tax Lot 1200 = 439.40 acres (assessed). Current lease area = 85 acres, proposed expansion lease area is approximately 35 acres.

6. **COMP PLAN:** North/South Agriculture Region

7. **ZONING:** Exclusive Farm Use Zone (EFU, 160 acre parcel size)

8. **ACCESS &**

ROAD TYPE: Members of the East End Rod & Gun Club and occupants of an existing dwelling located on the property have access from Cemetery Road, County Road No. 564MC. Cemetery Road is a two lane paved county road. Tax Lot 1200 also adjoins Spofford Road, County Road No. 567, a gravel county road along the east property boundary.

9. **EASEMENTS:** No easements were listed for the property in the application materials.

10. LAND USE: In addition to the East End Rod & Gun Club activities the VonDerAhe property is used for dry land grain crops to the north of the club lease area and along the east side of the property.

11. ADJACENT USES: There is predominately dry land farming activities on lands surrounding the subject property. An area planted in grape vineyards is developed on Tax Lots 800 & 802 to the east ¼ miles from the current gun club lease area.

12. LAND FORM: Walla Walla Valley

13. IRRIGATION: There are no irrigation water rights on Tax Lot 1200

14. FARMLAND &

SOIL TYPES: Lands in Eastern Oregon, classified as predominantly Class I through VI soils, are “Agricultural Land” and include those lands necessary to permit farm practices on adjacent or nearby agricultural lands. Additionally, land in capability classes other than Class I through VI within a farm unit are likewise inventoried as agricultural land even though that land may not be cropped or grazed. A tract of land composed predominantly (greater than 50 percent) of soils classified as Class I or II are considered “High-Value Farmland.”¹ The subject property and adjacent properties are predominately composed of Class II soil and therefore, as defined, the tract of land is considered predominately “High-Value Farmland.” The table below lists the soils, as depicted in the NRCS Soil Survey for Umatilla County, in descending order of predominance. (See attached soil maps)

Soil Name, Unit Number, Description	Land Capability Class		Acreage
	Dry	Irrigated	
61C-Oliphant silt loam, 3 to 12 percent slopes.	2e	2e	309.55ac
62C-Oliphant silt loam, 3 to 25 percent slopes.	3e	---	78.20 ac
8C-Athena silt loam, 7 to 12 percent slopes.	3e	3e	32.85 ac
8B-Athena silt loam, 1 to 7 percent slopes.	2e	2e	15.15 ac
61A-Oliphant silt loam, 0 to 3 percent slopes.	2c	1	3.45 ac
112D-Waha silty clay loam, 12 to 25 percent slopes.	4s	---	.20 ac

Soil Survey of Umatilla County Area, NRCS. The suffix on the Land Capability Class designations are defined as “e” – erosion prone, “c” – climate limitations, “s” soil limitations and “w” – water.

15. BUILDINGS: On the property is an existing dwelling, garage and pump house. In addition, there are various buildings in support of the gun club consisting of a blacksmith shop, black powder building, equipment shed, cook shack and several cargo containers used for storage. There is a gated and locked entrance to the Gun Club, which members are able to open and close with a card key.

16. UTILITIES: Milton-Freewater Light and Power and Century Link (Qwest) serve the area.

17. WATER/SEWER: The dwelling is served by an onsite septic system and water is provided by a domestic well located near the dwelling. There is no other water or sewer on site.

18. FIRE SERVICE: The applicant subscribes to the rural Milton-Freewater Fire Department for fire

¹ OAR 660-033-0020 (8)(a) “High-Value Farmland” means land in a tract composed predominantly of soils that area; (A) Irrigated and classified prime, unique, Class I or II; or (B) Not irrigated and classified prime, unique, Class I or II.”

protection.

19. **FLOODPLAIN:** The property is not in a floodplain.

20. **PROPERTY OWNERS & AGENCIES NOTIFIED:** October 15, 2013

21. **COMMENT CLOSING DATE:** November 6, 2013

22. **COMMENTS RECEIVED:** Information was received from the Umatilla County Public Works Director, Tom Fellows, regarding Cemetery Road. The Public Works Director indicated that Cemetery Road is in good shape and should hold up to events held at the applicant's site. The Public Works Director added no other access locations would be better suited for access onto the property. All parking is able to be entirely off the county right of way and there were no real concerns about parking.

23. **NOTIFIED AGENCIES:** Oregon Department of Environmental Quality Pendleton Office, Oregon Building Codes Agency Salem Attention Shane Sumption; Katherine Daniels – Department of Land Conservation & Development, Jim Johnson – Oregon Department of Agriculture, ODFW, Pendleton Office, Umatilla County Assessor, Umatilla County Public Works Director, Terry Rowan, County Sheriff, Milton-Freewater Rural Fire Department, Milton Freewater Ambulance District Board, City of Milton-Freewater Attention Gina Hartzheim and Linda Hall, Milton-Freewater Light & Power and Century Link (Qwest).

24. **Gun Club History:**

Affidavits submitted with the application show that organized shooting activities have been conducted on the property beginning in Spring of 1994. On April 24, 1993, the club offered Hunter Safety Education Training as part of the Oregon Department of Fish & Wildlife certification program.

On October 11, 2002, Bob Perry, then Umatilla County Assistant Planning Director, returned a conditional use permit application for a "sportsman recreation facility" that included firearm ranges and a training facility for hunter education on the VonDerAhe property. Accompanying the returned application was a letter to the applicant, Attorney R. A. "Andy" Millar. In the letter, Mr. Perry summarized the reason he was returning the application and made a recommendation to Mr. Millar to contact Ron Eber, then the Farm/Forest Specialist for the Department of Land Conservation and Development (DLCD), for details on whether a firearms shooting range or gun club had been recently added to the list of EFU uses. In 2002, it was Mr. Perry's understanding that uses allowed in an EFU zone did not include "new" firearm facilities. In a letter to Mr. Millar Mr. Perry mentioned the possibility of applying for a private park, a use allowed in EFU, although he indicated was not encouraged due to state law. Mr. Perry did not explain the option of being permitted in accordance with Oregon Revised Statute (ORS) 197.770² which allows that certain existing firearm facilities can continue operating.

On November 1, 2003, the then, and current property owner, VonDerAhe, Inc., and the East End Rod and Gun Club, an Oregon non-profit Corporation, came into a real property lease agreement for: "The

² Umatilla County has adopted uses in the EFU zoned code for the continuation of certain existing fire arms training facilities. Umatilla County Development Code (UCDC) § 152.059 (E): "Continuation of a fire arms training facility in existence on September 9, 1995 and meeting the intent and purposes in ORS 197.770 (2) and as provided in §152.617 (II) (5)."

premises shall be used for an archery and firearms range and for archery and firearms safety education center to be constructed by Lessee and all other lawful uses reasonable associated with such activity.” The lease also provided that notice required or permitted under the lease would be sent to the parties of: VonDerAhe, Inc., in care of L. E. “Pete” Von Der Ahe, 84387 Grant Road, Milton-Freewater, OR 97862, and R. A. “Andy” Millar, East End Rod and Gun Club, P. O. Box 388, Milton-Freewater, OR 97862. Prior to promulgation of a formal lease agreement, the Gun Club operated in accordance with the verbal permission of the landowner.

In November 2011, two zoning permit applications for equipment storage units (containers) were received by the Planning Department for storage of materials related to the East End Rod & Gun Club at the subject location. Carol Johnson, Planner, responded to the request for the zoning permits with a letter explaining that the zoning permits, associated with the gun club, could not be processed until the gun club was permitted. That correspondence included a copy of the 2002 letter from Mr. Perry to Andy Millar. Since the zoning permit requests were associated with an unpermitted use (gun club) operating on the property, the two zoning permits were returned to the East End Rod & Gun Club on December 20, 2011.

On September 20, 2012, Planning Director, Tamra Mabbott, visited the gun club property accompanied by Andy Millar and Verl Presnall. The options for permitting the gun club were discussed generally.

On November 14, 2012 the Gun Club submitted a land use application to permit the use as a “private park.” Upon review, given the restrictions for a “private park” on high value farmland, it was determined that the Gun Club would not satisfy the minimum requirements set forth in Oregon Revised Statute. The Gun club later withdrew the application.

On September 11, 2013, Andy Millar, on behalf of the Gun Club, submitted the subject application to permit the facility as a “firearms training facility under the provisions of ORS 197.770.” Along with the application is an affidavit from Andy Millar describing the Gun Club activities that date back to April 1993. Additionally, five letters were submitted, signed by original, founding members of the Gun Club demonstrating that the organized, formal sporting clay events began in Spring of 1994.

25. SUMMARY OF APPLICABLE STANDARDS, CRITERIA, PROCEDURE:

A. Oregon Revised Statutes and Oregon Administrative Rules ORS 215.296 OAR 660-033-0120 OAR 660-033-0130

B. Chapter 152 of the Umatilla County Development Code Section 152.059(E) EFU Land Use Decisions – Firearms Training Facility

Section 152.617 (II) (5) EFU Land Use Decisions Standards of review

Section 152.063, EFU Development Standards – See details below.

C. Section 152.059, EFU Land Use Decisions Procedural Process

In an EFU Zone uses may be permitted through a land use decision via administrative review (152.769) and subject to applicable criteria found in 152.617. Once approval is obtained a zoning permit (152.025) is necessary to finalize the decision.

26. Oregon Revised Statutes 215.296

215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards. (1) A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;

or (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

This ORS standard is the same as Umatilla County Development Code Section 152.061 Standards for all Conditional Uses on EFU Zoned Lands.

Finding: The farming activity on the subject property and surrounding properties in the area is dry land wheat/grains. Also located $\frac{3}{4}$ of a mile to the west is a grape vineyard. There are no forested areas on the property or nearby.

The applicant states that most of the property is outside of the "shot fall area" except for property directly west of the shotgun 5-stand area. One small portion of the land to the west will have a limited amount of shotgun lead shot possibly falling on fields currently used for dry land crops. Lead shot has not been shown to have a significant effect on dry land farming. At the current rate of use it would take over 40 years to build up enough lead in the fall zone, located outside of the leased area on the neighboring property, to become a minimum hazard. Once this happens the lead would be mined from all fall zones at the convenience of the property owner. The lease area would be monitored by private lead removal miners until it becomes viable to remove.

The closest dwelling to the lease area, not owned by the property owner, is located $\frac{3}{4}$ mile to the east of the range area and $\frac{1}{2}$ mile from the east edge of the lease area. There is a 1974 mobile home and a stick built structure built in 1910. These dwellings are owned by, Cecil Zerba, dba Farmers Produce Outlet. North approximately 1.34 miles from the subject property is a dwelling owned by neighboring property owner, Dennis Rea. West approximately 1.25 miles are residences in the City of Milton-Freewater and to the south along the Walla Walla River the closest dwelling is 1.8 miles. Handgun cartridge firearms only are fired to the east, with limited range. No firearms are fired to the north; however, if the proposed expansion area under a new lease occurs then this area would be developed for shotguns for Trap and Skeet shooting with a shot drop of approximately 150 yards. The only firearms fired to the east are shotguns with a maximum shot fall zone of approximately 150 yards. The main firing line is to the south over approximately a 500 feet elevation rise. When there is farming activities the range areas are closed in the vicinity of farming practices.

Accepted farm practices for dry land grain crops includes plowing, planting, fertilizing, weed spraying using tractors, sprayers, etc., and harvesting a grain crop with harvesters and grain trucks. The applicant did not address farming activities associated with growing a grape vineyard. This may be due to the distance between the applicant's lease area and the vineyard located on the east side of Spofford Road.

Conclusion: From the information provided by the applicant it appears that the dry land farming activities on the VonDerAhe property were considered for shot fall and removal. Information was also provided on the location of dwellings in the area in relation to shot drop distances from the East End Rod & Gun Club's various ranges. Although, a vineyard was identified in the area no information was provided about the vineyard farming operation.

The applicant has agreed that when farming activities occur near a firing range that range would be closed in the vicinity of the farming practices. Therefore, the East End Rod & Gun Club will not force a significant change in farm practices on surrounding lands devoted to farm use, or significantly increase the cost of accepted farm practices on lands devoted to farm use.

The East End Rod & Gun Club will not force a significant change in forest practices on surrounding lands devoted to forest use, or significantly increase the cost of accepted forest practices on lands devoted to forest use, because there are no forest practices occurring on the VonDerAhe property or surrounding properties.

**27. Oregon Administrative Rules OAR 660-033-0120 and OAR 660-033-0130
660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses**

The following standards apply to uses listed in OAR 660-033-0120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

(2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

Finding: The applicant provided information describing the structures on the property associated with the operation of the East End Rod & Gun Club. A small cook shack is the only enclosed structure associated with the operation of the gun club. In addition, the applicant proposes an enclosed class room to accommodate 35 people. Although the existing and proposed enclosed structures are located approximately 1 ½ miles from the City of Milton-Freewater, and within three mile of the urban growth boundary, the cumulative design capacity of existing and proposed enclosed structures would not accommodate more than 100 people.

Conclusion: The evidence in the record shows that the East End Rod & Gun Club does not have an enclosed structure or group of structures with a total design capacity of greater than 100 people.

2(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010. Not applicable.

(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

Finding: The existing structures are drawn on the attached plot plan. New structures are also shown. The applicant is not proposing to expand any existing structure.

Conclusion: The applicant complies with this standard and future expansion identified in the plot plan also complies with this standard. Any other additions would be required to comply with this standard.

28. Umatilla County Development Code Section 152.617 (II) (5) EFU LAND USE DECISIONS:

Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility. For purposes of this section a Firearms Training Facility is an indoor or outdoor facility that provides training courses and issues certifications required for law enforcement personnel, by the State Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting and safety.

As noted in section 24, the East End Gun Club has been in operation at the current location since April 1993. An Affidavit was submitted to this fact by Andy Millar. Additionally, five founding members of the East End Gun Club submitted written statements attesting to the fact that the club activities, including recreational shootings, training and certification programs began in Spring of 1994.

Conclusion: The East End Rod and Gun Club qualifies as a Firearms Training Facility as defined in ORS 197.770 and UCDO 159.063.

29. Umatilla County Development Code Section 152.615 Additional Conditional Use Permit Restrictions. In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority *may impose* the following conditions upon a finding that circumstances warrant such additional restrictions:

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

Finding: A condition limiting the use or restricting hours of operation may be imposed to minimize effects resulting from noise, vibration, air pollution, glare or odor. The information in the record includes statements by the applicant that operation of the gun club does not cause vibration, air

pollution, glare or odor. The applicant identified noise as a possible conflict with residences which included the location of nearby residences and a plan to plant a row of trees along the west side of the lease area to minimize noise to residences located to the west in Milton-Freewater. Additionally, the applicant provides that the gun club will operate only during daylight hours and not before 7 am or after 9 pm.

Conclusion: The gun club operation does not cause vibration, air pollution, glare or odor. The applicant has plans to plant a tree row along the west side of the East End Rod & Gun Club lease area to reduce noise to residences located to the west in Milton-Freewater, as soon as water is available. The applicant will limit hours of operation to daylight hours. These hours will not be before 7 am or after 9 pm.

At this time, a condition of approval to plant a row of trees is not imposed, however, that could be a requirement in the future if county receives complaints about noise. A condition of approval to limit hours of operation of the East End Rod & Gun Club to daylight hours and not before 7 am or after 9 pm is imposed.

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

Finding: A condition to establish a special yard, open space, lot area or dimension may be imposed. The applicant has an established 85 acre lease area (see applicant's site plan). In addition to this lease area the applicant would like to add 35 acres to the north of the existing lease area for trap and skeet shooting.

Conclusion: The lease area has been established along the west side of the VonDerAhe property as depicted in the applicant's site plan. Additional area located north of the current East End Rod & Gun Club lease area is also shown on the enclosed maps. The lease area contains open space around the existing and proposed range areas.

A condition to establish a special yard, other open space or lot area or dimension is not imposed.

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

Finding: A condition to limit the height, size or location of a building or other structure may be imposed. All buildings and structures constructed in the EFU zone must meet the standards in UCDC Section 152.063. According to the record information none of the structures constructed for the gun club's use are permanent structures. Most are either three sided single story wooden structures or metal cargo containers used by the gun club for storage. The height of the tallest building is 18 feet. Additionally, all cargo containers and structures over 120 square feet in size require a land use permit. None of the existing East End Rod & Gun Club structures or cargo storage containers previously received approved county land use permits.

Conclusion: All existing structures over 120 square feet in size must be permitted. All buildings and structures must meet EFU standards found in UCDC Section 152.063. None of the existing East End Rod & Gun Club structures or cargo storage containers received approved county land use permits. A condition of approval requiring all buildings and structures meet UCDC Section 152.063 and have an approved land use permit is imposed.

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

Finding: A condition designating the size, number, location and nature of vehicle access points may be imposed. The record provides that the applicant has applied for an access permit from the County Road

Department for an access approach from Cemetery Road. This point of access is the same access point that has been historically used by the property owner and by the East End Rod & Gun Club.

Conclusion: An existing access approach is used by the property owner and by the East End Rod & Gun Club. The applicant has applied for an access approach permit from the Public Works Department (County Road Department) for access from Cemetery Road.

A condition of approval requiring the applicant to obtain a county access approach permit is imposed.

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

Finding: A condition of approval requiring street dedication, roadway width or improvements within rights of ways may be imposed. Cemetery Road is a county road that is used by the public. The County Public Works Director has provided comment that Cemetery Road is in good condition and can accommodate gun club members and visitors.

Conclusion: Verification from the County Public Works Director that Cemetery Road is in good condition and can accommodate traffic to and from the East End Rod & Gun Club was received.

A condition of approval requiring street dedication, roadway width or improvements within the right of way is not imposed.

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

Finding: A condition of approval designating the size, location, screening, drainage, surfacing or other improvements of parking or loading areas may be imposed. The road system used by the members of the East End Rod & Gun Club will be graded and graveled and constructed with water bars necessary for erosion control. Adequate off street parking must be provided for members, visitors, and delivery vehicles. The applicant proposes parking for 76 vehicles at five locations as follows: 14 at the 5-stand location, 12 facing south at the rifle range and 12 facing north, 10 at the .22 area, 10 at the muzzleloader range and 18 at the pistol/cowboy action range. Each of the five parking areas will be graded, graveled and have parking area perimeters delineated with railroad ties.

A classroom building to accommodate 35 people is proposed. Parking for the proposed classroom will be provided using the rifle range and the 5-stand parking areas.

The prescribed parking in UCDC Section 152.560 does not provide a specific parking space requirement for a firearms training facility. The parking requirements do require the parking areas to be identified and clearly marked. The applicant proposes to use 8" x 12" signs to identify each of the five parking areas and each parking area will be delineated with railroad ties.

Conclusion: The road system used by the members of the East End Rod & Gun Club will be graded and graveled and constructed with water bars as necessary for erosion control.

There are no specific parking space requirements for a firearms training facility in the county ordinance.

The applicant proposes parking for 76 vehicles at five locations as follows: 14 at the 5-stand location,

12 facing south at the rifle range and 12 facing north, 10 at the .22 area, 10 at the muzzleloader range and 18 at the pistol/cowboy action range. The proposed 5 parking areas must be identified with signs and railroad ties that clearly mark where vehicle parking is allowed.

A condition of approval requiring all five parking areas to be graveled and clearly marked and designated for parking is imposed.

A condition of approval requiring signs identifying all five parking area locations is imposed.

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

Finding: A condition of approval limiting or otherwise designating the number, size, location, height and lighting of signs may be imposed. Sign types one through six are allowed within the EFU zone as listed in the County Sign Ordinance in UCDC Section 152.545.

The parking requirements do require the parking areas to be identified and clearly marked. The applicant proposes 8"x 12" signs to mark the five parking areas.

Most of the East End Rod & Gun Club signs are information placards mounted on buildings and structures. There are proposed signs on the property to direct traffic to the rifle and 5-stand, the Pistol Range/Cowboy-Action area and the Muzzleloader area along with directional arrows. Located at the access gate is a 3'x 3' sign identifying the use of the area "East End Rod & Gun Club Shooting Park." This sign located near the gate may be replaced with a 16 square foot sign. One 4' x 4' sign with the rules of conduct and two 4'x 4' signs providing a list of sponsors are mounted on steel posts. Smaller signs for limitations on ammunition and what type of firearms may be used at different locations are located at the various ranges. Caution signs for firearms in use and keep out signs are placed at 75 yard intervals around the perimeter of the lease area. None of the signs are lighted.

Conclusion: UCDC Section 152.545 allows sign types one through six to be permitted outright or with land use approval. None of the signs are lighted.

A condition of approval requiring all of the East End Rod & Gun Club signs meet the requirements for EFU zone signs as provided in UCDC Sections 152.545 through 152.548 is imposed.

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

Finding: A condition of approval limiting the location and intensity of outdoor lighting and requiring its shielding may be imposed. The applicant proposed one pole type mounted outdoor light.

Conclusion: One outdoor light is proposed.

A condition of approval to direct the proposed outdoor light away from the VonDerAhe dwelling is imposed.

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

Finding: A condition of approval to require diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance thereof may be imposed. The applicant is applying for a land use permit to operate a gun club as a "firearms training

facility.” The facility consists of firearm ranges that require maintaining an open site space. The applicant has proposed to plant a row of evergreen trees along the west side boundary of the East End Rod & Gun Club lease area which also is in line with a portion of the VonDerAhe west property line. The applicant states that a variety of evergreen trees will be planted that requires very little water.

Conclusion: The applicant is applying for a land use permit to operate a gun club as a “firearms training facility.” Firing ranges require open site distances. The applicant proposes to plant a row of evergreen trees along west side of the East End Rod & Gun Club lease area. The variety of evergreen trees planted will require little water.

A condition of approval to plant an evergreen tree row along the west side of the East End Rod & Gun Club lease area is imposed.

A condition of approval for diking, additional landscaping or screening is not imposed.

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

Finding: A condition of approval designating the size, height, location and materials for a fence may be imposed. The applicant is applying for a conditional use permit to operate a gun club as a “firearms training facility.” The facility consists of firing ranges that require maintained open site space. There is fencing installed to limit access and control traffic through the gun club security gate. Chain link fence 6 foot high is used in high security areas and t-post and 14 gauge 5 foot wire mesh will be used in low security areas as needed.

Conclusion: The applicant is applying for a land use permit to operate a gun club as a “firearms training facility.” Firing ranges require open site distances. The applicant has fencing installed to limit access and control traffic through the existing security gate. Other low security areas will utilize 5 foot wire mesh fencing as needed.

A condition for additional fencing or limitations to existing or proposed fencing is not imposed.

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

Finding: A condition of approval protecting and preserving existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources may be imposed. The applicant’s information provides there are no existing trees to protect and preserve or water resources within the lease area or within the 35 acre proposed lease area. Erosion of existing vegetation will be protected from runoff from gun club roads by installing and maintaining water bars. Areas where soil is disturbed will be seeded with similar grasses as found in the surrounding area. No significant natural resources are known to be located on the VonDerAhe property or within the current East End Rod & Gun Club lease area or proposed lease area.

Conclusion: Erosion of existing vegetation will be protected from runoff from gun club roads by installing and maintaining water bars.

Areas where soil is removed will be seeded with similar grasses.

No significant natural resources are known to be located on the VonDerAhe property or within the current East End Rod & Gun Club lease area or proposed lease area.

A condition of approval requiring ongoing maintenance of East End Rod & Gun Club roads for erosion control is imposed.

A condition of approval requiring disturbed vegetation areas to be seeded at an appropriate germination time with grasses similar to the surrounding vegetation is imposed.

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

Finding: A condition of approval for parking areas to meet the requirements in Sections 152.560 through 152.562 may be imposed. The applicant proposes parking for 76 vehicles at five locations as follows: 14 at the 5-stand location, 12 facing south at the rifle range and 12 facing north, 10 at the .22 area, 10 at the muzzleloader range and 18 at the pistol/cowboy action range. Each of the five parking areas will be graded, graveled and have parking area perimeters delineated with railroad ties. A proposed classroom will accommodate 35 people. Parking for persons using the proposed classroom will be the same as parking for the rifle range and the 5-stand parking areas.

The prescribed parking in UCDC Section 152.560 does not provide a specific parking space requirement for a firearms training facility. The parking requirements do require the parking areas to be identified and clearly marked. The applicant proposes to use 8" x 12" signs to identify each of the five parking areas and each parking area will be delineated with railroad ties.

Conclusion: There are no specific parking space requirements for a firearms training facility parking in the county ordinance.

The applicant proposes parking for 76 vehicles at five locations. The proposed 5 parking areas must be identified with signs and railroad ties that clearly mark where vehicle parking is allowed. A condition of approval requiring all five parking areas to be graveled and clearly marked and designated for parking is imposed.

A condition of approval requiring signs identifying all five parking locations is imposed.

DECISION: Based upon the foregoing Findings of Fact and Conclusions of Law, the East End Rod & Gun Club Land Use application may be approved subject to the following conditions of approval.

CONDITIONS OF APPROVAL

PRECEDENT CONDITIONS: The following conditions of approval must be completed prior to issuance of a Zoning Permit and Final Approval.

- a. Obtain an Access Permit from County Public Works (if not already existing).
- b. Obtain a Zoning Permit for all the existing buildings and proposed buildings including cargo containers, per section UCDO 152.063.

SUBSEQUENT CONDITIONS: The following subsequent conditions apply to the use and shall be maintained throughout the life of the operation of the facility.

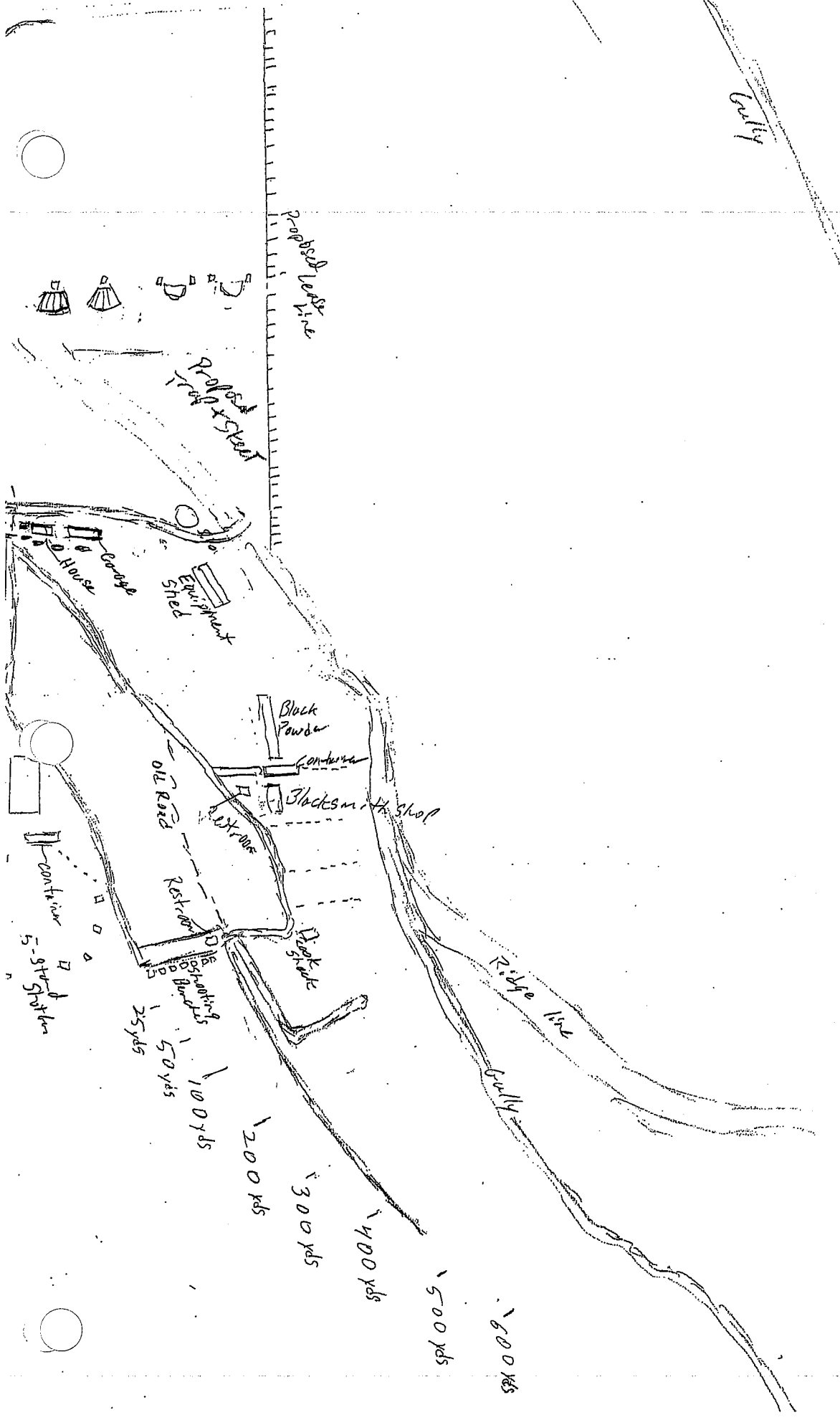
- c. Make improvements to the roadway so as to provide adequate access. Construct water bars as necessary for erosion control.
- d. Improve parking areas with gravel and install parking signs. Signs shall comply with UCDO 152.545.
- e. Outdoor lighting shall be installed so as to minimize glare to the residence on the property.
- f. Application shall be subject to an annual review by County Code Enforcement to insure compliance with the conditions of approval and this land use permit. Annual review shall be subject to fee as set forth in the County Fee Schedule.

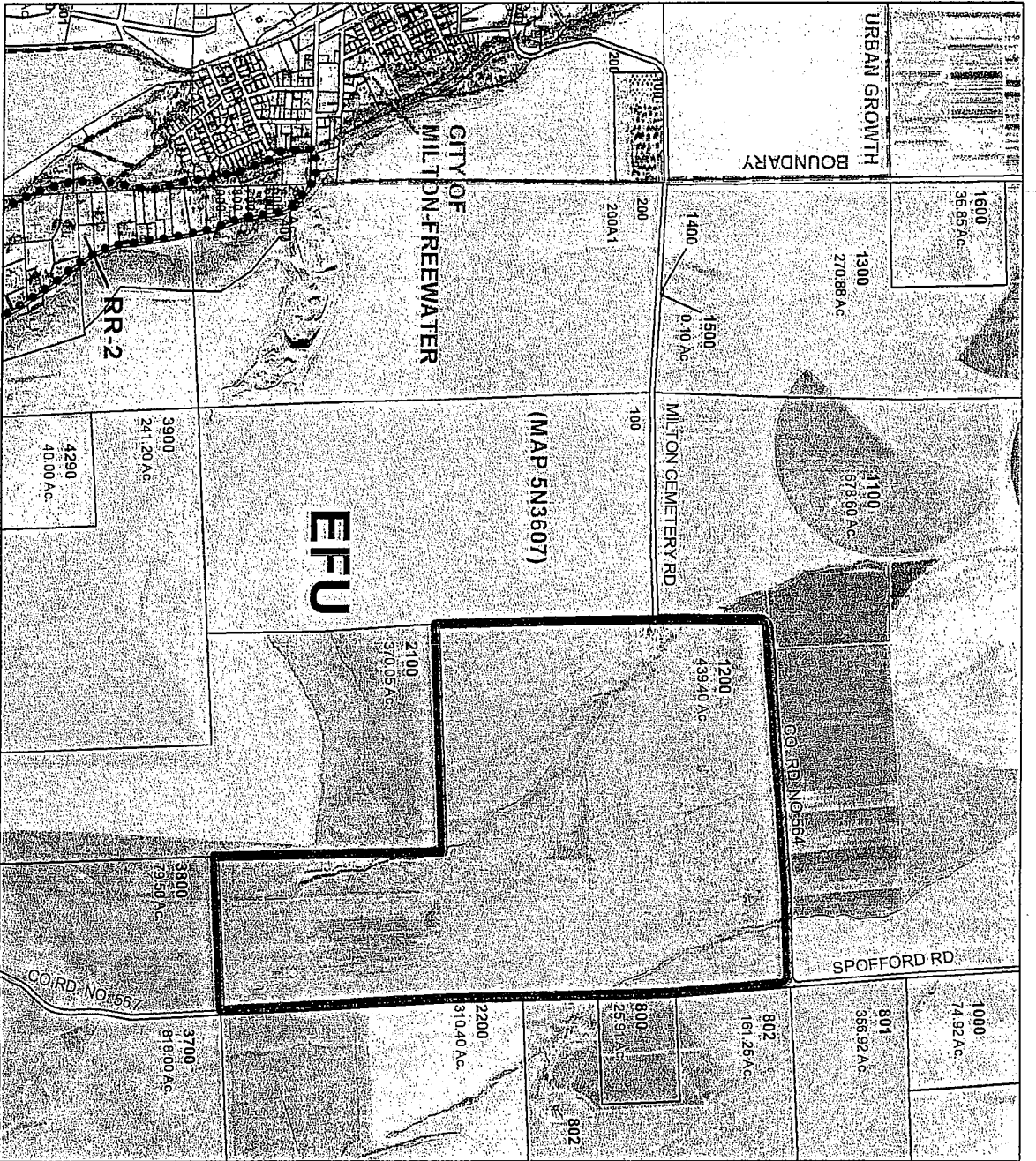
UMATILLA COUNTY PLANNING DEPARTMENT

Dated _____ day of _____, 20____

Tamra J. Mabbott, *Umatilla County Planning Director*

Mailed _____ day of _____, 20____





LAND USE DECISION #LUD-163-13
 EAST END ROD & GUN CLUB, APPLICANT
 MAP 5N36, TAX LOT 1200

SUBJECT PARCEL

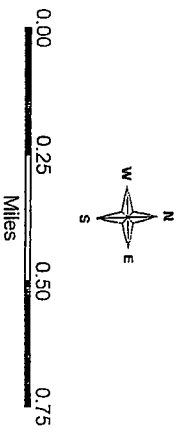
2012 AERIAL PHOTO

PROPERTY OWNERS WITHIN 750'
 NOTICE AREA OF SUBJECT PARCEL

MAP 5N36

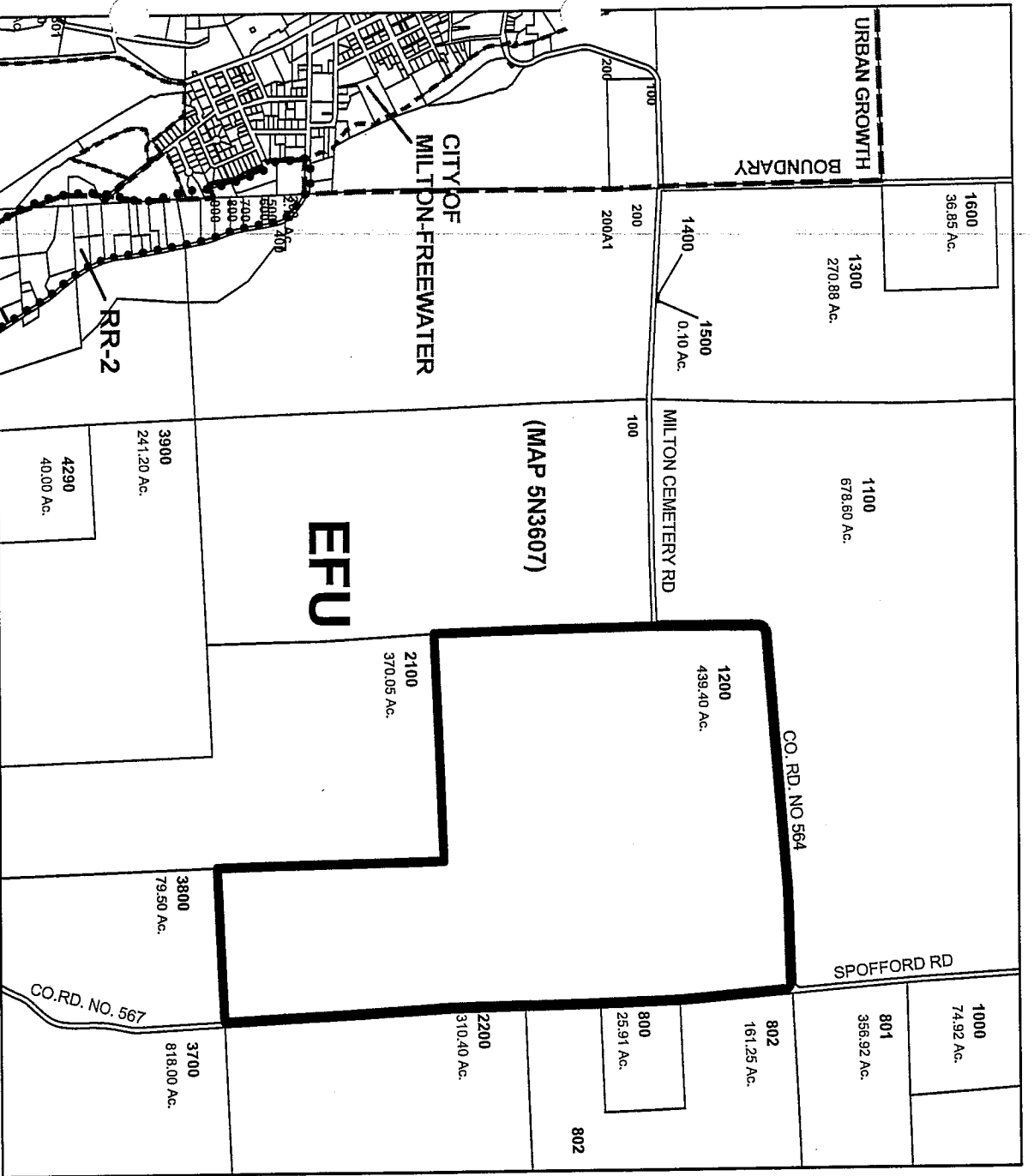
- 800 FARMERS PRODUCE OUTLET INC
- 801 PETERSON LES A & MARY M
- 802 FARMERS PRODUCE OUTLET INC
- 1100 REA DENNIS C
- 1200 VONDERAHE INC
- 2100 GARRIOTT MARCENE (TRS)
- 2200 KINMAN BERTON & BEVERLY
- 3700 TALBOTT SUSAN (TRS)
& LAWRENCE RANCHES
- 3800 C/O LAWRENCE RANCHES INC
KINMAN BERTON & BEVERLY
C/O BERTON K KINMAN

MAP 5N3607
 100 SCHULTZ GARY



DATE: 9/18/13

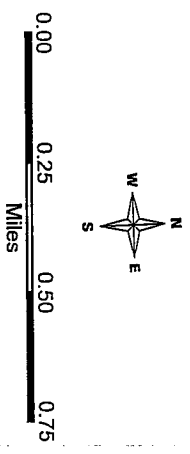
MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by J. Alford, Umatilla County Planning Dept. Y:\workspace\planning\vicinity maps\E-H\EastEndGunClub_LUD-163_13.gws



PROPERTY OWNERS WITHIN 750'
NOTICE AREA OF SUBJECT PARCEL

- MAP 5N36**
- 800 FARMERS PRODUCE OUTLET INC
 - 801 PETERSON LES A & MARY M
 - 802 FARMERS PRODUCE OUTLET INC
 - 1100 REA DENNIS C
 - 1200 VONDERAHE INC
 - 2100 GARRIOTT MARCENE (TRS)
 - 2200 KINMAN BERTON & BEVERLY
 - 3700 C/O BERTON K KINMAN
 - 3700 TALBOTT SUSAN (TRS) & LAWRENCE RANCHES
 - 3800 C/O LAWRENCE RANCHES INC
 - 3800 KINMAN BERTON & BEVERLY
 - 3800 C/O BERTON K KINMAN

MAP 5N3607
100 SCHULTZ GARY



DATE: 9/18/13

LAND USE DECISION #LUD-163-13
EAST END ROD & GUN CLUB, APPLICANT
MAP 5N36, TAX LOT 1200

SUBJECT PARCEL

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 J. Allford, Umatilla County Planning Dept. y:\workspaces\planning\vicinity maps\E-H\EastEndGunClub\163_13.gws

R.A. "ANDY" MILLAR, P.C.
ATTORNEY AT LAW

EIN # 93-1171033
amillar2012@gmail.com

Fee waived by
BOC on 9-18-13
T.M.

920 S. MAIN, P.O. BOX 388...MILTON-FREEWATER, OR 97862...TELEPHONE (541) 938-4485...FAX 938-0328

September 10, 2013

RECEIVED

SEP 11 2013

Tamra Mabbott
Umatilla County Planning Department
416 NE 4th Street
Pendleton, OR 97862

UMATILLA COUNTY
PLANNING DEPARTMENT

Re: Land Use Application East End Rod & Gun Club

Dear Tamra:

Attached is the land use application for firearms training facility under the provisions of ORS 197.770.

As I understand from Commissioner Givens, the \$500.00 filing fee has been waived.

Attached to the application is my affidavit dated August 14th, 2013 and statements of min, Robert Sallee, Larry Zalaznik, Buddy Birdwell, and Malcolm Millar which sets forth when initial use began by the club in the spring of 1994 of the 5 stand sporting clay shoots which were conducted under the auspices of the National Sporting Clays Association.

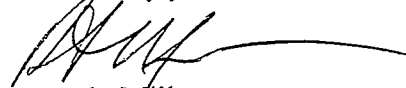
We are attempting to get some more information on when law enforcement shoots commenced on the property; however additional research is necessary on that end.

Suffice it to say however, the statements of myself and others as well as my affidavit of August 14th establish that:

1. Hunter Safety Education Training commenced on April 24th, 1993 at the present site. This training is conducted as a program of Oregon Department of Fish and Wildlife and provides certification for successful completion, and
2. The Sporting clay shoots conducted initially in the Spring of 1994 and continually thereafter, provide training for shotgunners under a nationally recognized program known as the National Sporting Clays Association to promote shooting matches, target shooting and safety.

If there is any additional information your department needs to finalize this application, please contact me soonest. Thanks to both you and your staff for all your patience and professional courtesies in this drawn out matter.

Sincerely yours,


Andy Millar

Am. - 541 379-9735

LUD-163-13

Umatilla County Department of Land Use Planning Land Use Request Application

*500

This application must be submitted to the Umatilla County Department of Land Use Planning, 216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252, and must be accompanied by a non-refundable application fee. Acceptance of the application and fee does not guarantee approval or a Determination of Completeness.
PLEASE COMPLETE THIS APPLICATION PRINTING CLEARLY WITH A BLACK INK PEN

Section 1: Type of Application(s) to Submit

Complete the applicable Supplemental Application that corresponds with the application you are submitting.

- Amendment: Comprehensive Plan Text/Map, Zoning Text/Map
- Conditional Use (briefly describe) _____
- Land Division Type I, Type II, Type III, Type IV
- Land Use Decision Farm Dwelling, Non-Farm Dwelling, Lot of Record Dwelling
- (OTHER LUD, briefly describe) Continue Umatilla Training Facility per ORS 197.770
- Pre-Application Dwellings on resource land (specify) _____
- Variance Lot Size, Setbacks, Other (specify) _____

Section 2: Contact Information

Name of Applicant: Andy Mullar for East End Rod & Gun Club

Address: PO Box 251

City, State, Zip: Milton-Freewater, OR 97862

Telephone Number & Email Address: 541 938-4485 amillar2012@gmail.com

The APPLICANT is the ... Legal Owner, Contract Purchaser, Agent, Realtor

Name of Current Property Owner(s): Von Der Ahe, Inc %o Janis Bledsoe
If Property Owner is not the applicant.

Address: 401 Parkview

City, State, Zip: Milton-Freewater, OR 97862

Telephone Number: 541 938-5213

Section 3: Property Information

Complete for all land use request applications.

1. Location of Property (Provide directions you would give someone to get to the property):

2. Account Number(s) of Property:

Account # _____

Account # _____

3. Map Number(s) of Property:

Township _____ Range _____ Section _____ Tax Lot _____

Township _____ Range _____ Section _____ Tax Lot _____

Use separate sheet of paper for ENTIRE Legal Description and mark it "Exhibit A".

4. Has the Property or dwelling received a Rural Address? If so, what is it?

Yes
 No

5. Current size of the Property:

Note: A "TRACT OF LAND" is contiguous property within the same ownership. A Tract is viewed differently at times in terms of land use.

Acres _____

Acres _____

6. Current Zoning Designation:

There are some 22 zoning designations in Umatilla County.

EFU
 GF

Other Zone _____

7. Comprehensive Plan Designation:

A Comprehensive Plan Designation is different than a Zoning Designation in that it distinguishes land that should be developed for various uses, where zoning actually specifies the uses. There can be multiple zoning designations within a Comprehensive Plan Designation.

Agri-business
 Commercial
 Grazing/Forest
 Industrial
 Multi-Use

North/South Agriculture
 Orchard District
 Rural Residential
 Special Agriculture
 West County Irrigation District

8. Buildings on the Property:

9. Current Use of the Property. If the use is farming, explain the types of crops grown.

10. Surrounding Uses of the Property. If the use is farming, explain the type of crops grown.

Farming - CEP

Section 3: Property Information

Complete for all land use request applications.

1. Location of Property (Provide directions you would give someone to get to the property):
54752 Cemetery Rd. Milton-Freewater, OR 97862. Turn east on SE 9th Ave. Milton-Freewater staying on this street until you cross the bridge over the Walla Walla River. Continue on Cemetery Rd for 1 1/2 miles until you come to a 90 deg corner. Pull in the driveway on this corner and follow it to the right through the gate.

2. Account Number(s) of Property: Account # 134104
Account # _____

3. Map Number(s) of Property: Township T5N Range R36E Section 5&8 Tax Lot 1200
Township _____ Range _____ Section _____ Tax Lot _____
Use separate sheet of paper for ENTIRE Legal Description and mark it "Exhibit A".

4. Has the Property or dwelling received a Rural Address? If so, what is it? Yes 54752 Cemetery Rd Milton-Freewater
 No

5. Current size of the Property:
Note: A "TRACT OF LAND" is contiguous property within the same ownership. A Tract is viewed differently at times in terms of land use.
Acres 439,40
Acres _____

6. Current Zoning Designation: EFU Other Zone _____
There are some 22 zoning designations in Umatilla County. GF

7. Comprehensive Plan Designation:
A Comprehensive Plan Designation is different than a Zoning Designation in that it distinguishes land that should be developed for various uses, where zoning actually specifies the uses. There can be multiple zoning designations within a Comprehensive Plan Designation.
 Agri-business North/South Agriculture
 Commercial Orchard District
 Grazing/Forest Rural Residential
 Industrial Special Agriculture
 Multi-Use West County Irrigation District
wrong N/S Ag

8. Buildings on the Property:
House, Garage, Equipment Sheds, portable containers

9. Current Use of the Property:
Farmland, non-irrigated

10. Surrounding Uses of the Property:
Agriculture dry land farm, Vineyard and irrigated farm land.

11. Does the Property reside in a Floodplain? If so, an Elevation Certificate and the criteria of the Flood Hazard Overlay Zone will need to be completed prior to construction.

- No, the Property is not in a floodplain.
 Yes, the Property is in a floodplain:

Zone
Community Number
Panel Number

12. If the Property is in a Floodplain then is it also located in a wetland as listed on the National Wetlands Inventory maps?

- Yes, provide documentation.
 No, the Property is not in a wetlands

13. How is ACCESS provided to the Property? (i.e. provide name of road that directly serves the Property.) What type of surface does the roadway have?

Name of Road or Lane
Milton-Freewater Cemetery Road
 Paved, Gravel, Dirt

14. Will the Property need an Access Permit onto a County Road or State Highway? If so contact the County Public Works Department, 541-278-5424, or ODOT, 541-276-1241.

- Yes, if so please contact the proper authority and provide that documentation
 No, one already exists (provide a copy)

15. EASEMENTS: Are there any easements on the Property that provide the MAIN ACCESS for the Property OR adjacent properties? Are there any other easements on the property? Attach easement documentation.

Attach easement documentation:

- Access easements exist
 Utility line easements exist
 Irrigation easements exist
 Other easements exist:
 No, other easements exist.

check deed

16. Which Rural Fire District/Department covers your Property with fire protection?

Fire Services:

- East Umatilla
 Echo Rural
 Helix Rural
 Hermiston Rural
 Pendleton FD
 Pilot Rock FD
 Stanfield Rural
 Umatilla Rural

Private Companies:

- Meacham
 Milton-Freewater (subscriber)
 Tribal
 Not in a RFD
 Other,

confirm

17. Is the Property within an Irrigation District? If the property is served by an Irrigation District, a confirmation letter from that office discussing any concerns of the proposed development must be submitted with this application.

Irrigation District:

- Hermiston
 Stanfield
 West Extension
 Westland

Hudson Bay or Walla Walla River Irrigation

- Not in an ID
 Other,

Documentation states no water rights on property

18. Describe the soils on the Property by listing the map name and land capability. Visit <http://websoilsurvey.nrcs.usda.gov> or contact NRCS at (541) 278-8049.

Map Unit	Description	Class
OR667	Farmland of statewide import	8C
OR667	All areas are prime farmland	8B
OR667	Prime Farmland if Irrigated	61A

See Applicant's map.

19. What type of water use(s) exist on the Property? If there are none currently, will there be water uses developed in the future?

- No current water uses exist
- Water Uses to be developed:
- Yes, there are water uses
 - Domestic Well
 - Irrigation Well
 - Stock Well
 - Other: _____

20. Are there Water Rights on the Property? If there are Water Rights, the water permit, certificate and/or other documentation from the Oregon Water Resources Department shall be included with this application.

- No current water rights exist
- Will apply for Water Rights
- Yes, there are water rights, please provide documentation (permit #, etc.)
 - Surface Water Right, # _____
 - Ground Water Right, # _____

21. What are the water needs of the proposed development? Provide an explanation that shows how the determination was obtained that shows daily usage of water for the development.

- Expected Water Usage:*
- Exempt Domestic Well (<15,000 gal daily)
 - Exempt Commercial Well (<5,000 gal daily) ← ? N/A per Well
 - Water Right required, estimated number of gallons to be used daily: _____ gallons
 - No water is necessary for the development

22. What is the source of your water supply for the proposed development? Please explain your response on a separate sheet of paper.

- Water Source:*
- Surface Water, explanation attached
 - Alluvial Groundwater, explanation attached
 - Basalt Groundwater, explanation attached
 - No water is necessary for the development

23. Who is the provider of the utilities for the Property?

Water well, or _____

Sewer septic, or dry well _____

Telephone Century Link

Electrical Milton Freewater City Light & Power

Garbage Disposal Humbert Refuse

24. Provide a description of your proposal (attach a description if necessary):

We would like to develop a private park dedicated to the advancement of safe shooting sports with a commitment to youth programs such as 4-H, Boy Scouts as well as Oregon State Hunter Safety programs. For the last several years we have also hosted the Milton-Freewater Junior show small-bore competition. We also hold a women's safety clinic annually in affiliation with the NRA. We would like to provide a place to do this safely as well as offer a place for our general membership to safely pursue their interest in the shooting sports. We also offer a variety shooting disciplines for competitive shooting.

AFFIDAVIT IN SUPPORT OF
EAST END ROD AND GUN CLUB
CONDITIONAL USE APPLICATION

STATE OF OREGON)
)
County of Umatilla)

I, R. A. Andy Millar, under penalty and perjury, say the following:

1. I am a certified Oregon Hunter Education/Safety Instructor for the Milton-Freewater area. In late fall of 1992, I approached Pete VonDerAhe who owned the property located at 54752 Milton-Freewater Cemetery Road in regards to utilizing a portion of that property for a firearms training facility for Hunter Education Students. A major part of the training of Hunter Education Students is firearms handling and proficiency as well as live fire of rifles and shotguns. The VonDerAhe property location layout and terrain was safe and conducive for realistic training of the students. The property was in the USDA Conservation Reserve Program at that time. This type of training was allowed by USDA rules and the Pendleton USDA CRP officials. Mr. VonDerAhe gave me approval to start with the Hunter Education Range and Field activities in our next spring class.
2. On April 24th, 1993, we conducted the first Range and Field Day at the present facility. Not only were the students trained in marksmanship and conducted live fire of rifles and shotguns, the students also demonstrated their proficiency in handling firearms when crossing fences and other obstacles, entering and exiting a vehicle, hunting 3 abreast, walking on trails with others in front, behind, or to the side and shoot-don't-shoot scenarios. After successfully completing the training and testing at the site, the students were certified by Oregon Department of Fish and Wildlife.
3. Beginning in 1993 a minimum of two classes of student per year have participated in the firearms training and testing with the resulting certification from ODF&W which was required for juvenile hunters to be able to hunt.
4. In early spring of 1994 the East End Rod & Gun Club began conducting 5 stand sporting clay shoots on a monthly basis at Mr. VonDerAhe's urging.

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AUG 15 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

5. The training programs have grown to include certification of shooters, as well as Range and Safety officers for Single Action Shooters Society, National Rifle Association and Washington State Department of Corrections SWAT and Sniper training.

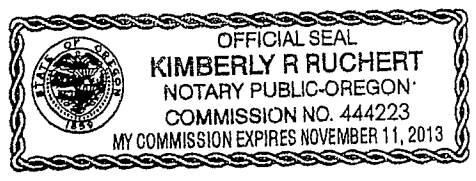
Dated this 14th day of August, 2013.

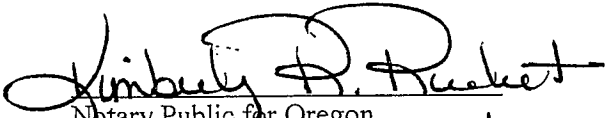

R. A. ANDY MILLAR

STATE OF OREGON)
) ss.
COUNTY OF UMATILLA)

DATED: 8/14/2013

Personally appeared the above named, R. A. Andy Millar and acknowledged the foregoing to be a voluntary act. Before me:




Notary Public for Oregon
My Commission Expires: 11/11/13

August 21, 2013 2:08 PM

Sherry Sallee <redsherry@charter.net>
To: Robert Sallee <redsherry@charter.net>
Lt...

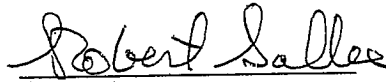
1 Attachment, 5 KB

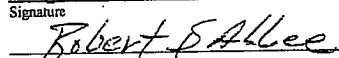
To: Umatilla County Planning Commission
Attn: Tamra Mabbott
216 SE 4th Street
Pendleton, OR 97801

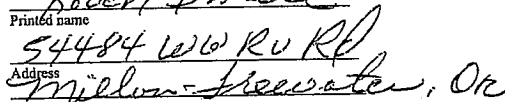
RE: East End Rod & Gun Club Conditional Use Application

I am a former member of the East End Rod and Gun Club in Milton-Freewater, Oregon. I was a member of this same organization when we began shooting sporting clays on a monthly basis in the spring of 1994 on the property, then owned by Pete VonDerAhe, located at 54752 Milton-Freewater Cemetery Road.

Not only was I a member of the East End Rod & Gun Club at that time, but I also participated in the sporting clay shoots on a regular basis in the spring of 1994 and subsequent, so I have personal knowledge of the activities we conducted on that property since 1994.


Signature


Printed name


Address

97862

To: Umatilla County Planning Commission
Attn: Tamra Mabbott
216 SE 4th Street
Pendleton, OR 97801

RE: East End Rod & Gun Club Conditional Use Application

I am a current member of the East End Rod and Gun Club in Milton-Freewater, Oregon. I was also a member of this same organization when we began shooting sporting clays on a monthly basis in the spring of 1994 on the property, then owned by Pete VonDerAhe, located at 54752 Milton-Freewater Cemetery Road.

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malcolm J. millar
Signature

MALCOLM J. MILLAR
Printed name

52794 County Road
Address
MILTON-FREEWATER OREGON
97862

To: Umatilla County Planning Commission
Attn: Tamra Mabbott
216 SE 4th Street
Pendleton, OR 97801

RE: East End Rod & Gun Club Conditional Use Application

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Buddy Birdwell
Signature

Buddy Birdwell
Printed name

54346 Walla Walla River Rd.
Address
Milton Freewater OR. 97862

To: Umatilla County Planning Commission
Attn: Tamra Mabbott
216 SE 4th Street
Pendleton, OR 97801

RE: East End Rod & Gun Club Conditional Use Application

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Larry Zalaznik
Signature
Larry Zalaznik
Printed name

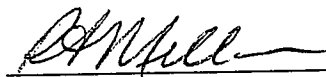
1321 Rooster Rd.
Address
Walla Walla, WA 99362

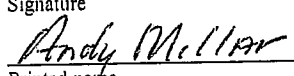
To: Umatilla County Planning Commission
Attn: Tamra Mabbott
216 SE 4th Street
Pendleton, OR 97801

RE: East End Rod & Gun Club Conditional Use Application

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Signature


Printed name
920 S. MAIN

Address
Milton-Freewater, OR 97862

COREY, BYLER, REW, LORENZEN & HOJEM, L.L.P.
ATTORNEYS AT LAW

STEVEN H. COREY*
DOUGLAS E. HOJEM
DAVID M. BLANC*
TIMOTHY P. O'ROURKE
STEVEN N. THOMAS
KARIN E. DALLAS
JENNIFER E. CURRIN
PATRICK M. GREGG

222 S.E. DORION AVE.
P.O. BOX 218
PENDLETON, OREGON 97801-0218

TELEPHONE (541) 276-3331
FAX (541) 276-3148

HENRY C. LORENZEN, OF COUNSEL

ROBERT E. O'ROURKE, RETIRED
GEORGE H. COREY, DECEASED
ALEX M. BYLER, DECEASED
LAWRENCE B. REW, DECEASED

*Admitted in Oregon and Washington

December 12, 2013

Ms. Tamra Mabbot
Planning Director
Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

Re: East End Rod & Gun Club
Land Use Request #LUD-163-13
Our File No. 113-398

Dear Tamra:

As you know our law firm represents H.T. Rea Farming Corp., a fourth generation family farming corporation that owns and operates an irrigated and dry land farm near Milton-Freewater. H.T. Rea Farming Corp. is operated by Dennis and Laura Rea and their son Nathan Rea. Dennis and Laura Rea's home is less than 1.3 miles from the East End Rod & Gun Club's location.

You have asked that we provide to you a summary of the Rea's objections to the East End Rod & Gun Club's efforts to obtain a Conditional Use Permit. The application filed by the East End Rod & Gun Club seeks the Planning Commission's approval of the continued operation of the gun club's activities on an 85 acre parcel, an expansion onto an additional 35 acres not previously used by the gun club, and an increase in the intensity of the use of the 85 acre parcel. The Reas object to the East End Rod & Gun Club's Conditional Use Application.

This letter is being provided at your request so that you can incorporate it into your staff report. Please note the Reas intend to appear at the hearing and present additional testimony, evidence, and analysis regarding their opposition to the East End Rod & Gun Club. Thus, this letter is not an exhaustive, nor exclusive, listing of their objections nor do the Reas intend to waive any arguments that might be available to them but that are not set out in this letter. Consistent with the applicable laws and regulations that permit them to do so the Reas intend to appear and present testimony and evidence consisting of their complete objections to the East End Rod & Gun Club's proposal to the Planning Commission on December 19, 2013, at 6:00 p.m.

The Reas generally object to the continued presence of the East End Rod & Gun Club in its present location. The East End Rod & Gun Club's has never obtained land use approval for its operations. With respect to the club and its members, its use is inconsistent with the EFU zone in which it is located and a gun club conflicts with the farming activities of the EFU zone. Respectfully, the Reas believe the East End Rod & Gun Club facility should be located elsewhere, in a non-EFU zoned area of Umatilla County.

With regard to specific issues the Reas note, at this time, the following deficiencies with the East End Rod & Gun Club's application:

i. ORS 215.296 was improperly applied.

The analysis on pages 5 and 6 of the Preliminary Findings and Conclusions fails to address the impact of the East End Rod & Gun Club on the accepted farm practices on the surrounding lands. Specifically, the Preliminary Findings and Conclusions fail to address the impact on or the activities related to irrigated agriculture. H.T. Rea Farming Corp. has irrigated farm land adjacent to the East End Rod & Gun Club, and immediately bordering the land the East End Rod & Gun Club proposes to expand to. The County needs to consider the impact of the East End Rod & Gun Club on this labor intensive irrigated agriculture operation. The Preliminary Findings and Conclusions contain no discussion of this issue.

The Reas intend to present evidence that the entire East End Rod & Gun Club is inconsistent with the purposes of the EFU zone and that the proposed increase in use on the 85 acre parcel and the 35 acre proposed expansion will increase conflicts with the farming in the area—beyond the conflicts that already exist—and will increase the cost of existing farm practices under ORS 215.296 (1)(b) and force significant changes in their irrigated agricultural operations, thus causing the East End Rod & Gun Club to violate ORS 215.296 (1)(a). Thus, the Reas believe the East End Rod & Gun Club's conditional use permit should be denied.

ii. The conditions applied under Ordinance 152.615 require further definition and expansion.

In addition, the Preliminary Findings and Conclusions do not contain specific conditions applicable to the East End Rod & Gun Club's Conditional Use Permit. At present, pages 7 through 12 contain insufficient analysis and do not impose specific enough conditions. First, the East End Rod & Gun Club's hours should be limited—shooting to occur no earlier than 8:00 a.m. on weekdays, 10:00 a.m. on weekends, and ceasing at 7:00 p.m. or dark, whichever is earlier, at all times of the year. Allowing shooting to occur at earlier or later times will interfere with the activities of the neighbors and the Reas and will unduly disturb weekend mornings. The Reas intend to present evidence to this effect. Imposing a condition that limits shooting to "daylight hours" is too broad and is not enforceable.

And, there is no specificity regarding when "farming practices" will force the closure of the

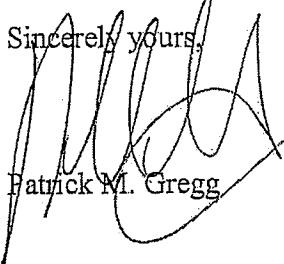
Ms. Tamara Mabbot
December 12, 2013
Page 3 of 3

East End Rod & Gun Club. Farming practices should be more specifically defined and a specific condition imposed, in accordance with Umatilla County Development Code Ordinance 152.615, indicating that the closure is required when "farming practices" are occurring.

Thank you for considering this information. The Reas intend to address these issues, and any others they identify before the December 19, 2013, hearing, in more detail at the hearing.

Please contact me if you wish to discuss anything further. Thank you.

Sincerely yours,



Patrick M. Gregg

Lawrence Ranches, Inc.

114 Lost Springs Lane
Waitsburg, WA 99361

Mailing Address:
738 Country Club Drive
Yakima, WA 98901

December 13, 2013

Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

Re: East End Rod & Gun Club
Land Use Request #LUD-163-13

Oregon Address:
54626 Walla Walla River Road
Milton-Freewater, OR 97862

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DEC 13 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Dear Members of the Planning Commission:

Our family farm corporation, Lawrence Ranches, Inc. and I, individually, own farmland property near the East End Rod and Gun Club's existing shooting range and I am aware of the proposed expansion and request for special permitting of a firearms training facility on the site before the Umatilla County Land Use Planning commission. Our area, although close to Milton-Freewater, is rural in character and the overwhelming use of the land in our area is for agricultural purposes. Our family is concerned that if the East End Rod and Gun Club expands or obtains a permit in the Exclusive Farm Use zone it will have a negative impact upon the area and upon agricultural practices in our area. Specifically, we are concerned that this facility could have a significant negative impact on potential farmland values in our area for the current and future generations who own and operate farmland such as ours in this area.

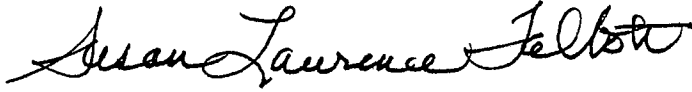
We are concerned about an increase of noise from shooting and about an increase in traffic along our roads with more people being drawn to the gun club facilities. Increased traffic would conflict with the farmers in our area, who regularly use the roads to access their farm fields and move farming equipment. We have already experienced problems with trespassing in our fields and feel that an increase in traffic might bring more incidents of that type.

We are also concerned about the possibility of errant bullets or shotgun pellets leaving the gun club's property. There are a number of roads in the area and increased use of the gun club could increase the danger to the residents and those conducting farming in our rural area. In fact, our land is currently located in the approximate direction of rifle and gun fire that occurs on the existing shooting range.

Exhibit
#1

These reasons are why I am asking that Umatilla County deny this land use request. It seems prudent that gun club find a more suitable location outside of an Exclusive Farm Use zone to conduct its business in a safer and less disturbing way to our area.

Best regards,

A handwritten signature in cursive script that reads "Susan Lawrence Talbott". The signature is written in black ink and is positioned above the printed name.

Susan Lawrence Talbott

RECEIVED

DEC 17 2013

December 17, 2013

Umatilla County Planning Commission, Director Tamra Mabbot
RE: Land Use Decision 163-13 & Hearing December 19, 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Director Mabbot & people present at the public hearing:

I am an interested person regarding the land use application, and Reas complaints about the East End Gun Club (EEGC). I am out of state during the hearing so I am submitting my comments in writing to be considered during the opportunity to be heard hearing of Dec. 19, 2013.

Before addressing the specific complaints by the Rea family, and the land decision preliminary findings, I would like to address a few statutory issues. As you likely know, a basic principle of statutes involves plain language construction, and differences in mandatory requirements, and permissive requirements.

Accordingly I would like to point out to the public that the word "shall" used in a statute is a mandatory requirement. The legislature leaves no discretion to the enforcing or governing body when "shall" is used. Alternatively, the word "may" is permissive and the governing body has discretion to do or not do, whatever follows "may."

Reas complaints:

First I would like to point out the letter from the Reas family indicates there has been a violation of ORS 215.296, and that the violation has cause both requirements in "*forcing a significant change in accepted farm practices,*" and by causing a *significant increase in cost* to accepted farm practices.

However, no evidence has been provided regarding when, where, or how a violation occurred; nor do they provide receipts, documents, or any form of evidence indicating their accusation is true. Therefore, at this point it is unclear how EEGC, the public, or the Commission is supposed to respond to the complaints without any particularity of the accusations. However, I would still like to comment regarding each allegation in the letter because I will not be present at the hearing where such evidence may or may not be produced.

1. Reas complaint against the East End Gun Club's continued presence and operation in the present location.

ORS 197.770, UCDC 152.059(E) & UCDC 152.617(II)(5) not only allow for a firearm training facility to continue to operate, but require it. The statute says a "facility in existence on September 9, 1995 shall be allowed to continue operation until such time as the facility is no longer used as a firearms training facility."

Because the Commission concludes that the East End Gun Club is in fact still a firearms training facility, there is no other discretion regarding whether or the not the EEGC can, or should be allowed to continue operation. It "shall be allowed to continue." I agree with the Commissions preliminary finding that it is required by the legislature to allow the East End Gun Club to continue to operate as a firearms training facility in its current location.

2. Reas complain the East End Gun Club never obtained land use approval previously.

As the above statute, ORS 197.770, UCDC 152.617(II)(5), and UCDC 152.059 show, that is not accurate. The statute requires the grant of authority to continue operation so long as EEGC is a firearms training facility. The three rules grant the land use approval very specifically for firearms training facilities like East End Gun Club.

Additionally, when the EEGC applied for the land use permit previously, the Commission at the time failed to consider the above discussed statute and rules which grandfather in firearms training facilities. The Commission at the time also failed to note the significant difference between a "new" facility and a facility that was in existence prior to September 9, 1995. Regardless, the land use approval is very specific under ORS 197.770, UCDC 152.059(E) & UCDC 152.617(II)(5) allowing the East End Gun Club's land use as a firearm training facility.

Finally, EEGC also has land use approval through a prior conditional use permit under ORS 215.213(2)(e) & UCDC 152.617(I)(O) because of the prior mistake ignoring ORS 197.770, UCDC 152.617(II)(5) & UCDC 152.059(E). Therefore, the East End Gun Club actually has land use approval under the **mandatory** grandfathering under ORS 197.770 / UCDC 152.059(E) / UCDC 152.617(II)(5) **AND permissive** land use approval under ORS 215.213(2)(e) / UCDC 152.617(I)(O).

My opinion and conclusion regarding this complaint is the same as the preliminary findings conclusion of the Commission on LUD-163-13, the East End Gun Club has land use approval as an existing firearms training facility under ORS 197.770 / UCDC 152.059(E) / UCDC 152.617(II)(5). Therefore, the additional permissive land use approval under ORS 215.213(2)(e) & UCDC 152.617(I)(O) only matter if there were conditions imposed on the permissive land use approval, and those conditions were violated. See further discussion under #4 below.

3. The Reas family "believes" EEGC should be located outside the EFU zone because it is inconsistent with the EFU farming purpose.

There are multiple issues with this complaint. First, under UCDC 152.003, "Conditional Use" is defined as:

"Activities that are similar to other activities permitted within a zone, but are not entirely compatible with the permitted uses or purpose and intent of the zone, or compatible with surrounding land uses on adjacent lands in another zoning district."

In this case, the "other activities permitted within a zone" is the East End Gun Club as a firearms training facility. The "activities that are similar" to them involves the September 2013 application to expand and add trap & skeet shooting – which I understand is a moot point now because the land lease deal fell through. Further the Reas don't complain against adding trap & skeet shooting, but rather complain against allowing the East End Gun Club to operate within the EFU zone at all.

Conditional use further includes, "...but are not entirely compatible with the...purpose and intent of the zone..." In essence, the **conditional use permits were created not to restrict land use within EFU zones, but rather to authorize other uses that are not compatible with the purpose of the EFU zone.** Therefore, regardless that the Reas family believes EEGC should not be in the EFU zone, and

that it may in fact be not compatible with the purpose of an EFU zone, those are not valid legal reasons to restrict, or prevent the operation of the East End Gun Club. In fact, the Reas family reasons directly contradict the legislative intent of the conditional use permits. This complaint has no legal merit.

4. The Reas family indicates the land use decision findings fail to address the impact on farming.

The Reas family are the complainants. They have the burden of proof to demonstrate evidence not just of *potential* impact upon farming, but to **prove actual adverse impact on their personal farm caused by violations of conditions imposed upon the East End Gun Club**. Neither the governing body, the Commission, nor the defendants, the East End Gun Club, are required to put on evidence to prove the complaint is accurate.

The complainant is the party required to investigate actual adverse impacts, and to provide that proof to the governing body.

Additionally, the statute the Reas family alleges complaints under is ORS 215.296, which states:

ORS 215.296

(2) "An applicant for **a use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4)** may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied **through the imposition of conditions**. Any conditions so imposed shall be clear and objective."

Subsection 2 is about specific, objective conditions imposed previously by the governing body. Therefore the Reas must prove *previously imposed conditions* have been violated on the conditional use permit granted to EEGC under 215.213(e) before subsection 3 would even apply; which states:

(3) "A person engaged in farm or forest practices on lands devoted to farm or forest use may file a complaint with the local governing body or its designee alleging:

- (a) That a **condition** pursuant to **subsection (2)** of this section **has been violated**;
- (b) That the violation has:
 - (A) Forced a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
 - (B) Significantly increased the cost of accepted farm or forest practices on the surrounding lands devoted to farm or forest use; **and**
- (c) That the **complainant is adversely affected by the violation**."

It is unclear if the permissive land use approval previously granted under 215.213(2)(e) & UCDC 152.617(I)(O) had "clear and objective" conditions attached to the approval of the land use as a private park. If it did not have any, conditions could not have been violated.

Even if it did have conditions, no violation of any conditions has been alleged. The Reas only allege, without any evidence, forced significant changes and significant cost increases have *already adversely affected them* [215.296(3)(b)(A) & (B)]. However, you cannot get there without the first element **required** under 215.296(3)(a) being met.

Therefore, the Reas have no standing to complain under 215.296. Even if they were given standing, they have made only unfounded allegations and have not proven 1) any violations occurred, 2) any forced significant change in their accepted farming practices actually has occurred, 3) any significant increase in the cost of accepted farming practices has occurred, or 4) that 2 & 3 were caused by the violation, adversely affecting them.

Further, ORS 215 statutes for EFU discuss what (new) exceptions *may be established, not what exceptions were in existence at the time* the zoning was implemented. Nothing in the statute indicates it would be retroactive, and therefore neither 215.213 nor 215.283 are required to apply to the East End Gun Club retroactively when a firearms training facility has its own express exception.

Additionally, to reiterate, the East End Gun Club has been operating legally under ORS 197.770 / UCDC 152.059(E) / UCDC 152.617(II)(5) which do not have permissive language, but mandatory language requiring EEGC be allowed to continue to operate so long as it is operating as a firearms training facility. The Gun Club was established in 1947, although may not have provided continuous training until 1993/1994. Regardless it was a firearms training facility in existence prior to September 9, 1995 continuously through the present. Because ORS 197.770 / UCDC 152.059(E) / UCDC 152.617(II)(5) grant a **mandatory** approval of land use specific to firearms training facilities, this approved land use should override any potential conditional land use permit previously obtained caused by the prior Commission's error omitting the application of the above listed statute and codes.

Because the land use approval under ORS 197.770 / UCDC 152.059(E) / UCDC 152.617(II)(5) is mandatory, even if allegations of forced significant change in accepted practice, or significant cost increase, and adverse effect is proven, ORS 215.296 does not provide the proper place for the Rea's complaint. There are only two specific statutes listed for violations giving way to the complaint and proof, and none of these three are listed under 215.296.

5. The conditions under UCDC 152.615 in the preliminary findings require further definition.

The main complaint here is the noise and request to restrict the hours East End Gun Club is open. The rule states:

§ 152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

"In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority *may impose* the following conditions upon a finding that circumstances warrant such additional restrictions:

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

While the Reas family does complain about **potential** noise prior to 10am on weekends, 8am on weekdays, and after 7pm or dark every evening, there is no evidence of **actual** noise issues at any time.

Hopefully the irony of a noise complaint, *from a farmer*, is not lost on the Commission. Farmers historically work from predawn hours to past dark in lighted combines and tractors so loud

protective hearing equipment is required by law. A single tractor or piece of other farm equipment typically puts off an average of 100-120 decibels, for hours on end, days in a row. That is with only one tractor running. Multiple pieces of farm equipment running multiply the noise decibels.

From 1.3 miles away, neither a single shooter nor a bunch of shooters on the range cause the decibels to go as high or last as long as a farm tractor working. Although some gunshots can be louder than 100 decibels, sound barriers, distance traveled, and intervening terrain reduce the noise. The surrounding ridges, the berms and earth barriers at East End Gun Club can reduce the decibels by as much as half. Additionally because the earth barriers are porous, sound absorbs into them, which further reduces the amount of noise traveling. Finally, other normal noises, that can be as loud as gunfire, such as lawnmowers, traffic, weather/wind, cars backfiring, and other farm equipment, create cover for both the initial and any remaining noise after the 1.3 mile, 7040 foot, distance traveled between East End Gun Club and the Rea home.

Compare that to flat farm land, with no sound barriers, and multiple trucks or equipment running. The farm noise far outweighs that of the East End Gun Club on a typical farming day. Even on an event day at EEGC, there are more people and gunfire but the event does not last as long, or start as early as the farm noise. And the noise reduction strategies are in place permanently.

The county noise ordinance runs from 5am to 10pm daily in Umatilla County. The Reas propose they can make 100-120 decibel noise during all of those hours, for long periods of time, and it is fine, but it is not ok for EEGC to start at 8am and end at dark. Interesting theory, however hypocritical it may be.

They further claim that if East End Gun Club opens prior to 10am on weekends, it will "interfere with the activities of neighbors" and "unduly disturb weekend mornings." Again, it is ok for the Reas farm to unduly disturb every morning at 5am during the season, but possible intermittent noise for significantly shorter periods of time starting at 8am on a weekend is disturbing? Further, they claim it "will" unduly disturb - meaning, it hasn't, it doesn't, and they have no evidence of noise disturbance at a level that would lead to ***"a finding that circumstances warrant such additional restrictions."***

A second complaint regards when/if East End Gun Club can be forced to close during farming activities. According to the map, and the Commission's preliminary findings, the farm land belonging to the Rea family is not in the line of fire from East End Gun Club. The findings indicate there is a ***potential*** for some lead shotgun shot to land in the fall area within a small portion of land to the west from the shotgun area.

Although it was not previously an issue, East End Gun Club already had precautions in place to protect nearby farm workers. There is an option for farmers to notify them when they will be farming in the area, or if the farmers are seen, the black flag system is in place to prevent accidents. If the Commission is going to impose the condition of closure upon East End Gun Club, I agree that a better definition of when is necessary for both sides. What farming activities? How close an area? Does the entire club have to close, or just the shotgun area with the only potential to get to the farm land? What I would like to see from this is preventing a farmer from claiming he is participating in farming activities within a designated zone and keeping the Gun Club closed all day for any reason (he's having an event,

or he just walks the edge of the property once an hour to keep it quiet that day). The potential for abuse is too large if any farmer has the power to close the East End Gun Club without stringent, clear, objective guidelines.

In conclusion, the complaints alleged by the Reas family are hypocritical, have no legal merit, and the Reas have no legal standing to make them. Additionally, they have provided no evidence to prove any of the finger pointing allegations, nor even specifically given a reason without evidence backing it up. The complaints are vague accusations using the statute language without providing any documentation, or other evidence to prove anything.

As discussed in depth above, the East End Gun Club has land use approval as a firearms training facility with the only conditions imposed being they continue to meet the definition of a training facility under the statute. East End Gun Club has not violated that condition, and continues to meet the definition. Therefore, the Reas have no standing to make complaints under 215.296 regarding other types of land use approval.

However, even if the Commission allows the complaint, the Reas have provided no evidence of any violation, no evidence of the violation **forcing** them to **significantly change accepted farm practices**, no evidence of the violation causing **significant increase in costs of accepted farming practices**, and no evidence of any **adverse effect** on them. Therefore, all complaints should be denied for lack of evidence.

Finally, although the Commission has discretion to add conditions, such as restricting open hours for East End Gun Club, without facts proving there are "*circumstances that warrant such additional restrictions*" there is no reason to impose any additional conditions. The Land decision only includes odd pages (all even numbered pages were missing) so I am not certain that some circumstances were not shown, but the complaint indicates no facts, only the potential for annoyance.

Therefore, I respectfully request the Commission deny every allegation in the Rea's complaint and allow East End Gun Club to continue to operate in its current location with only the conditions it currently has, maintaining status as a firearms training facility.

Sincerely,

Sheri M. Miller
Woman on Target Event Participant
803 Newell St.
Walla Walla, WA. 99362
distantoneme@yahoo.com

2118 Blue Creek Road
Walla Walla, WA. 99362
December 15, 2013

RECEIVED

DEC 17 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Ms. Tamra Mabbot
Planning Director
Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

RE: East End Rod & Gun Club
Land Use Request #LUD-163-13

Dear Ms. Mabbot:

I am writing on behalf of Boy Scout Troop 305 in Walla Walla, WA. to request your consideration and favorable recommendation for the Land Use Request #LUD-163-13. Our Troop has been receiving the benefit of this range and the East End Rod & Gun Club members for many years. I have been involved with Cub and Boy Scouts for the past 14 years and I have seen numerous young men learn how to safely handle fire arms, earn merit badges and lifelong skills.

Due to my travel schedule for work I will be unable to be at the upcoming hearing and would hope that you relay this request. I can be reached for further input via the above noted address or by phone at 509.529.1780 –Home or 509.520.0032 – Cell. Thank you for your time and consideration.

Sincerely



Don Zimmerman

Exhibit
#3

RECEIVED

Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

DEC 17 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Re: East End Rod & Gun Club
Land Use Request #LUD-163-13

Dear Members of the Planning Commission:

We live less than two miles from the East End Rod and Gun Club's existing shooting range and are aware of the proposed expansion and request for special permitting of a firearms training facility on the site before the Umatilla County Land Use Planning commission. Our area, although close to Milton-Freewater, is rural in character and the overwhelming use of the land in our area is for agricultural purposes. We are concerned that if the East End Rod and Gun Club expands or gets permitted in the Exclusive Farm Use zone it will have a negative impact upon the area and upon agricultural practices in our area. Specifically, we are concerned that this facility could have a significant negative impact on potential farmland values in our area for the current and future generations who own and operate farm and orchard land such as ours in this area.

As it exists in its current location, we can regularly hear gunshots from the shooting range. These gunshots have a tendency to be quite disruptive, especially during weekend mornings and evenings. If the gun club is allowed to expand on its existing footprint, or expand into new land to the north as proposed, we are concerned that there will be an increased amount of undesirable noise from shooting. These have the possibility of significantly altering the nearby community and farming area.

We have also noticed a significant increase in auto traffic on LeFore Rd and the gravel section of Grant Rd that can be attributed to Gun Club activity. This auto traffic often exceeds the local speed limits, traveling much faster than local resident and farm traffic.

It seems like the best option is for the gun club to find a more suitable location outside of an Exclusive Farm Use zone to conduct its business in a safer and less disturbing way.

These reasons are why we are asking that Land Use Planning commission and Umatilla County deny this land use request. Should the shooting range be permitted to continue in its existing location, we ask that the planning commission consider meaningful conditions on the existing and future uses to protect our farmers and neighbors who live and work in this area.

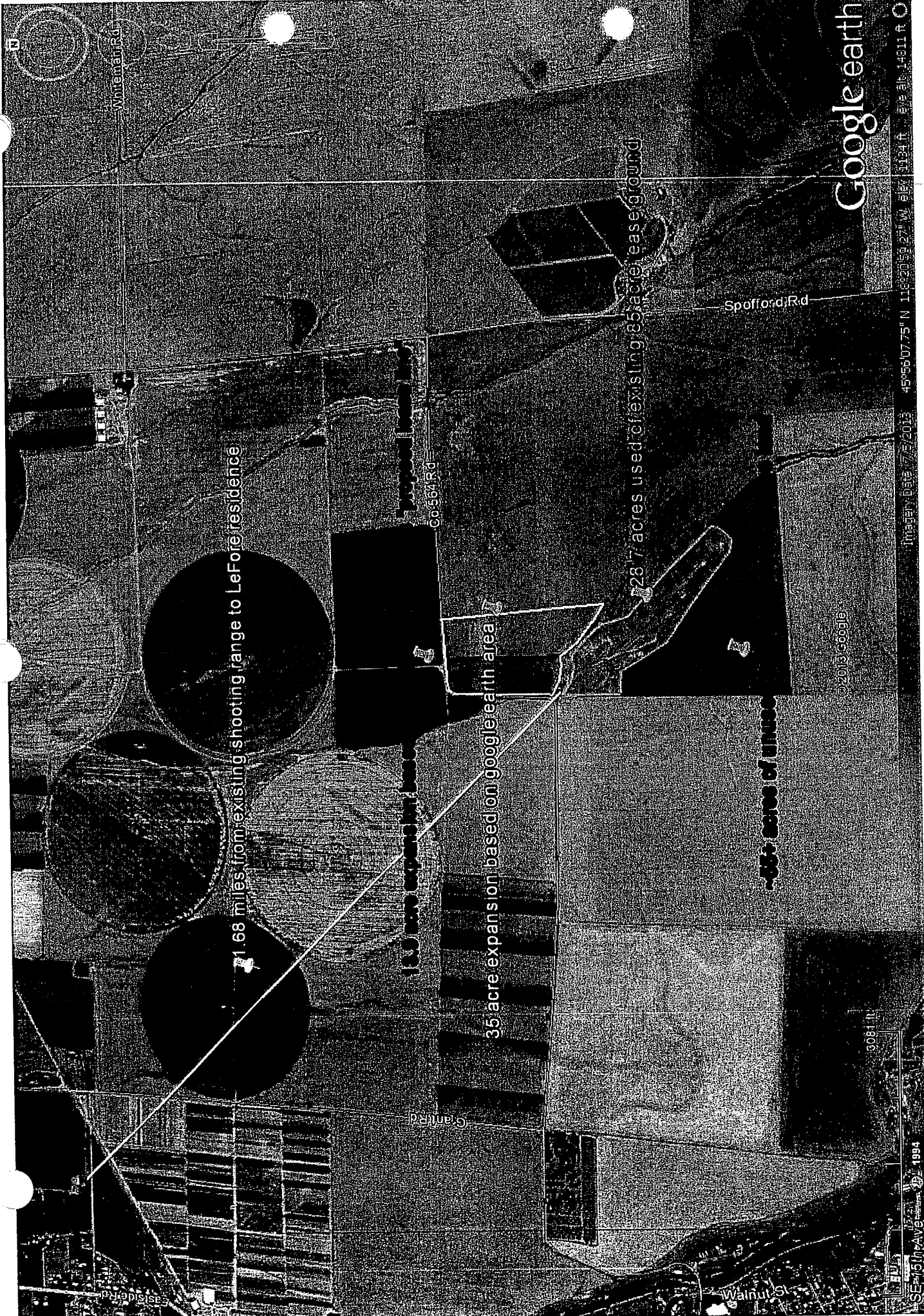
Best regards,



Sam & Donna LeFore, Sam LeFore Fruit Farms, Inc.

54103 LeFore Rd, Milton-Freewater, OR 97862

Exhibit
#4



Whitehall Rd

1.68 miles from existing shooting range to LeFore residence

1.0 acre expansion for...

35 acre expansion based on google earth area

128.7 acres used of existing 85 acre easement

~55+ acres of unused

Spofford Rd

Wainut St

Google earth

Imagery Date: 7/5/2013 45°56'07.75" N 118°20'59.27" W 816 10134 ft 14811 ft

© 2013 Google

3081 ft

SE 1/4 1994

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DEC 17 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Original Message -----

Subject: Land Use Request #LUD-163-13 East End Rod & Gun Club

Date: Tue, 17 Dec 2013 10:55:44 -0800

From: Dave Reeves <dave.mark.reeves@gmail.com>

To: planning@umatillacounty.net, tamra@co.umatilla.or.us

CC: tamaraleforereeves@gmail.com

To:
Umatilla County Department of Land Use Planning
Members of the Planning Commission
Director Tamra Mabbott

We are writing today to express opposition to the Land Use Request, #LUD-163-13 from the East End Rod & Gun Club. We are residents of Milton-Freewater with business and financial interest in an Orchard/Farming operation (Sam LeFore Fruit Farms) that closely neighbors the property in use by the Gun Club.

We are concerned that the expansion of the Gun Club will have a significant and negative impact on the long term value of the high quality farming land in this area. It is our understanding that this is an Exclusive Farm Use zone and that the Gun Club's very existence, in this location, is in violation of zoning and land use laws.

We request that the Planning Commission deny this request and further request that the county enforce the land use laws for this area.

Thank you for your consideration,

Dave Reeves
Tamara LeFore-Reeves
1233 Lamb St
Milton Freewater, OR

Exhibit
5

RECEIVED

DEC 17 2013

Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

UMATILLA COUNTY
PLANNING DEPARTMENT

Re: East End Rod & Gun Club
Land Use Request #LUD-163-13

Dear Members of the Planning Commission:

I am a landowner and farmer near the East and Rod and Gun Club's existing shooting range and am aware of the proposed expansion. Our area, although close to Milton-Freewater, is rural in character and the overwhelming use of the land in our area is for agricultural purposes. I am concerned that if the East End Rod and Gun Club expands it will have a negative impact upon the area and upon agricultural practices in our area including the devaluation of neighboring land for future agriculture development and uses for generations. I am concerned about an increase of noise from shooting and about an increase in traffic along our roads with more people being drawn to the gun club facilities. Increased traffic would conflict with the farmers in our area, who regularly use the roads to access their farm fields and move farming equipment.

The property to the east side of the gun range is no longer in the Conservation Reserve Program. Assuming that the gun club honors the rule of closing the range while farming activities are going on, they may now have to close the range for days at a time. Current members of the gun club are not used to farming activities going on down range, and have not been yielding to farming activity. Aside from opposing the expansion, I believe that enforceable conditions should be placed on the shooting range that result in safe working environments for neighboring farmers and farm workers.

There are a number of roads in the area and increased use of the gun club could increase the danger to the residents of our rural area. As of right now, to a certain extent, the gun club is somewhat tucked back in the corner. While members now access the gun club from Milton cemetery road, their current lease property has no road frontage. Aside from farming, the county roads are increasingly used for leisure driving, bicycling and running. By my estimates, the proposed expansion would give the gun club nearly a half-mile of road frontage. The proposed expansion would greatly increase the probability of errant bullets or shotgun pellets ending up on the public right of way. Not to mention that with guns being fired so close to the road, it probably wouldn't be as nice for a leisurely stroll in the country.

Best regards,

Kelly Peterson
412 Coyote Ridge Dr.
Walla Walla, WA 99362

Nursery Annex & Spofford Road area Farmer

Exhibit
#6

12-16-13

RECEIVED

Umatilla Co. Dept of Land Use Planning

DEC 18 2013

RE: East End Rod + Gun Club
Land Use Request # LUD-163-13

UMATILLA COUNTY
PLANNING DEPARTMENT

Dear Members of the Planning Commission,

I received the information on the proposed expansion and request for special permitting by the East End Rod and Gun Club. As an owner of farmland directly to the west and also to the south of the Gun Club, I have very strong concerns.

1.- This is an Exclusive Farm Use Zone - therefore the negative impact on future farm land values - also the precedent that it would set by allowing this non agricultural business in the Exclusive Farm Zone.

2.- The safety hazard for my family and equipment when working in the field. There is no way to guarantee that all ammunition shot will only land within the boundary of the gun range.

3.- The idea of planting trees to reduce noise would be non effective. The trees would be a maintenance issue on our land with limbs in the field as well as taking nutrients and moisture from the field.

I am opposed to any expansion and am asking that Umatilla County deny this land use request

Regards,
Sherry Schultz

Sharon M. Schultz
38710 Hamilton Rd
Lona Creek, OR 97856

Exhibit
#7

RECEIVED

DEC 19 2013

December 16, 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

RE: letter from Corey, Byler, Rew, Lorenzen and Hojem, dated December 12, 2013, to Umatilla County Planning Director Tamra Mabbot, Regarding the East End Rod and Gun Club.

To Whom it May Concern;

I retired from the Oregon State Police SWAT and the Explosive Disposal unit about 10 years ago, I used the Range before I retired for official training programs and have continued to use it since I moved to Walla Walla.

I read the complaints regarding noise from the East End Rod and Gun Club (EERGC). The Rea Ranch is over 1.3 miles north east of the range and over a hill, at that distance the noise would be minimal. The EERGC has already implemented rules on shooting times, as a matter of fact the rules have gotten so strict I was thinking of quitting. There was a problem with a couple of people, so the Board sanctioned everyone by implementing a mandatory safety class to renew memberships.

As far as Zoning the County should consider either rezoning or exempting the EERGC, by granting a Conditional Use Permit. I have seen parents with kids at the range on numerous occasions. Shooting is an activity a father can teach his kids that makes everyone in the community safer, and gets the kids outdoors. There is nowhere else to shoot, unless the Rea's would like to donate some of their land in the foothills farther East.

The Cowboy Action Shooting is another family activity that I have witnessed firsthand. This group draws a great class of people to our community for complete events. The EERGC has been a good neighbor for over 10 years, I don't understand why there is a complaint now. This decision will affect thousands of people.

Thanks for your time and consideration.

Mike Davis
178 Fountain Hills Road
Walla Walla, WA 99362

Exhibit
8

RECEIVED

DEC 19 2013

To Whom It May Concern,

UMATILLA COUNTY
PLANNING DEPARTMENT

As a two year member of East End Rod and Gun Club, I would like to tell you about an incident that happened one day while I was at the range. We had just arrived and were getting ready to shoot at the rifle range when a tractor was seen operating to the south and in front of the line of fire. The farmer had not notified the club. Apparently he was not concerned about any danger. Immediately the course was black flagged and shooters were turned away from those stations. This situation made me realize how serious the club takes their relationship with its neighbors. I personally did not think the tractor driver was ever in danger as we shoot into backstops and he was a long way away, but the absolute safety of our neighbors is more important to the club than the inconvenience of our members. I know the neighbors have an open invitation to notify the club of farming activities which will black flag the range in advance, making it off limits.

Safety at the range is of utmost importance, including the safety of our neighbors. Noise is another issue. It seems absolutely ridiculous that complaints about noise can be taken seriously. The noise of farming can be heard for many miles for hours or days on end. The hours that farms can make noise are far outside of the hours the club allows for shooting. The argument is hypocritical and just doesn't make sense.

Gun ownership and the shooting sports have grown tremendously during the last several years. We need a safe place to shoot and train. The EEGC is a very fine facility and a lot of money has been invested to build a first class shooting range. You can't just pick up a range and move it. And move it to where? If the range is closed down then what kind of problems does that create? If a person has any information about shooting ranges then you will know that they are increasingly under fire (pun intended) by those who are against shooting, by urban development and environmental issues.

The EEGC is a gem for our area. Leave it alone and let it prosper. We need it right where it is.

Sincerely,



Mike Cibart
Walla Walla WA
12/18/13

Exhibit
#9

RECEIVED

DEC 19 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Ms. Tamara Mabbot
Planning Director
Umatilla County Dept. of Land Use Planning

Re: East End Rod and Gun Club

Land Use Request # LUD-163-13

Dear Tamara,

I am the EER&G Director in charge of the shotgun games, mostly the five-stand course. I am also a certified NRA Range Safety Officer.

We have the only five-stand course in northeast Oregon and southeast Washington. We have a regular shoot schedule on the third Saturday of the month, starting at 9:00 AM. We have regular participants from Hermiston, Pendleton, Milton-Freewater and Walla Walla.

I am quite knowledgeable of all the varied activities offered at the EER&G facility. This is a community supported facility that supports our youth shooters along with law enforcement from both Oregon and Washington.

I recognize that there are impacts with whatever land use is concerned. The EER&G is a professionally managed facility that always aims to reduce their impact, wanting to be a good neighbor.

I do not believe that the H.T. Rea farming operation is adversely affected by the EER&G facility. I believe that the EFU zoning is consistent with the existing land use. Any contemplation of a use reduction should include a cost-benefit analysis. Anecdotally I would bet on the benefits of the EER&G Club.

Sincerely,

Larry Zalaznik

Exhibit #10

DEC 19 2013

UNATILLA COUNTY
PLANNING DEPARTMENT

To Whom It May Concern:

As the landowner, my Dad was working with the original people setting up this gun range. He was a farmer for over 80 years, was an avid hunter and lost his own father to a hunting accident. He was extremely concerned with safety and, as I am, very proud of their work with teaching especially the young people about hunting safety and the proper use of guns. With the increase in interest in the use of guns these days I feel the more training about safety and proper use is vital. I see this gun range as a necessary part of our community safety as a whole.

As the current landowner I have signed a lot of paperwork where the gun range has jumped through hoops to follow all rules, regulations and requests from the state, county and all agencies that they have been required to give an answer.

There has been equipment and buildings sitting around our property adjoining their range every since they started. Some of this equipment has glass in the cab areas and there is not one bullet hole in any of the equipment or buildings. I actually find this very remarkable.

Finally, the limiting of hours at the gun range has nothing to do with farming practices and makes no sense at all to me. I would think that the renters in our house at the site would have a complaint about the noise more about than any one.

Respectfully,

VonDerAhe, Inc.
by Jan Bledsoe

Exhibit
11

RECEIVED

DEC 19 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Ms. Tamra Mabbot, Planning Director

Re: East End Rod and Gun Club Land Use Request #LUD-163-13

Dear Ms Mabbot:

I am writing in support of East End Rod and Gun Clubs application to make certain the value of the club is clearly understood. There are a number of factors that should be evaluated and I would like to discuss just a few:

1. The club performs a critically important community function by providing a safe and controlled facility for firearms training for law enforcement, hunters and citizens learning how to safely use their firearms. The club has a defined safety structure, rules and protocols that help all who participate understand the importance of proper safety and handling. Without such a facility hundreds of members and guests are left on their own to learn and train in a random fashion.
2. Without such a facility people are bound to find gravel pits, open land or other venues to use their firearms. These are uncontrolled environments and increase the potential dangers and abuses dramatically. From a public policy viewpoint it seems very clear that East End Rod and Gun Club is very valuable to the area and should be supported and preserved. It is located in a very rural location and is set up to maximize safety with direction control of ranges and appropriate backstops.
3. The club occupies a very small acreage relative to the hundreds of thousands of acres of farmed ground in the surrounding area. In terms of value to the county and communities the use of this ground is highest and best use is as the existing gun club.

Thanks for taking my comments under consideration.

Larry Duckett

Member

Exhibit
#12



**JONATHAN M. WAINWRIGHT MEMORIAL
VA MEDICAL CENTER
77 Wainwright Drive
Walla Walla, Washington 99362**

RECEIVED

December 17, 2013

DEC 19 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Ms. Tamra Mabbot
Planning Director
Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

Re: East End Rod & Gun Club
Land Use request #LUD-163-13

Dear Tamra:

I am the Lead Firearms instructor for the Department of Veterans Affairs Police in Walla Walla, Washington. We have been using the East End Rod & Gun Club for our firearms training for the past 3 years because it helps us meet our increased training requirements, mostly by allowing me to train and qualify my officers without the scheduling restrictions we have with the Washington State Penitentiary. Our training requirements have quadrupled in the last 4 years, but the only location we have found that will accommodate our schedule is the East End Rod & Gun Club. This location also allows us to build on the types of tactical firearms training we do that involves the use of our patrol vehicles. The WSP range does not give us that ability. Including me, we have 12 officers that use this range almost monthly, as well as several officers from other VA facilities who have come here occasionally to maintain their qualification requirements.

The East End Rod & Gun Club has developed a comprehensive set of rules for all of its members to keep all users and neighbors safe. The electronic gate at the site does not open until just before 8 a.m. and we all know that this gate locks just after dusk. There is no use of this range after dark and it is well published in the rules that no one is to use the range before 8 a.m. There are systems in place to monitor the use of this gate remotely and many dedicated members of the club who check on the range throughout the day.

As a former 4th generation farmer myself, I fully understand how farming operations can be affected by a shooting range and I feel that this club has adequately mitigated any concerns through member education and the use of "Black Flags" for range closure while farming operations are being conducted in the area. I fail to understand how the Rea's believe that continued operation of this range will increase their cost of existing farm practices nor should it cause them to change their irrigated agricultural operations. This club is more than willing to work with their neighbors to ensure that they can farm their ground without conflict.

It is my opinion that closure or restrictions on this range would negatively affect the Milton-Freewater area versus allowing the club to continue and improve its facilities, which has and will bring economic benefit to the area.

I strongly urge you to reject the objections presented by the Reas and H.T. Rea Farming Corp.

Respectfully,

Lt. Douglas Jones
U.S. Department of Veterans Affairs Police
77 Wainwright Drive
Walla Walla, WA 99362
Telephone: (509) 527-6135

Exhibit
13

RECEIVED

December 19, 2013

DEC 19 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Dear Umatilla County Planning Commission, Director Tamra Mabbott:

I am writing this letter in support of the East End Rod and Gun Club. I am a 4-H shooting sports instructor. Every youth in Umatilla County that is enrolled in 4-H shooting sports use this range. We are teaching our youth to be responsible shooters. Not only do the adults enrolled as instructors assist the youth, most of the members of the club, especially the officers of the EERGC will give guidance to the youth. I have seen people who have not had the luxury of proper instruction out in public and am grateful for every member of the EERGC. The lives these men and women touch are many. They help raise safe and responsible shooters.

Not only does the EERGC provide a wonderful learning environment, it also provides a safe place for its members to go and enjoy the sport of shooting. The officers and members have done so many improvements to this land with the assistance of grant monies. They have proven time and time again that they are good stewards of the land and their limited resources. I think it would be a shame to shut this club down.

I routinely get inquiries from the general public asking where a good safe place to shoot in the county is, my answer is easy and always the same. The East End Rod and Gun Club. Not only is it the perfect place for people to go and safely enjoy the sport of shooting, but the members are all required to sign a rules sheet, and take a class on the rules. One of these rules is no shooting before 8:00am. and no later than 7:00pm.

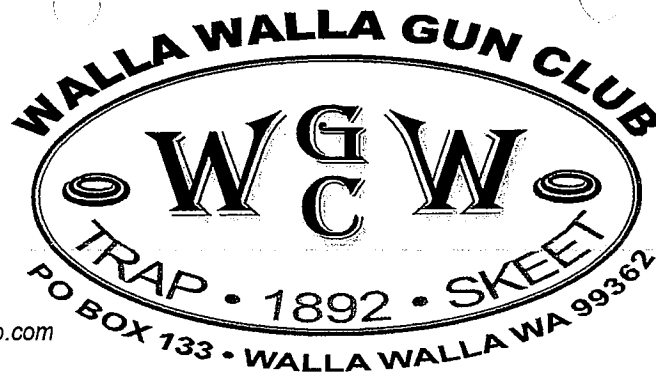
I want you to know that I and many people like me find this club to be a valuable resource in our community. There are not many places left in our county to go and enjoy the shooting sport. Please take my letter into consideration when making your decision tonight. I wish I could be there in person, but my children are having their Christmas concert tonight.

Thank you for taking the time to read my letter.

Sincerely,



John Shafer



RECEIVED

DEC 19 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

website
wallawallagunclub.com
info@wallawallagunclub.com

Telephone
541-969-7913

December 16, 2013

Ms. Tamra Mabott
Planning Director
Umatilla County Dept. of Land Use Planning
216 SE 4th St
Pendleton, OR 97801

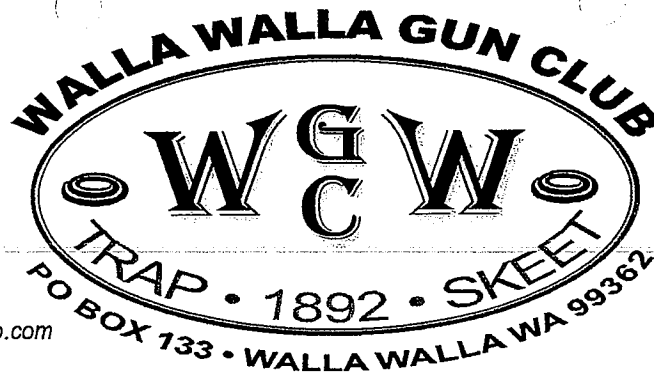
Dear Ms. Mabott,

Walla Walla Gun Club would like to comment on the letter sent to East End Rod and Gun Club (East End) of Milton-Freewater, by H. T. Rea Ranches, specifically by Messrs. Dennis and Nathan Rea et al., seeking your agency to deny a conditional use permit to East End.

Walla Walla Gun Club is well aware of the need for safety on shooting ranges, and we would like you to know that East End has fastidiously improved its range safety facilities, rules and requirements all the time it has operated in its present location. Berms have been built, ecology block walls have been erected, range safety officers have been trained and deployed, and safety procedures have been continually upgraded so that all shooting takes place in only a safe direction, along the allotted corridors. In addition, we note that all rifle shooting takes place in an exactly opposite direction from H. T. Rea Farms, thus it is difficult to imagine a real-world safety problem on adjacent lands.

In fact, it appears to us that virtually all of H. T. Rea's complaint relies on theory and hearsay conjecture. Unless they have real-world evidence hidden somewhere that was not presented in their letter, Rea's entire case is based on nothing more than speculation and scare tactics designed to elicit sympathy or stir up non-existent trouble between neighbors, or so it seems to us based on what has thus far been presented.

We would like you to know that East End's facility is the only pistol and rifle range open in the entire Walla Walla Valley, and thus serves a vital and most necessary community service function. Without this facility, many thousands of valley residents would not have a safe place to shoot, nor have a dedicated team of volunteer shooting coaches and teachers whose sole effort is to make sure that the many residents of our valley have the proper training and facility to shoot their firearms safely.



website
wallawallagunclub.com
info@wallawallagunclub.com

Telephone
541-969-7913

We see no issue raised in H. T. Rea's complaint against East End that would require denial of their conditional use permit, neither do we see any reason why reasonable neighbors, and both East End and H. T. Rea Farms are composed of reasoned and reasonable people, that they should not be able to jointly work out a regimen of operating hours and sensible safety precautions that would not unduly interfere with either farming or shooting, and we urge your department to grant East End's request in a timely and propitious manner.

Very truly yours,

ROBERT O. BLOCH
Secretary-Treasurer

12/19/13
EAST END ROD & GUN CLUB
PO BOX 251
MILTON FREEWATER OR 97862-0251

Time Deposit Inquiry Page 1 of 3 09:42:11
CIF#: E013618 0 Birth Date: 0/00/00
Home phone (000) 000-0000
Business phone.... (000) 000-0000
Personal cell ph (000) 000-0000
Tax ID number... 93-1060932
Type..... 08 1-1.5 YR HIGH B
Account number..... 14955

Multiple Addresses

Original amt	20,007.94	Issue date	1 of 1 2/16/10
Current balance	20,570.70	Last renewal date	2/16/13
Last interest amt	2.54	Last pay date	12/16/13
Accrued interest	.25362	Next pay date	1/16/14
Anticipated int	2.62000	Maturity date	2/16/14
Hold amount	.00	Redemption date	0/00/00
C.D. term	12 M	Date of last maint	0/00/00
Interest term	1 M	Interest rate	.150
Interest method	Simple	Day of month to pay interest	0
Deposit to acct/type		Officer	TRM
Class	ORG/CLUBS	Group code	1
Renew to type		Sales associate	

More...

F3=Exit F4,F5=History F6=Messages F7=Addresses F8=Maintenance
F9=Relationships F11=Memo post F12=Previous F14=Temp Stmt F24=More keys

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DEC 19 2013

CLATSOP COUNTY
PLANNING DEPARTMENT

#16

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DEC 19 2013

December 19, 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

To whom it may concern;

I am writing this letter to express my support for the East End Rod & Gun Club in Milton-Freewater.

I have been lucky to be associated with such a great club and group of individuals. This club is very active and growing. They strive to do good things for the shooting community. They are very good and proactive in teaching gun safety! They have exposed thousands of individuals to the shooting sports. They have done this in a safe environment and they have done it in a safe way, always with an emphasis on SAFETY.

Please do not allow this club to be shutdown or forced to move! There is no better place in Umatilla County to safely shoot firearms or to teach gun safety. Also, there is no other controlled range open to the public to shoot rifles or pistols in this County! We cannot lose this valuable asset to our community. It is much safer to have folks shooting at a controlled range than have them shooting in their backyard or some random field!

Loosing this club will be a detriment to Umatilla County and will decrease the safety of its citizens!

Sincerely,

Chad Ray
PO Box 117
Echo, OR 97826

#17

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DEC 19 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

To the members of
The Umatilla Planning Commission,

My name is Scott Gilmore. I am a life long resident of Milton-Freewater, Oregon and a member of the East End Rod and Gun Club. I am strongly opposed to the appeal filed by Mr. Dennis Rea and Nathan Rea. The gun club range serves a vital role in the safety and education of our young shooters and hunters through hunter safety training, and NRA training courses. It provides a place for beginning women shooters to learn through NRA's Women on Target program. Local law enforcement and corrections workers train at the range for their vital role in protecting society. Members and their families have a safe, well regulated range where they can shoot legally, and teach their children safe responsible usage of firearms. The local black powder club, as well as cowboy action shooters use this range for their functions and matches as well.

I am more fortunate than most members of the club, as I have access to private land to shoot on. Many members don't have this luxury and rely on the range for their shooting activities. The range has very explicit rules, and if they aren't followed, membership can be revoked. I have taken my children to the range and had enjoyable times watching them grow and learn firearms marksmanship and safety. One can only hope that having a modern, well maintained range would help to prevent illegal shooting on farmers (such as the Rea's) land, and the subsequent mess that certain irresponsible shooters leave behind.

I feel the Rea's concerns regarding the added expense of irrigating due to the presence of the gun club is nonsense. I fail to see how having shooting activities, across a county road, and shooting in the opposite direction could affect their ranch in any way. I also feel that any issues the Rea's had could have been addressed directly to the gun club leadership, and not been brought into this public forum. This farm land is already entered in the CRP program, and is owned by the Von Der Ahe family of Milton-Freewater. What about their rights as property owners?

I respectfully urge the Umatilla County Planning Commission to do the right thing, and keep our communities gun club in operation. Teaching our young hunters, and promoting firearms safety is too important of an issue to let this appeal close the range.

Respectfully,

Scott Gilmore

#18

Ms. Tamra Mabbot
Planning Director
Umatilla County Department of Land Use Planning
261 SE 4th St
Pendleton, OR 97801

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DEC 19 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

RE: East End Rod and Gun Club
Land Use Request #LUD-163-13

Ms. Mabbot:

I am a NRA Certified Instructor, a RSO, and very involved in Women on Target. I am also the facilitator for the Walla Walla Chapter of A Girl and A Gun Women's Shooting League, the first chapter in Washington state and a member of the East End Rod and Gun Club.

A Girl and A Gun Women's Shooting League is a Ladies Only Organization established by women shooters for women shooters for pistol, rifle and shotgun sports! The league is designed to take beginners to whatever skill level they wish to achieve, and provide experienced shooters with more opportunities. The objective of some is to improve their skill levels for target and/or competitive shooting. Others, while wanting to improve their skills, also are interested in the aspects of self-defense.

Our mission is to educate and encourage women about firearm usage, safety, and promote women's shooting interest and participation in the competitive shooting sports. The purpose of this group is to create a positive environment that supports women shooters and generates opportunities for women and girls in the shooting sports.

I have had several women who have never picked up a gun prior to attending one of our events that are now very confident in the proper handling of a gun and safety knowledge. They show a confidence that they did not have when they first started and some are looking toward competition shooting and as well as learning more about self-defense.

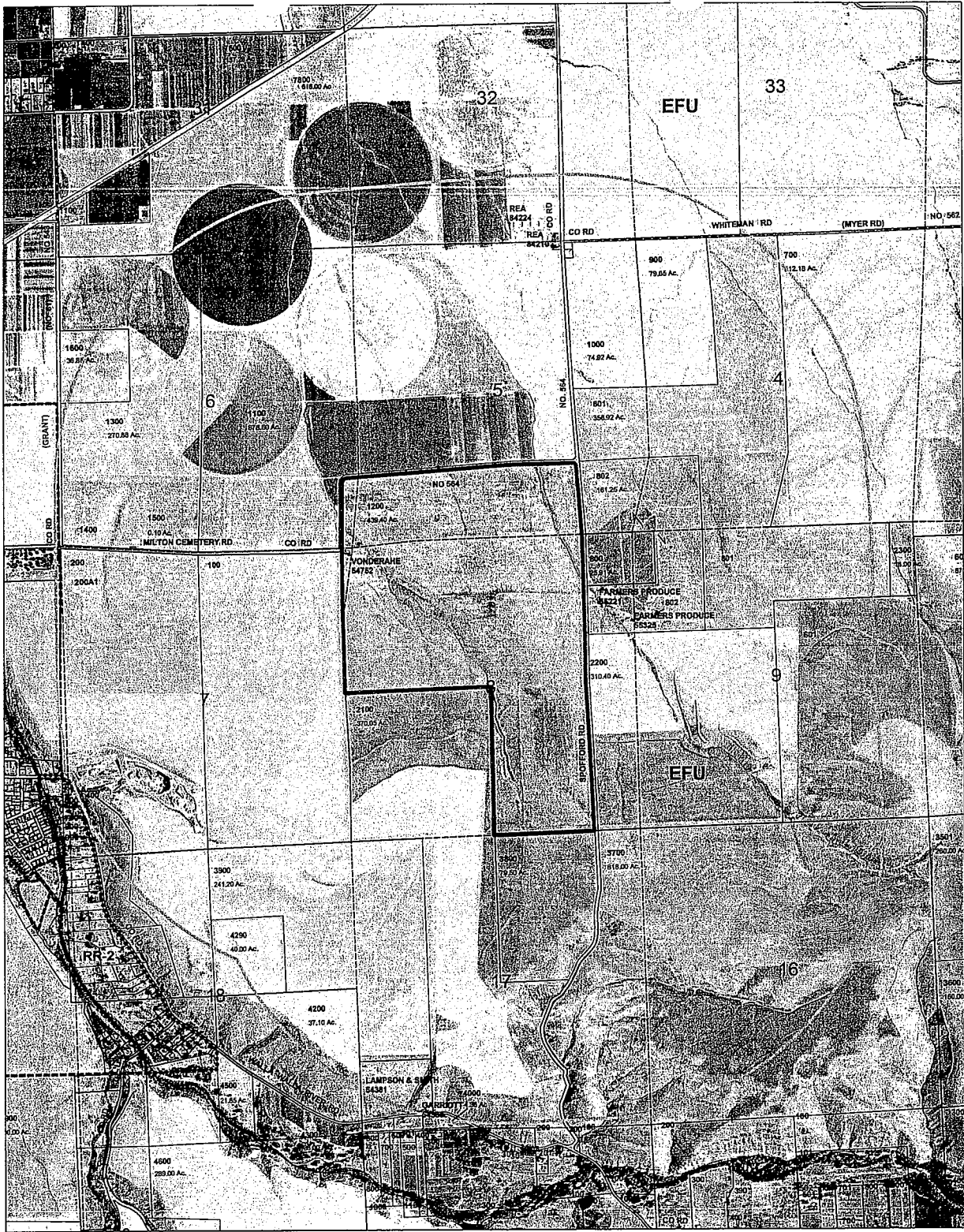
I am requesting a favorable recommendation for the Land Use Request #LUD-163-13.

Thank you,

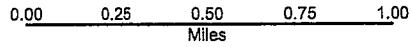
Stacy

Stacy Alexander
NRA Certified Instructor
Range Safety Officer
Facilitator, Walla Walla Chapter, A Girl and A Gun Women's Shooting League
Savvy Shooters, LLC
stacy@savvyshooters.com
www.SavvyShooters.Com
509-240-775

#19



2012 AERIAL PHOTO, UMATILLA COUNTY, OREGON
 EAST END ROD & GUN CLUB - MAP 5N36, TAX LOT 1200

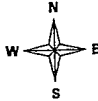


Legend

- Gun Club Property
- 1 Mile around Tax Lot 1200
- M-F City Limits
- M-F Urban Growth Boundary
- Parcel Boundary

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DEC 19 2013



DATE: 12/19/13

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Partial data should be used for reference purposes only. Created by J. Aford, Umatilla County Planning Dept. <http://www.umatillacounty.gov> map5n36eastendrodgunclub_1105_143_13.pdf

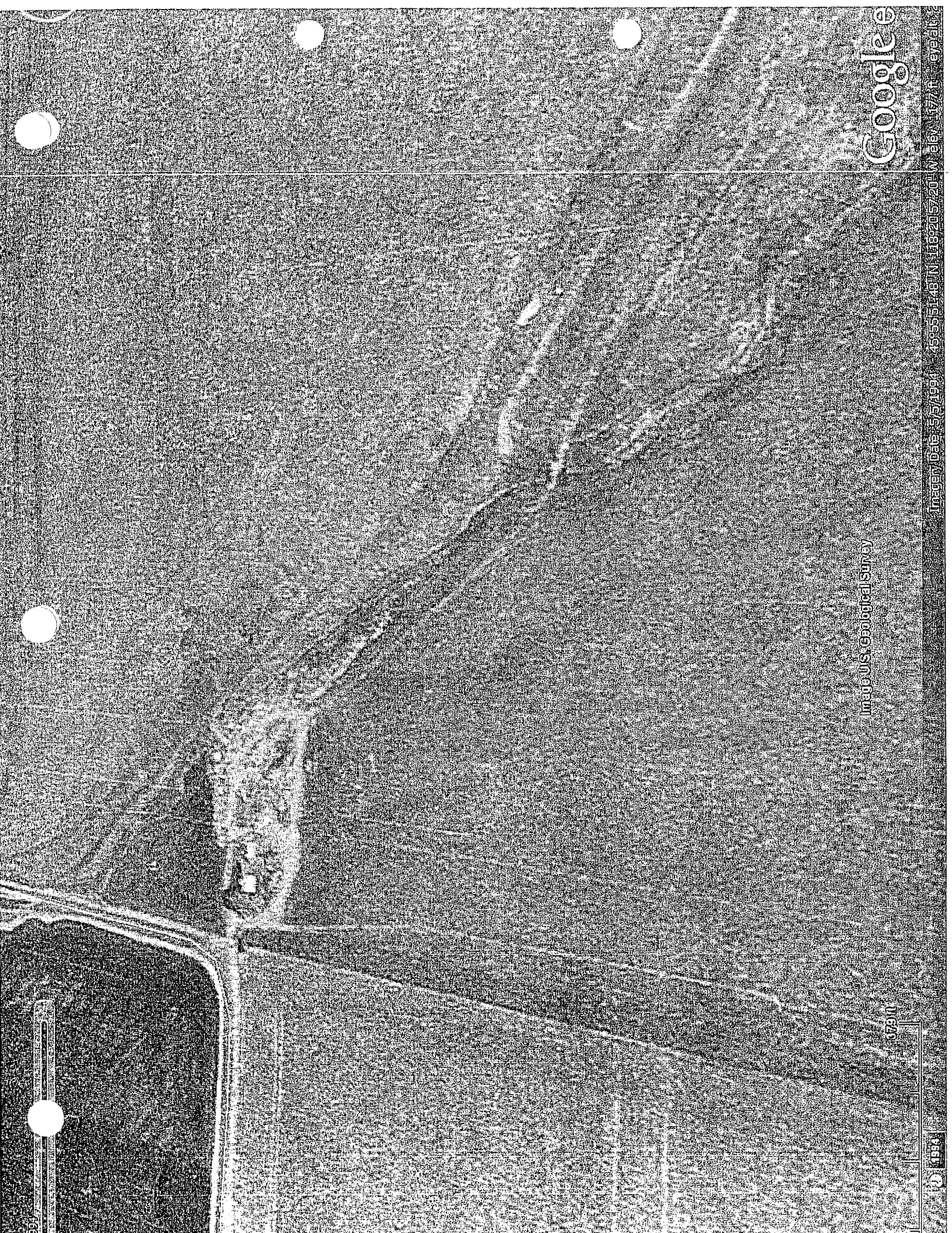


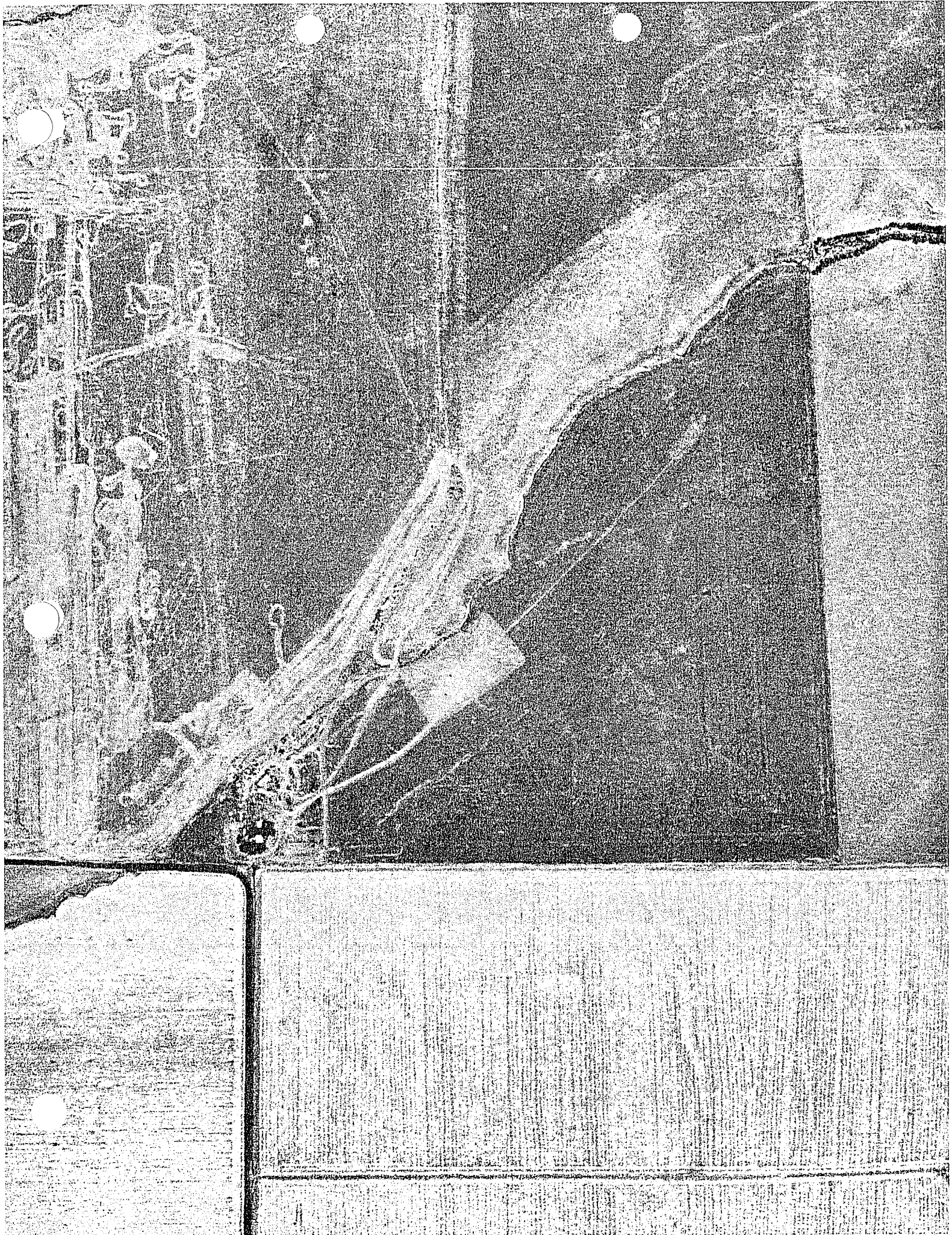
Image U.S. Geological Survey

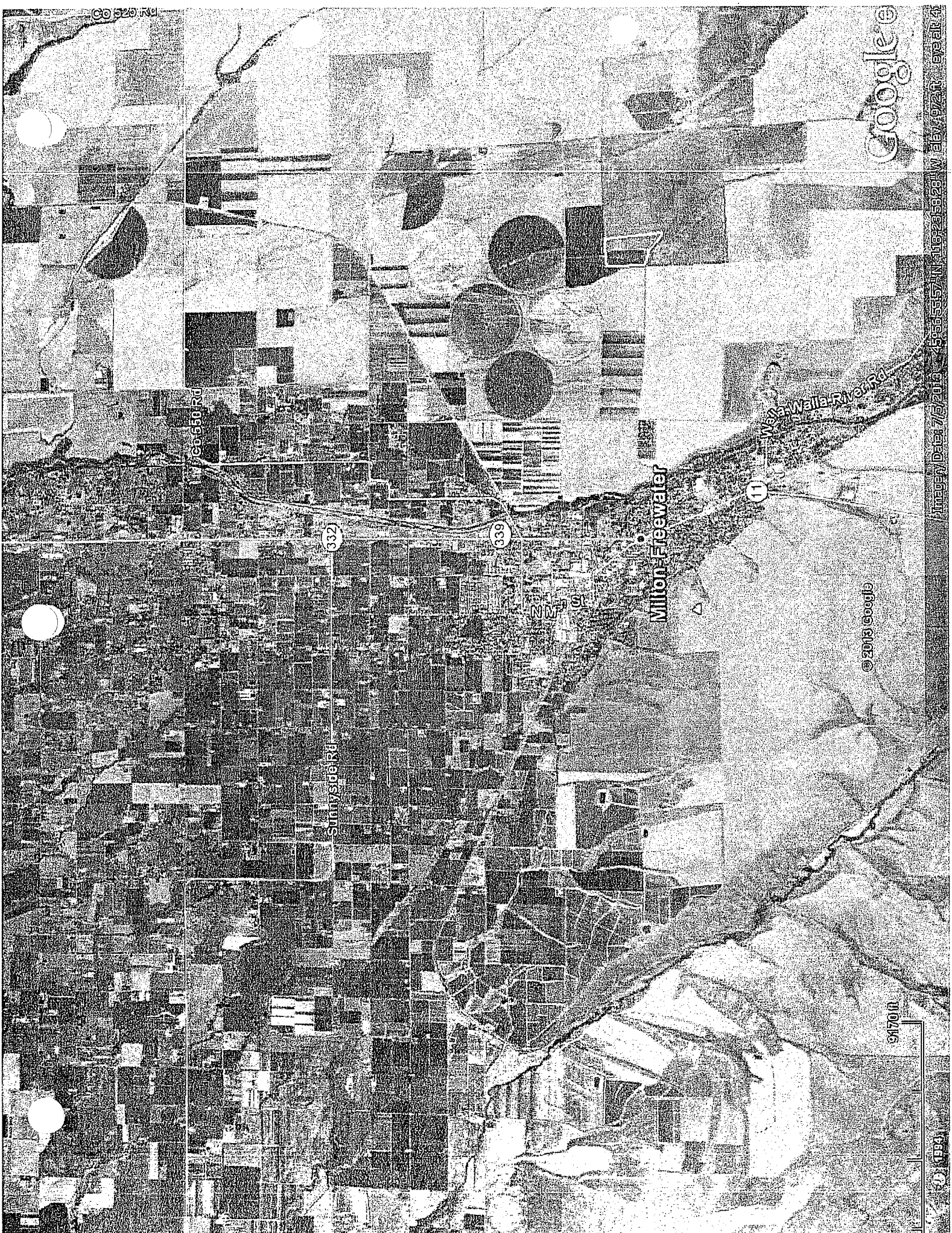
375m

1994

Google

Image Date: 5/5/1994 45°55'51.48" N 118°20'57.20" W 816 x 177 ft. Elevation





Google

Co 520 Rd

Co 550 Rd

332

Sunnyside Rd

339

N Main St

Milton-Freewater

11

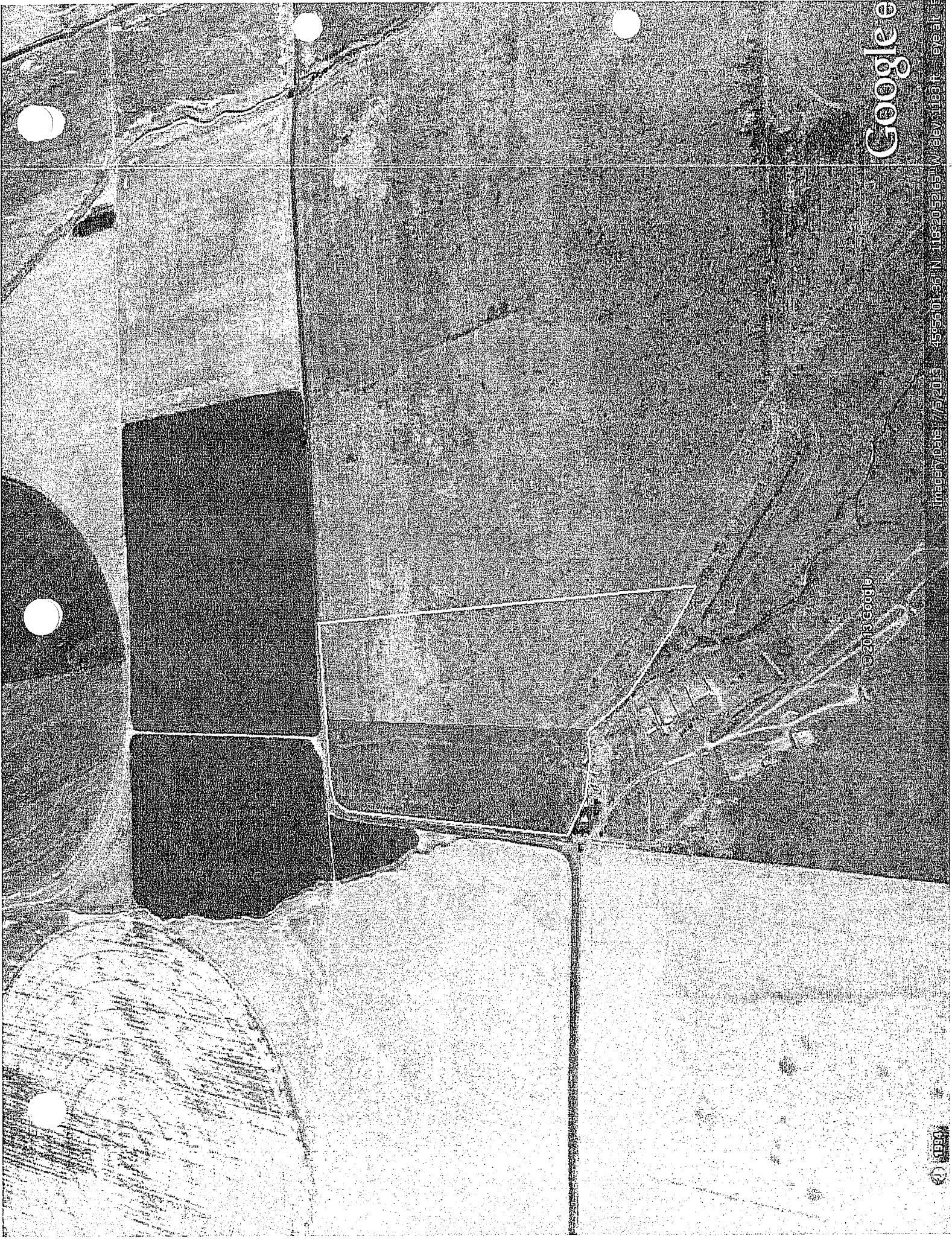
Willa Willa River

© 2013 Google

9470 ft

© 1999

Image Data: 7/5/2016 15:56:55 N 118:26:58 W Alt: 972 ft Great 4



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Google

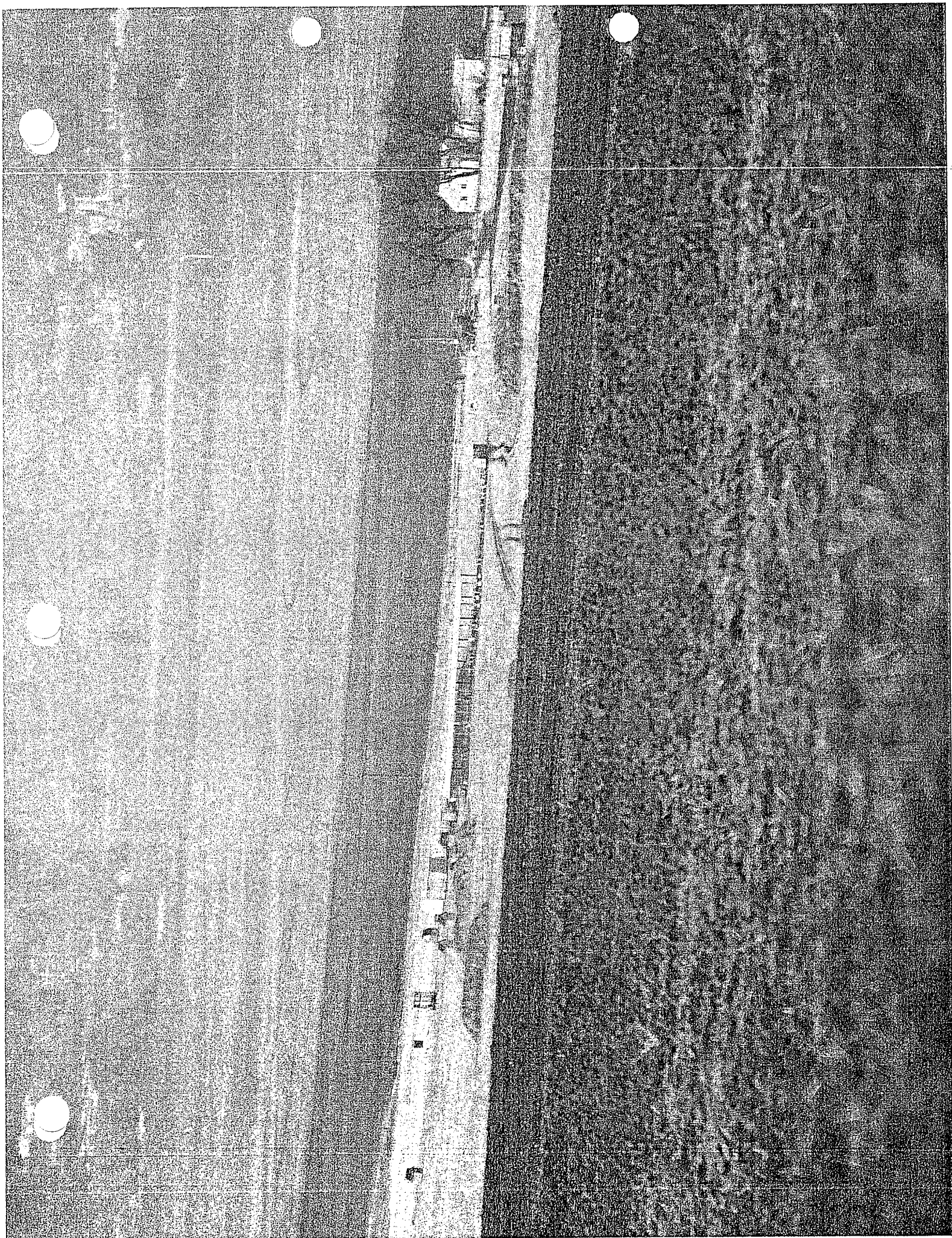
8/9/2005

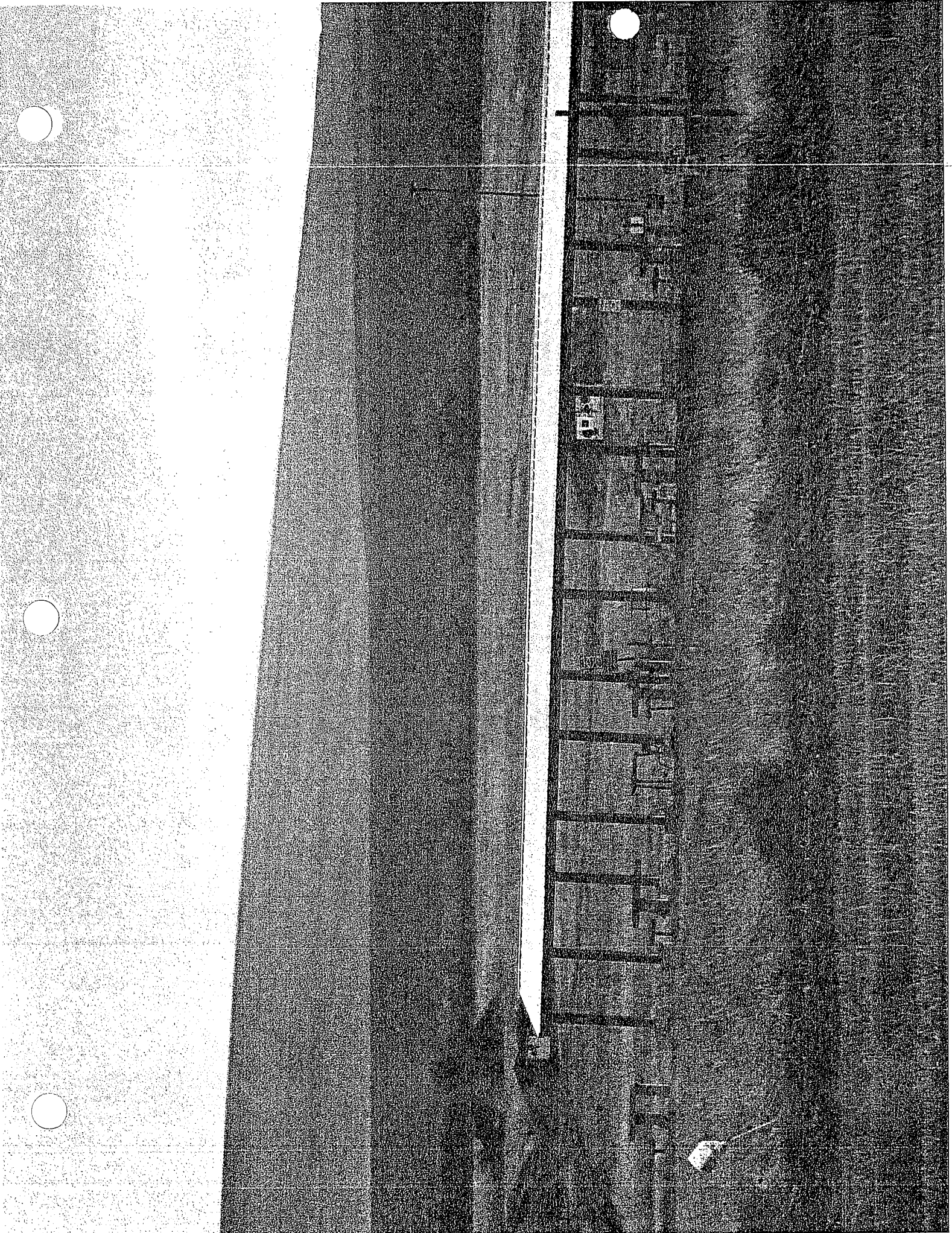
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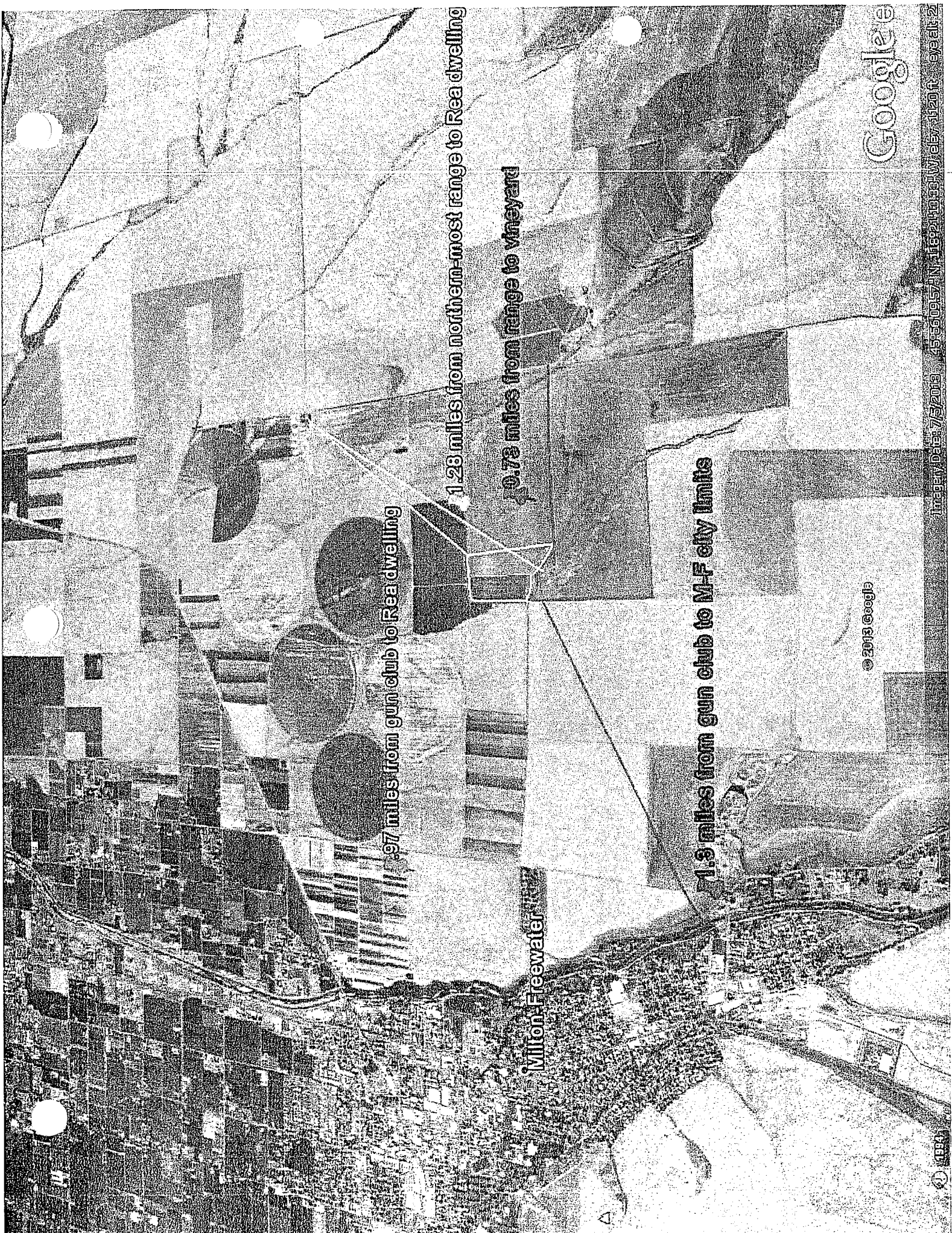
Image © 2013 DigitalGlobe
Image USDA Farm Service Agency

Image Date: 8/9/2005 4:53:46 PM N: 18205180 W: 9172518 01211

Google







0.97 miles from gun club to Rea dwelling

1.23 miles from northern-most range to Rea dwelling

0.73 miles from range to vineyard

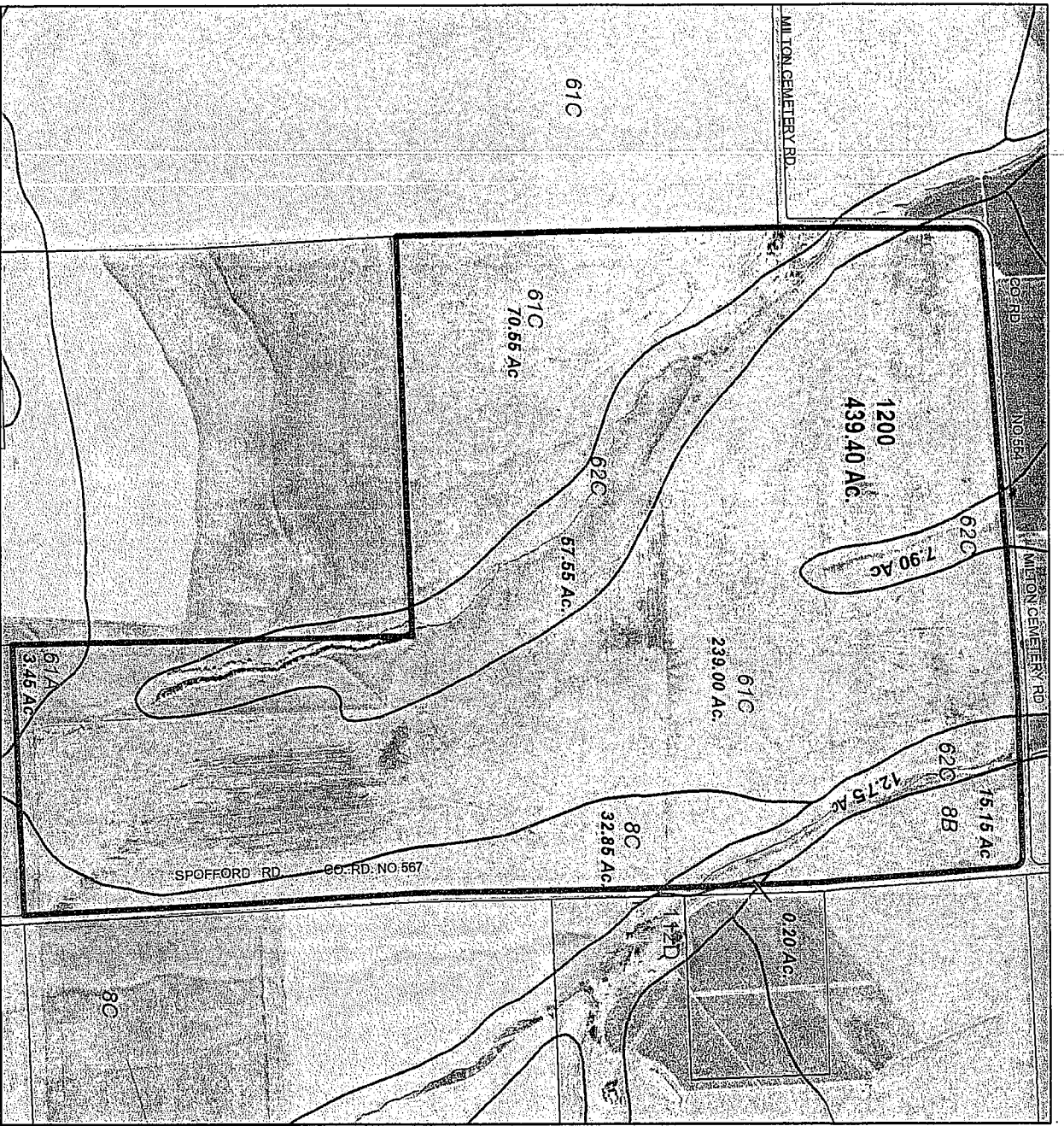
1.9 miles from gun club to M-F city limits

Milton-Freewater



© 2013 Google

Google

Image Date: 7/3/2013 11:56:09 AM N: 45°56'09.57" W: 120°11'00.00" E: 21



LAND USE DECISION #LUD-163-13
 EAST END ROD & GUN CLUB RANGE

-  Subject Parcel
-  Soil Survey

- Dry Land Capability Class
- 61C - Class 2e
 - 309.55 Ac.
 - 62C - Class 3e
 - 78.20 Ac.
 - 8C - Class 3e
 - 32.85 Ac.
 - 8B - Class 2e
 - 15.15 Ac.
 - 61A - Class 2c
 - 3.45 Ac.
 - 112D - Class 4s
 - 0.20 Ac.

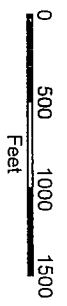
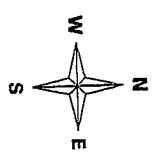
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UMATILLA COUNTY
 PLANNING DEPARTMENT

42

2012 AERIAL PHOTO



Date: 9/18/13

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: J. Alford, Umatilla County Planning Department 9/18/13
 y:\workspace\planning\visibility maps\E-H\EastEnd_Rod\GunClub_sols2.gws

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DEC 19 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Saturday, December 21, 2013

Umatilla County Department of Land Use Planning
Planning Commissioners
216 SE 4th St.
Pendleton, OR 97801

RE: Letter In Favor of "East End Rod & Gun Club"

Dear Commissioners,

I am an active member of the East End Rod & Club and the NRA. I have used firearms personally and professionally for the last 50 years. I have trained, instructed, qualified and competed at dozens of firearm range facilities from Quantico, Virginia to Ft. Lewis, Washington. I have hunted in Washington, Oregon and Idaho.

Please know how fortunate we all are to have the East End Rod & Gun Club at its existing location and with its present operating procedures, focus on safe firearm usage, marksmanship and heritage. Because of it, area adults and youth are able to not only continue their sport enjoyment but become appropriately and safely introduced to the various shooting sports. My wife and daughters included.

The East End Rod and Gun Club location, natural topography, coupled with appropriately placed earth berm backgrounds, alley dividers and associated range layout make for an extremely safe shooting environment. Established range rules procedures and practices along with very conscientious members make it even more so. I have volunteered as range safety officer and weapons familiarity instructor.

Economically, the East End Rod and Gun Club has been a boon to Milton-Freewater. I routinely purchase firearms & ammunition, firearms associated items, gas and meals in Milton-Freewater. I frequently shop Milton-Freewater businesses just because I'm in the area.

For the benefit of many, the continued presence and practices of the range should be wholeheartedly endorsed.

Sincerely

Jim Hartford
304 SE Highland Pk Dr
College Place, WA 99324

#257

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DEC 30 2013

December 27, 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

To Whom It May Concern:

I have been instructing gun classes since the late 80's. I instructed at Blue Mountain Community College for students getting their degree in Criminal Justice. The class was a shooting class and we used the old Pendleton Police Range on the Holdman Road. About 1994 I started doing the Oregon Concealed Firearms training for persons wanting to obtain an Oregon Concealed Handgun License. In this class I required my students to shoot 150 rounds. Finding a location to do this was practically impossible. If it was a class associated with the college, I could use the Pendleton Police Range even after it was moved from Holdman Road to the new location up above the Pendleton Airport.

I put 1200 persons through the Oregon concealed firearms training and every one of them fired live ammunition except for maybe 5 of them. Where did I take these people to shoot? Gravel pits, private property, out by the weigh station on Hwy 730 in the Hermiston area other locations that were not really good places to shoot for the most part. A small hill, bank of dirt or whatever for a backstop and you had a place for shooting firearms. Were they good locations, no, but it was what you had to work with.

Then in the fall of 2008 I started instructing the Utah and Oregon concealed firearms training and in the last 5 years have put over 5000 gun owners through this class. These are people wanting to carry a concealed firearm. When I did this I did away with the shooting part of the class, mainly because of too many students and not enough time and places to go and create a good and safe experience for the student. It became a strictly lecture type class. Shooting was not a part of it, but I strongly urged and highly recommended my students needed to go out and practice with their firearms, especially if they were going to carry concealed. The question was always, "Where can we go and practice?" Not an easy question to answer.


Then somewhere in 2009 the East End Rod and Gun Club contacted me and wanted to set up some classes for their members and the general public in the Milton-Freewater area. This is when I met Verl Pressnall and got the opportunity to do classes and go to the range in the Milton-Freewater area. Over the last 3 or 4 years the membership in the club has grown and they have continued through hard work of Verl and other members to develop the East End Rod and Gun Club into a safe and fun place to go with your family, young and old, to shoot your firearms. This range is in an ideal location and accessible to citizens of Umatilla County. In my presentation at all gun training classes I herald the East End Rod and Gun Club as one of the best places to go and shoot in a safe environment.

Take the East End Rod and Gun Club range away from the use of citizens in Umatilla County is not in the best interest of the county and its citizens. People are still going to go out and shoot firearms and the locations they choose will not be safe for them, their families and other citizens of the county.

#26

I strongly urge whoever has the power to make this decision that the East End Rod and Gun Club is given the authority to continue on with activities that they provide for the citizens of Umatilla County. It is a safe and much needed asset for the citizens, gun owners, families and others to enjoy. We have the right to own firearms; let's just do it in a safe location, and one of them being the East End Rod and Gun Club's range.

Thank you for your time.



Grant Asher

Utah/Oregon Concealed Firearms Instructor,
Retired Chief of Police from the City of Hermiston and
a concerned resident of Umatilla County



ASHER INVESTIGATIONS, LLC

Firearms Training
PO Box 1106
Pendleton, OR 97801

FILED: December 18, 2013

IN THE COURT OF APPEALS OF THE STATE OF OREGON

GERALD ALEX CONRADY,
Plaintiff-Appellant,

and

KATHY ANN CONRADY,
Plaintiff,

v.

LINCOLN COUNTY,
Defendant-Respondent.

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DEC 19 2013

Lincoln County Circuit Court
111143

A150995

UMATILLA COUNTY
PLANNING DEPARTMENT

Charles P. Littlehales, Judge.

Argued and submitted on June 06, 2013.

Russell L. Baldwin argued the cause and filed the briefs for appellant.

Kristin H. Yuille argued the cause and filed the brief for respondent.

Before Duncan, Presiding Judge, and Haselton, Chief Judge, and Armstrong, Judge.

DUNCAN, P. J.

Affirmed.

#27

1 DUNCAN, P. J.

2 Under Lincoln County's zoning regulations, a "firearms training facility" is
3 allowed as a conditional use within areas zoned for timber conservation, and a property
4 owner who wishes to establish a firearms training facility in such an area must apply for a
5 conditional use permit. The question in this case is whether that permit requirement is
6 preempted under state law--more specifically, under ORS 166.170, ORS 166.171, and
7 ORS 166.176, three statutes that concern preemption of local firearms regulation. The
8 circuit court issued a declaratory judgment ruling that the county's ordinance was not
9 preempted. For the reasons that follow, we agree and affirm the judgment of the circuit
10 court.

11 I. BACKGROUND

12 For purposes of this appeal, the relevant background facts are not in
13 dispute. Plaintiffs own real property in Lincoln County that is zoned for timber
14 conservation (T-C), and they intended to operate a shooting range on that property.¹ The
15 county insisted that, in order to operate a shooting range lawfully, plaintiffs first had to
16 obtain a conditional use permit for a "firearms training facility," as required by county
17 code. The relevant ordinance, Lincoln County Code (LCC) 1.1375(2)(m), was enacted in
18 1994 and provides:

19 "(2) Conditional Uses Permitted

¹ Only plaintiff Gerald Alex Conrady appeals. For ease of reference, we do not distinguish between "plaintiff" and "plaintiffs" for purposes of appeal.

1 "The following uses may be permitted [in a T-C zone] subject to
2 provisions of subsection (3) of this section and applicable provisions of
3 LLC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to
4 1.1999:

5 * * * * *

6 "(m) Firearms training facility."

7 LCC 1.1601, in turn, provides that the "[l]ocation and operation of designated conditional
8 uses shall be subject to review and authorized only by issuance of a Conditional Use
9 Permit," and LCC 1.1605 to 1.1630 set forth additional standards and procedures for
10 obtaining a conditional use permit.

11 Plaintiffs took the position that LCC 1.1375(2)(m) was void under state law
12 and that the county could not lawfully require them to obtain a conditional use permit prior
13 to using the property as a shooting range. To support their position, plaintiffs relied on three
14 statutes that, in their view, established that the county was preempted from requiring
15 conditional use permits for shooting ranges. As detailed below, the first of those statutes,
16 ORS 166.170, was enacted in 1995 and sets forth a general rule that the state--and not a
17 local government--is authorized to regulate the sale, acquisition, transfer, ownership,
18 possession, storage, transportation, or use of firearms, except when expressly authorized by
19 the legislature. The second statute, ORS 166.171, was enacted at the same time and
20 provides express authority for counties to regulate the discharge of firearms within their
21 boundaries, but that authority is subject to exceptions--notably, an exception that preempts
22 counties from applying their ordinances to "[a] person discharging a firearm on a public or
23 private shooting range, shooting gallery or other area designed and built for the purpose

1 of target shooting." ORS 166.171(2)(d). The third statute, ORS 166.176, was enacted
2 two years later and, generally speaking, allows counties to enforce certain ordinances
3 related to the discharge of firearms that were adopted before the earlier statutes, ORS
4 166.170 and ORS 166.171, went into effect. However, ORS 166.176 also includes an
5 exception concerning shooting ranges. ORS 166.176(2) ("Subsection (1) of this section
6 does not apply to * * * [o]rdinances regulating, restricting or prohibiting the discharge of
7 firearms on a shooting range or in a shooting gallery or other area designed and built for
8 the purpose of target shooting.').

9 The county disagreed with plaintiffs' reading of those preemption statutes,
10 particularly with regard to the scope of the shooting-range exceptions in ORS
11 166.171(2)(d) and ORS 166.176(2), and adhered to its position that the permit
12 requirement in LCC 1.1375(2)(m) was valid. Eventually, plaintiffs filed this action to
13 resolve the parties' dispute regarding the effect of ORS 166.170, ORS 166.171, and ORS
14 166.176. Their complaint requested a declaration "that [the county] is preempted by state
15 law from requiring plaintiffs to have a conditional use permit prior to lawfully discharging
16 firearms on plaintiffs' rural property."

17 The parties essentially agreed that the preemption question could be
18 decided as a matter of law, and plaintiffs and the county each filed a motion for summary
19 judgment. Plaintiffs, for their part, argued that the preemption statutes demonstrated
20 clear legislative intent to exempt shooting ranges from all county regulation. The county,
21 on the other hand, argued that, although the shooting-range exceptions in the preemption

1 statutes limit the county's ability to regulate what happens on an established shooting
2 range, the county still has the authority to decide whether to permit a shooting range in
3 the first instance--i.e., to require a conditional use permit for the operation of a firearms
4 training facility in a T-C zone.

5 The circuit court agreed with the county's understanding of the preemption
6 statutes:

7 "With respect to the Plaintiffs' and the [county's] claims for
8 declaratory relief, the Court declares that the Lincoln County Code
9 1.1375(2)(m) requirement to obtain a conditional use permit for a shooting
10 range as a firearms training facility in a Timber Conservation Zone is not
11 preempted by ORS 166.170, [ORS] 166.171, and ORS 166.176[.]"

12 Plaintiffs now appeal that judgment, reprising their arguments regarding the effect of the
13 preemption statutes on LCC 1.1375(2)(m).²

14 II. ANALYSIS

15 The question before us is whether the legislature, by enacting ORS
16 166.170, ORS 166.171, and ORS 166.176, intended to preempt a county zoning
17 ordinance that requires a landowner to obtain a conditional use permit before using the
18 land as a shooting range. In wending our way through the preemption statutes, we apply
19 the methodology described in *State v. Gaines*, 346 Or 160, 171-72, 206 P3d 1042 (2009),
20 discerning the legislature's intent by focusing first on the text, context, and any useful
21 legislative history, then proceeding to general maxims of statutory construction if the

² Plaintiffs also asserted a quiet title claim in their complaint, which the trial court dismissed. To the extent that plaintiffs separately challenge the dismissal of that claim in this appeal, we reject that challenge without discussion.

1 legislature's intent remains obscure.

2 As noted, the preemption statutes implicated in this action were enacted in
3 the mid-1990s. Two of those statutes, ORS 166.170 and ORS 166.171, were enacted
4 together in 1995 as part of the same bill, House Bill (HB) 2784. As we have observed in
5 prior cases, the legislative history of HB 2784 is replete with references to the
6 overarching problem at which the bill was aimed: the "patchwork" of local regulations
7 facing gun owners who traveled throughout the state. *See, e.g., Doe v. Medford School*
8 *Dist. 549C*, 232 Or App 38, 57, 221 P3d 787 (2009) (quoting legislative history that
9 confirms "the focus of the legislature was on avoiding a patchwork quilt of local
10 government laws inconsistently regulating the use of firearms" and that the "carriers of
11 HB 2784 made that same point repeatedly" (emphasis omitted)). To that end, the first
12 section of the enacted bill, now codified as ORS 166.170, sets forth the general rule of
13 preemption for firearms-related regulations:

14 "(1) Except as expressly authorized by state statute, the authority to
15 regulate in any matter whatsoever the sale, acquisition, transfer, ownership,
16 possession, storage, transportation or use of firearms or any element
17 relating to firearms and components thereof, including ammunition, is
18 vested solely in the Legislative Assembly.

19 "(2) Except as expressly authorized by state statute, no county, city
20 or other municipal corporation or district may enact civil or criminal
21 ordinances, including but not limited to zoning ordinances, to regulate,
22 restrict or prohibit the sale, acquisition, transfer, ownership, possession,
23 storage, transportation or use of firearms or any element relating to firearms
24 and components thereof, including ammunition. Ordinances that are
25 contrary to this subsection are void."

26 Much of plaintiffs' argument focuses on that general preemption statute and

1 our application of the statute in *Oregon Firearms v. Board of Higher Education*, 245 Or
2 App 713, 264 P3d 160 (2011). In that case, we held that ORS 166.170 preempted an
3 administrative rule of the Oregon State Board of Higher Education and the Oregon
4 University System that imposed sanctions on persons who possessed or used firearms on
5 university property. We reasoned that the administrative rule was "an exercise of an
6 'authority to regulate' firearms that is *not expressly authorized by the Legislative*
7 *Assembly*, and that it is preempted by ORS 166.170(1)." 245 Or App at 723 (emphasis
8 added). In plaintiffs' view, "[t]his court need not revisit its prior determination in
9 [*Oregon Firearms*] to correctly apply the legislative mandate."

10 However, as the county points out, there is a crucial difference between this
11 case and *Oregon Firearms*: The government actors in that case, the Oregon State Board
12 of Higher Education and the Oregon University System, were not *cities or counties*. The
13 second and third sections of HB 2784, codified, respectively, as ORS 166.171 and ORS
14 166.172, created different rules for those local governments. ORS 166.171(1) expressly
15 authorizes counties to "adopt ordinances to regulate, restrict or prohibit the *discharge of*
16 *firearms within their boundaries*." (Emphasis added.) ORS 166.172(1) provides the
17 same express authorization to *cities*. In both cases, however, the express authorization is
18 subject to exceptions. With regard to counties, ORS 166.171(2) provides:

19 "Ordinances adopted under subsection (1) of this section *may not*
20 *apply to or affect*:

21 "(a) A person discharging a firearm in the lawful defense of
22 person or property.

1 "(b) A person discharging a firearm in the course of lawful
2 hunting.

3 "(c) A landowner and guests of the landowner discharging a
4 firearm, when the discharge will not endanger adjacent persons or
5 property.

6 "*(d) A person discharging a firearm on a public or private
7 shooting range, shooting gallery or other area designed and built
8 for the purpose of target shooting.*

9 "(e) A person discharging a firearm in the course of target
10 shooting on public land that is not inside an urban growth boundary
11 or the boundary of a city, if the discharge will not endanger persons
12 or property."³

13 (Emphasis added.) ORS 166.172(2) provides a shorter list of exceptions for cities, but
14 likewise includes an exception for "[a] person discharging a firearm on a public or private
15 shooting range, shooting gallery or other area designed and built for the purpose of target
16 shooting." ORS 166.172(2)(b).

17 In its next regular session, the legislature specifically revisited the sweeping
18 preemptive effect of its 1995 legislation on county ordinances. As we will describe in
19 more detail, the change was prompted because one county in particular--Deschutes
20 County--was concerned that the 1995 statutes had invalidated a local ordinance that
21 allowed for the creation of "no-shooting zones" within the county. In response to that
22 concern, the legislature enacted ORS 166.176, which essentially "grandfathered in"
23 certain county ordinances that antedated the 1995 statutes. ORS 166.176(1) sets forth

³ Another exception was later added for "[a]n employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife." Or Laws 2009, ch 556, § 1. That addition is not material to our analysis.

1 that savings clause:

2 "(1) Nothing in ORS 166.170 or 166.171 is intended to preempt,
3 invalidate or in any way affect the operation of any provision of a county
4 ordinance that was in effect on November 2, 1995, to the extent that the
5 provision:

6 "(a) Established a procedure for regulating, restricting or
7 prohibiting the discharge of firearms; or

8 "(b) Regulated, restricted or prohibited the discharge of
9 firearms."

10 The savings clause is subject to an exception, one that is almost identical to the
11 exceptions in ORS 166.171(2)(d) and ORS 166.172(2)(b) for "[a] person discharging a
12 firearm on a public or private shooting range, shooting gallery or other area designed and
13 built for the purpose of target shooting." The exception to the savings clause in ORS
14 166.176(2)(a) provides:

15 "Subsection (1) of this section does not apply to * * * [o]rdinances
16 regulating, restricting or prohibiting the discharge of firearms on a shooting
17 range or in a shooting gallery or other area designed and built for the
18 purpose of target shooting."⁴

19 All that is to say that, in this case—and unlike in *Oregon Firearms*—the
20 question is not whether the general preemption statute, ORS 166.170, preempts a state
21 agency from regulating the discharge of firearms. Counties have express authority to do
22 so, subject to enumerated exceptions; and, in the case of county ordinances in effect on

⁴ As part of the same 2009 law that amended ORS 166.171, see ___ Or App at ___
n 3 (slip op at ___ n 3), the legislature added a corresponding exception to ORS 166.176
for "[a]n employee of the United States Department of Agriculture, acting within the
scope of employment, discharging a firearm in the course of the lawful taking of
wild life." Or Laws 2009, ch 556, § 4. The change is not material to our analysis.

1 November 2, 1995, those exceptions are limited to a single relevant exception: the
2 shooting-range exception in ORS 166.176(2)(a).

3 Thus, the inquiry before us narrows considerably. The zoning ordinance
4 that plaintiffs asked the court to declare preempted, LCC 1.1375(2)(m), was adopted in
5 1994. The ordinance operates to restrict the discharge of firearms by preventing plaintiffs
6 from using their property as a shooting range without obtaining a conditional use permit.⁵
7 Therefore, unless an exception to the savings clause applies, "[n]othing in ORS 166.170 or
8 166.171 is intended to preempt, invalidate or in any way affect the operation of" the
9 county's conditional use requirement "to the extent that the provision" either
10 "[e]stablished a procedure for regulating, restricting or prohibiting the discharge of
11 firearms" or "[r]egulated, restricted or prohibited the discharge of firearms." ORS
12 166.176(1)(a), (b). Said differently, ORS 166.176(1) expressly saves the county's
13 ordinance from preemption under ORS 166.170 and ORS 166.171, unless ORS
14 166.176(2)(a) provides otherwise.

15 We turn, then, to the meaning of ORS 166.176(2)(a). Again, that provision
16 states that the savings clause "does not apply to * * * [o]rdinances regulating, restricting
17 or prohibiting the discharge of firearms on a shooting range or in a shooting gallery or
18 other area designed and built for the purpose of target shooting." As they did below, the
19 parties offer competing views of that shooting-range exception. In the county's view, the

⁵ Plaintiffs have never disputed that the county's conditional use requirement is an ordinance that regulates, restricts, or prohibits the discharge of firearms-- indeed, that is plaintiffs' very complaint.

1 exception, like its related exceptions in ORS 166.171(2)(d) and ORS 166.172(2)(b), was
2 aimed at preempting local regulation of the discharge of firearms by persons on established
3 target-shooting facilities. The county argues that the legislature, by couching the exception
4 in terms of areas "designed and built" for the purpose of target shooting, intended for local
5 governments to continue regulating *where* that discharge of firearms could occur--*i. e.*,
6 counties could continue to restrict where a target-shooting facility could be built.

7 The county's proffered distinction--between regulating the existence of the
8 target-shooting facility, on the one hand, and regulating what happens at existing facilities,
9 on the other--finds some support in the text and context of the statute. As the county points
10 out, ORS 166.176(2)(a) and the related exceptions in ORS 166.171(2)(d) and ORS
11 166.172(2)(b) refer to ordinances that regulate the discharge of firearms on a "shooting
12 range," "shooting gallery," or "other area designed and built for the purpose of target
13 shooting." ORS 166.176(2)(a); ORS 166.171(2)(d); ORS 166.172(2)(b). The legislature
14 was specific about the characteristic that all the excepted locations--"shooting ranges,"
15 "shooting galleries" and "other" areas--have in common: They have been "designed and
16 built" for the purpose of target shooting. *See Bellikka v. Green*, 306 Or 630, 636, 762 P2d
17 997 (1988) ("[W]hen the legislature chooses to state both a general standard and a list of
18 specifics, the specifics do more than place their particular subjects beyond the dispute;
19 they also refer the scope of the general standard to matters of the same kind, often
20 phrased in Latin as '*ejusdem generis*.'"). It is plausible, then, that the legislature, by
21 carving out an exception for the discharge of firearms at facilities "designed and built for

1 the purpose of target shooting," was concerned only with the activities that occurred on
2 existing target-shooting facilities, and did not intend to preempt local governments from
3 deciding where those facilities could lawfully exist.

4 The better textual support for the county's position, though, is that ORS
5 166.176(2)(a) refers specifically to ordinances that regulate, restrict, or prohibit the
6 discharge of firearms "on" a shooting range or "in" a shooting gallery or other area
7 designed and built for the purpose of target shooting. The related exception in ORS
8 166.171(2)(d) is even more specific, referring to ordinances that apply to "[a] person
9 discharging a firearm on a public or private shooting range, shooting gallery or other
10 area designed and built for the purpose of target shooting." (Emphasis added.) Read in
11 context, the exceptions plausibly can be understood as an effort to create uniformity
12 through statewide regulation of what occurs *on* or *in* target-shooting facilities, not as a
13 restriction on where a local government must permit those facilities. That is, the
14 exceptions can be read as limitations on the ability of a county to apply local regulations
15 to persons who are discharging firearms at established target-shooting facilities, but not
16 as preempting the ability of local governments to restrict where those facilities may be
17 established in the first instance.⁶

⁶ As a matter of further context, a number of related firearms statutes similarly carve out protections for activities that occur on established or designated shooting facilities. For instance, ORS 166.220(2)(c) has stated since 1991 that the crime of unlawful use of a weapon does not apply to "[p]ersons discharging firearms * * * upon public or private shooting ranges, shooting galleries or other areas *designated and built* for the purpose of target shooting." (Emphasis added.) Likewise, ORS 166.260(3)(a) provides that the crime of unlawful possession of a weapon does not apply to "[m]embers of any club or

1 Plaintiffs, on the other hand, interpret ORS 166.176(2)(a) to sweep up any
2 county regulation of target-shooting facilities, including zoning restrictions like LCC
3 1.1375(2)(m).⁷ The text of the statute lends itself to that broader interpretation, as well.
4 Nothing in ORS 166.176(2)(a) explicitly refers to the circumstances under which a shooting
5 range, shooting gallery, or other target shooting area is considered to have been "designed

organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges." (Emphasis added.) Although those statutes do not bear directly on the statutory construction question before us, they provide some support for the county's view that the legislature would have distinguished between where a shooting gallery or shooting range is established or designated, on the one hand, and what activities can be regulated at those established ranges, on the other.

⁷ The precise contours of plaintiffs' interpretation are unclear. Plaintiffs devote most of their briefing to the 1995 preemption statutes and do not proffer any interpretation of the text of ORS 166.176. The closest they come to addressing the meaning of that statute is to quote from an opinion by the Land Use Board of Appeals (LUBA), *Sherwood v. Washington*, 36 Or LUBA 656 (2000), in which the board opined,

"ORS 166.176(1) begins by restoring county authority to regulate, restrict or prohibit firearms or to adopt county legislation that establishes a procedure for doing so, provided such county legislation was 'in effect on November 2, 1995.' ORS 166.176(1) would appear to authorize the disputed conditions [concerning noise limitations on the shooting range], which were adopted in 1992 and 1993. However, ORS 166.176(2) specifically limits the authority granted by ORS 166.176(1) so that it does not include authority to regulate an 'area designed and built for the purpose of target shooting.' When ORS 166.176 is read with ORS 166.170 and 166.171, the preemption imposed on county regulation of 'target shooting' by ORS 166.170 remains."

(Footnotes omitted.) LUBA's analysis in *Sherwood*, which involved noise limitations on a previously permitted shooting range, does not inform our inquiry into whether the legislature also intended to preempt conditional use requirements as to target-shooting facilities that have not yet been established. In any event, contrary to plaintiffs' suggestion, LUBA is not a court, and we are not bound by LUBA's reasoning.

1 and built" for the purpose of target shooting, or explicitly requires that it was "designed and
2 built" lawfully. Thus, it is plausible that the legislature intended ORS 166.176(2)(a) and
3 ORS 166.171(2)(d) not only to preempt counties from applying local regulations to
4 activities on target-shooting facilities, but also to preempt ordinances that restrict where
5 those facilities can be established.

6 We turn, then, to the pertinent legislative history for clues as to legislative
7 intent. Initially, we note that the legislative history of the 1995 preemption statutes
8 themselves is not particularly helpful in determining what the legislature had in mind
9 when it first enacted the exceptions concerning shooting ranges. Although House
10 members actually discussed the potential preemptive effect of HB 2784 on zoning of
11 shooting ranges, their floor and committee discussions yield inconclusive evidence of
12 what the legislature ultimately understood to be the bill's effect. During a work session in
13 the House Judiciary Committee, one of the committee members, Representative
14 Prozanski, raised concerns that the language of the bill, as drafted, could be construed as
15 preempting local governments from having any say as to where shooting ranges could be
16 located. Tape Recording, House Committee on Judiciary, HB 2784, Apr 3, 1995, Tape
17 15, Side A (statement of Rep Floyd Prozanski). After committee counsel agreed that the
18 language of the bill would allow cities to regulate the discharge of firearms but not the
19 siting of shooting ranges, Representative Prozanski pressed the issue with his legislative
20 colleagues, asking whether that was indeed the intent of the drafters. The committee
21 chair, Representative Parks, responded obliquely to the question, reiterating that the

1 purpose of the bill was to recognize the constitutional rights of gun owners and create
2 uniform regulation. Tape Recording, House Committee on Judiciary, HB 2784, Apr 3,
3 1995, Tape 15, Side A (statement of Rep Del Parks). After Representative Prozanski
4 inquired whether statewide siting standards would be enacted, another representative,
5 Representative Johnston, confirmed that, in his view, the language of the bill would not
6 allow a local government to "say you can put them here but not there." Tape Recording,
7 House Committee on Judiciary, HB 2784, Apr 3, 1995, Tape 15, Side A (statement of
8 Rep Bryan Johnston).

9 When HB 2784 reached the House floor, Representative Prozanski rose in
10 opposition to the bill, on the ground that the current draft "will not allow cities to do any
11 type of zoning of * * * what I would call the zoning of shooting galleries within a
12 residential zone." Tape Recording, House Floor Debate, HB 2784, Apr 12, 1995, Tape
13 82, Side A (statement of Rep Floyd Prozanski). He expressed a desire to "make certain
14 that this bill is in fact within the intent of the drafters and does not prevent and exclude a
15 local municipality from having some type of zoning regulations over shooting galleries *
16 * *." *Id.* Shortly thereafter, another representative, Representative Ross, asked a
17 question of the bills carrier, Representative Tarno, regarding a line in the staff measure
18 summary of the bill that stated, "Prohibits cities and counties from regulating the
19 possession of firearms in public places rented, leased or otherwise occupied by a person."
20 Referring to that line of the summary, Representative Ross specifically asked
21 Representative Tarno, "Would this mean that counties could not regulate or prohibit

1 firing ranges in rented areas in a residential area?" *Id.* (statement of Rep Barbara Ross).
2 Representative Tarno responded in the negative, and his explanation ran contrary to
3 Representative Prozanski's earlier remarks about the inability of local governments to
4 restrict the location of shooting ranges. Representative Tarno stated, "The counties still
5 have the option of having a county ordinance that prohibits the discharge within
6 designated areas. The counties could establish an approved range." *Id.* (statement of Rep
7 Veral Tarno). Another legislator, Representative Tiernen, immediately rose to "further
8 elaborate on what the carrier just stated." *Id.* (statement of Rep Bob Tiernen). In the
9 process, he suggested that opposition to the bill was unfounded, stating, "First off, this
10 does not permit [*sic*] local jurisdictions from regulating the discharge of firearms,
11 whether it's through a shooting gallery, or backyard rabble rousings, or drive-by
12 shootings." *Id.* What the bill accomplished instead, he submitted, was a uniform system
13 of regulations that would allow gun owners to travel throughout the state. *Id.*

14 Given the cross-cutting remarks on the House floor, we cannot say with any
15 certainty what the House understood to be the effect of HB 2784 on the siting of shooting
16 ranges, let alone what the legislature as a whole understood. It is possible that a majority
17 of the House agreed with Representative Prozanski's understanding of the bill and passed
18 it nonetheless; it is also possible that, based on the carrier's assurances, the legislators did
19 not understand (or intend) the bill to have any effect on the ability of local governments
20 to restrict the areas in which an "approved range" could be established.

21 That inconclusive testimony from the House is the extent of the relevant

1 legislative history for HB 2784. On the Senate side, the bill passed with minor
2 amendments and without any substantive discussion in committees or during the floor
3 debates regarding local regulation of target-shooting facilities.⁸ The amended bill was
4 then passed by the House, subsequently vetoed by the Governor, and then passed over his
5 objection during the 1995 Special Session, but the scope of the exception concerning
6 shooting ranges was not further discussed.

7 There is, however, legislative history concerning a separate bill passed in
8 the 1995 Regular Session, HB 2876, later codified at ORS 197.770, that suggests that the
9 1995 legislature did not understand the preemption bill, HB 2784, to preempt city and
10 county zoning of shooting ranges. That parallel bill, HB 2876, concerned the siting of
11 "firearms training facilities." As initially proposed, HB 2876 would have required local
12 governments to permit firearms training facilities on any land not zoned exclusively for
13 residential uses. It was subsequently amended to provide instead that existing firearms
14 training facilities would be allowed to continue operating. As enacted, HB 2876
15 provided:

16 "(1) Any firearms training facility in existence on the effective date
17 of this 1995 Act shall be allowed to continue operating until such time as
18 the facility is no longer used as a firearms training facility.

19 "(2) For purposes of this section, a 'firearms training facility' is an

⁸ During a public hearing on the bill, a representative of the League of Oregon Cities testified in opposition to the bill and noted that "shooting range" is not well defined under Oregon statutes; the issue was not further discussed. Tape Recording, Senate Committee on Rules and Elections, HB 2784, May 17, 1995, Tape 72, Side A (statement of Sarah Hackett).

1 indoor or outdoor facility that provides training courses and issues
2 certifications required [for certain enumerated purposes.]"

3 Or Laws 1995, ch 475, § 2. In the debate on the House floor, the bill's carrier,
4 Representative Adams, clarified that the bill specifically referred to those facilities "in
5 existence" and would not include expansion of existing facilities. Tape Recording
6 House Floor Debate, HB 2876, May 15, 1995, Tape 140, Side B (statement of Rep Ron
7 Adams). The obvious implication, both from his remarks and from the text of the statute
8 itself, is that firearms training facilities that were not in existence would continue to be
9 subject to local zoning restrictions, as would those facilities that were in existence but
10 had ceased being used as firearms training facilities as defined in the statute.⁹

11 We appreciate that HB 2784 and HB 2876 were considered in different
12 committees and were passed by the legislature on different dates.¹⁰ That said, we find it
13 highly unlikely that the same 1995 legislature would have passed a bill that *expressly*
14 required local governments to allow firearms training facilities to continue operating, but
15 then *implicitly* went even further than that, by preempting any zoning regulation of

⁹ Plaintiffs suggest, by way of a footnote, that the county's interpretation of the term "firearms training facility" in LCC 1.1375(2)(m) is somehow inconsistent with the legislative definition of that term in ORS 197.770(2). The county's interpretation of "firearms training facility" is not properly before us in this case. In any event, we note that ORS 197.770(2), set out previously, ___ Or App ___ (slip op at 16), was enacted after the county's ordinance. We fail to see why that statute would limit the county's understanding of a preexisting term in its own county code.

¹⁰ The Senate initially passed the preemption bill only six days after the bill concerning the siting of firearm training facilities, with no mention of any overlap concerning zoning of shooting ranges.

1 firearms training facilities or any other target-shooting facility.¹¹

2 Lastly, in terms of legislative history, we look at the history of ORS
3 166.176(2)(a) itself. That history, to which we previously alluded, ___ Or App at ___
4 (slip op at 7), strongly suggests that the legislature, at least as of 1997, understood the
5 shooting-range exception in ORS 166.176(2) to operate more narrowly than plaintiffs
6 contend. After ORS 166.170 and ORS 166.171 were passed during the 1995 Special
7 Session, representatives from Deschutes County, including Representative Luke,
8 proposed a bill to remedy an "unintended consequence" of those statutes--namely, that
9 they had preempted a Deschutes County ordinance that had been "carefully crafted" by
10 the various stakeholders in that area. Tape Recording, House Committee on Judiciary,
11 Subcommittee on Criminal Law, HB 2649, Apr 18, 1997, Tape 91, Side B (statement of
12 Rep Dennis Luke). The county's ordinance, which had existed in some form since 1975,
13 had allowed for the creation of "restricted areas" in which the discharge of firearms was
14 generally prohibited. Deschutes County Code (DCC) 9.08.050. The restricted areas,

¹¹ In the same vein, as part of the 1995 Special Session, the legislature also enacted former ORS 467.135, Or Laws 1995, ch 3, § 40b (Spec Sess), which provided that

"[a]ny local government or special district ordinance or regulation now in effect or subsequently adopted that makes a shooting range a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to a shooting range for which no action or claim is allowed under ORS 467.130 and 467.132."

If, as plaintiffs contend, the 1995 preemption statutes were intended to preempt all local regulations concerning shooting ranges, then former ORS 467.135 (subsequently repealed and reenacted in a Special Session in 1996, Or Laws 1996, ch 8, §§ 9, 10 (Spec Sess)), would have been superfluous.

1 known as no-shooting zones, were no longer enforceable by the county after the
2 enactment of the 1995 statutes, which had preempted county prohibitions on the
3 discharge of firearms by, among others, "[a] landowner and guests of the landowner
4 discharging a firearm, when the discharge will not endanger adjacent persons or
5 property." ORS 166.171(2)(c). Representative Luke assured the subcommittee that he
6 had spoken to the original sponsors of the 1995 legislation, and that they did not object to
7 the legislative fix.

8 On the House floor, Representative Luke carried the bill and again
9 explained that it was intended to restore the ability of Deschutes County (and any other
10 counties with similar ordinances) to enforce preexisting regulations that would prohibit
11 the discharge of firearms in rural subdivisions. Tape Recording, House Floor Debate, HB
12 2649, May 7, 1997, Tape 97, Side B (statement of Rep Dennis Luke). The statutory
13 change, Representative Luke explained, was not intended to undo the 1995 preemption
14 statutes; he also stated that the bill would not cover shooting galleries, but he did not
15 further elaborate on that exception. *Id.* The bill passed the House unanimously.

16 The legislative history on the Senate side reveals a similar focus on Deschutes
17 County's ordinance. Before the Senate Committee on Crime and Corrections, the Deschutes
18 County Sheriff appeared in support of the bill and explained that it was necessary to restore
19 the no-shooting zones within the county, which the 1995 preemption statutes had made
20 illegal. Tape Recording, Senate Committee on Crime and Corrections, HB 2649, May 21,
21 1997, Tape 126, Side A (statement of Greg Brown, Deschutes County Sheriff).

1 Representative Luke also spoke to the Senate committee in support of the bill, explaining
2 that, under Deschutes County's ordinance, voters within rural subdivisions had the ability to
3 create "no-shooting zones" by obtaining the signatures of registered voters in the area. He
4 told the committee that homeowners in Deschutes County were interested in restoring those
5 zones; he further represented that he had spoken to the sponsors of the 1995 legislation, that
6 it had not been their intent to preempt the county's ordinance, and that they did not object to
7 the bill. *Id.* (statement of Rep Dennis Luke). As in the House, the bill passed the Senate
8 overwhelmingly.

9 Although the legislators did not directly address the ability of a county to
10 restrict where shooting ranges are located, the often-expressed goal--to reestablish no-
11 shooting zones in Deschutes County--strongly suggests that the legislature did not
12 understand the shooting-range exception to operate so expansively as to preempt the ability
13 of a county to decide where shooting ranges could be located. If the legislature was intent
14 on restoring the ability of a county to prohibit landowners and their guests from discharging
15 firearms, *cf.* ORS 166.171(2)(c) (preempting such regulation), it would be a curious drafting
16 decision to include, as part of that fix, an exception that nevertheless allows those same
17 landowners to circumvent the ban on discharge simply by setting up a small shooting range
18 on their property. That is, a shooting-range exception that would preempt a county's ability
19 to regulate where a shooting range could be lawfully established--thereby effectively
20 allowing property owners to open backyard shooting ranges, shooting galleries, or other
21 target-shooting areas anywhere in the county, including within a no-shooting zone--would

1 significantly undermine the efficacy of the very ordinance that HB 2649 was intended to
2 save. It is more likely, given the express purpose of the bill, that the legislature understood
3 the exception in ORS 166.176(2) to preempt county regulation of the discharge of firearms
4 on *lawfully established* shooting ranges. Indeed, Deschutes County's code includes that
5 very limitation; it expressly provides that the restrictions in no-shooting zones do not apply
6 to "[a] *lawfully established firing range*." DCC 9.08.040(A)(3) (emphasis added).

7 Although the legislative history of ORS 166.176(2), and the parallel history of
8 the 1995 statute concerning siting of firearms training facilities, strongly suggest to us that
9 the legislature intended the shooting-range exception to operate more narrowly than
10 plaintiffs contend, it does not conclusively resolve the ambiguity in the text of ORS
11 166.176(2). We therefore turn to relevant canons of construction to determine the meaning
12 of the statute. *Gaines*, 346 Or at 171-72; *see Doe*, 232 Or App at 60 (turning to relevant
13 maxims of statutory construction to resolve ambiguities regarding firearms preemption
14 statutes). And here, the pertinent canon likewise points toward a narrower construction
15 of the shooting-range exceptions in the firearms preemption statutes.

16 We assume that the legislature did not intend an unreasonable result. *Doe*,
17 232 Or App at 60 (citing *State v. Bordeaux*, 220 Or App 165, 175, 185 P3d 524 (2008), and
18 *State v. Vasquez-Rubio*, 323 Or 275, 282-83, 917 P2d 494 (1996)).¹² Under plaintiffs'

¹² The county urges us to resolve any ambiguity based on the "well settled" presumption that "a state statute will not preempt a local civil regulation unless the intent to do so is express or because the local regulation cannot operate concurrently with state law." Whatever "home rule" preference might otherwise exist has been negated by ORS 166.170, which provides that, except as expressly authorized by statute, the authority to

1 proposed construction of the shooting-range exception, the legislature preempted all local
2 ordinances concerning the siting of shooting ranges and did not replace those local
3 ordinances with any statewide standards. That interpretation of ORS 166.171 and ORS
4 166.176, coupled with the general preemptive effect of ORS 166.170, would mean that a
5 local government could not enact or enforce an ordinance intended to prevent a business
6 from opening a commercial shooting range next to a home, or a school, or a hospital.
7 Property owners would be able to open backyard shooting ranges in the middle of a
8 residential street--including in Deschutes County, where landowners who would otherwise
9 be prevented from discharging firearms on their property could simply design and build a
10 target-shooting range to circumvent the county's otherwise enforceable no-shooting
11 restrictions. Those outcomes seem far afield from the concerns addressed by the legislature
12 in 1995 and 1997 and lead us to conclude that, had the legislature actually intended those
13 results, it would have said so explicitly in the statute itself--especially in 1997, when it
14 restored the ability of a county to create no-shooting zones.

15 We therefore conclude, as the circuit court did, that the county's ordinance,
16 LCC 1.1375(2)(m), is not preempted by ORS 166.170, ORS 166.171, or ORS 166.176.
17 LCC 1.1375(2)(m), which requires property owners to obtain a conditional use permit to
18 operate a "firearms training facility" in a T-C zone, is not an "[o]rdinance regulating,
19 restricting or prohibiting the discharge of firearms on a shooting range or in a shooting
20 gallery or other area designed and built for the purpose of target shooting" under ORS

regulate the use of firearms "is vested solely in the Legislative Assembly."

1 166.176(2)(a). (Emphases added.) Accordingly, the savings clause in ORS 166.176(1)
2 applies in this case, and the county's ordinance is not preempted by ORS 166.170 or ORS
3 166.171. For that reason, we affirm the circuit court's declaratory judgment.¹³

4 Affirmed.

¹³ Plaintiffs advance two other assignments of error that do not merit significant discussion. In their second assignment of error, plaintiffs submit that the court did not adequately explain its reasoning in granting summary judgment. We fail to see how that purported shortcoming, even if it were the case, would amount to reversible error; the issue before us is one of law that we decide without deference to the circuit court's explanation. In their third assignment, plaintiffs contend that the court erred "in granting to County relief which it had not requested: declaratory judgment in its favor on the merits." The court, however, did no more than plaintiffs requested. They invoked the circuit court's authority to declare whether the county's code provision was preempted. The court decided the issue adversely to them--correctly so--and declared as much in its judgment.

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

Subject: East End Rod & Gun Club Land Use**Date:** Wed, 8 Jan 2014 01:03:02 -0800**From:** Jonathan Phillips <jphillips9981@gmail.com>**To:** tamra@co.umatilla.or.us

RECEIVED

JAN 08 2014

UMATILLA COUNTY
PLANNING DEPARTMENT**Umatilla County Land Use Planning Commission**

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time.

Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

#28

pg 2

Thank You

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JAN 08 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

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UMATILLA COUNTY
PLANNING DEPARTMENT

1/8/14
Tamara Mabbott
Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th ST
Pendleton, OF 97801

Dear Tamara:

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms. The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training also use our range.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it. As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore, which any farmer should understand. Many of our members only have weekdays off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

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#29

Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that close appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Respectfully,

Theodore Richerzhagen III, Ph. D.
24 SE Sunny DR
College Place, WA 99324
509.301.1035
tricherz@charter.net

RECEIVED

JAN 08 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

RECEIVED

JAN 08 2014

UMATILLA COUNTY
MANAGING DEPARTMENT

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

Subject: Concerning East End Rod and Gun Club

Date: Wed, 8 Jan 2014 18:48:48 +0000

From: Anthony Remboldt <Anthony.Remboldt@wallawalla.edu>

To: tamra@co.umatilla.or.us <tamra@co.umatilla.or.us>

CC: verl.pressnall@eergunclub.com <verl.pressnall@eergunclub.com>

To whom it may concern,

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

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Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

#30

Thank You,

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pg 2

Anthony Remboldt

Walla Walla University
Director of Training | Aviation Program
(Airport Office) 124 W. Boeing Avenue | Walla Walla, WA 99362
(Campus Office) 204 S. College Avenue | College Place, WA 99324

JAN 08 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Office: 509.527.2723 | Cell: 509.540.7257
fly.wallawalla.edu | facebook.com/wwwuaviation

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

Subject: East End Rod and Gun Club

Date: Wed, 8 Jan 2014 18:56:26 +0000

From: Arlene Isaacson <AIsaacson@bluecc.edu>

To: 'tamra@co.umatilla.or.us' <tamra@co.umatilla.or.us>

RECEIVED

JAN 08 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

To: Tamra Mabbit

Planning Director

From: Arlene Isaacson

Teacher and Gun Club Member

Re: East End Rod and Gun Club

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms:

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I do believe that the Gun Club is well managed and is very safety conscious. There is really no need to impose additional restrictions upon the club and its members.

Sincerely,

Arlene Isaacson

Gun Club Member and Respected Teacher

#31

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

Subject: RE: East End Rod and Gun Club**Date:** Wed, 8 Jan 2014 12:42:37 -0800**From:** Mark Mebes <mmebes@wwps.org>**To:** tamra@co.umatilla.or.us

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JAN 08 2014

UMATILLA COUNTY
PLANNING DEPARTMENT**Umatilla County Land Use Planning Commission**

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

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While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

Mark Mebes

EERGC Member

#32

Umatilla County Land Use Planning Commission

January 8, 2014

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley.

Oregon has had Land use zoning legislation in place for over 50 years that has been constantly evolving to meet the State's needs. Oregon's current statewide land use planning program — originated in 1973 under Senate Bill 100 — provides protection of farm and forest lands, conservation of natural resources, orderly and efficient development, coordination among local governments, and citizen involvement. According to the Oregon Department of Land Conservation, the guiding principles are:

- Provide a healthy environment;
- Sustain a prosperous economy;
- Ensure a desirable quality of life; and
- Provide fairness and equity to all Oregonians

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UMATILLA COUNTY
PLANNING DEPARTMENT

These principles all carry the same weighted value. No one is more important than the other. Rather it is the whole or the majority that carries more value than any part. Therefore, one can not consider one principle over any other and that is true of good governance. The needs of the many must outweigh the needs of the few!

The availability of the range to our 800 plus members gives them a safe place to practice with their firearms. Our range is also used government at several levels; by several small police departments that do not have access to any other local facility as well as the multi-state task force, Veterans Administration, and Department of Corrections for long range and Swat Entry training.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when anyone would be able to use it.

As you are aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. When I worked the farm we were up before

#33

daylight (well before 8 AM). While we often worked the fields until 5 PM, we also reserved the afternoons for equipment maintenance and repair back at the homestead.

Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is only real safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food and gasoline, as well as purchase shooting supplies locally.

Shooting safety is a very serious concern to the Club that has been addressed by the board of directors and is constantly evolving. For example, Current and new member range safety orientation is a way to assure that everyone understands the safety rules that are in place, and the Club's 29 NRA certified Range Safety Officers are on alert for anything that may be of concern. Also, the range safety committee is constantly reviewing and revising the Club rule's as needed. Another example pertains when farmers are observed in the neighboring fields; a black flag is flown that closes appropriate portions of the range as needed for safety; or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

I consider the needs of the many and please allow us to keep a safe place to train, practice; and even occasionally compete with our firearms.

Thank You,

Greggory S. Bond

RECEIVED

10 Wilkenson Ct, Milton Freewater, Oregon 97862

JAN 08 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

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

Subject: Milton Firearms training facility

Date: Wed, 8 Jan 2014 15:53:05 -0800

From: Steve Filkins <sdfilkins@msn.com>

To: tamra@co.umatilla.or.us <tamra@co.umatilla.or.us>

CC: verl.pressnall@eergunclub.com <verl.pressnall@eergunclub.com>

I thank you for the opportunity to submit this letter and to have my opinion in the matter of the Milton Freewater Firearms range.

Steve Filkins
45210 Mission Road
Pendleton, OR
97801
541-278-4205
cel- 541-379-7958

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JAN 08 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

letter attached

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JAN 08 2014

Umatilla County Land Use Planning Commission

UMATILLA COUNTY
PLANNING DEPARTMENT

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

I was at the range this last fall with some young shooters and one that it was his first exposure to shooting and shooting safety. The Milton range is an excellent training ground to show future generations the joys of shooting sports.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

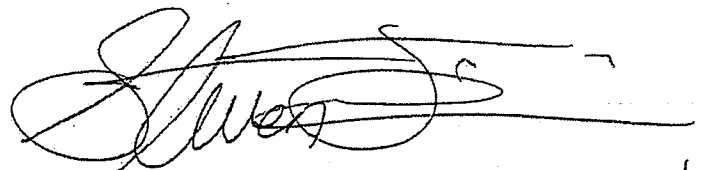
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While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. It should also be noted that I am a former Police Officer and for the majority of my ten years with the Umatilla Tribal Police department, I was the Firearms Instructor. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

A large, stylized handwritten signature in black ink, appearing to be 'Steve S.', written over a horizontal line.

#34

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1-9-2014

Veri Pressnall
EMAIL

JAN 09 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Land Use Planning Commission

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Rae

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Thank You

Paul E Roquet

Paul E Roquet
1866 Home Ave
Walla Walla, WA 99327

#35



Paul E. Roquet
1866 Home Ave.
Walla Walla, WA 99362-9059

Umatilla County Land Use Planning Commission

I have been a member of the EERGC and using the range since it first moved out to the current location. As photo's showed in the last meeting there was not much out there. We had to take our own targets and stands. We shot off the hoods of our vehicles or our own seating benches and there was no oversight. As with all things we have progressed into a managed safe club in which results in expansion and growth. I think it is better and safer to have the people shooting in a safe controlled environment rather than along all the county roads into any bank someone can find that suits their need. Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. We have actually had more members stay in the club or join because of our safety concerns and training. With 29 NRA certified safety officers in the club and more on the way it is not often that there is not one at the range. These officers have the authority to remove anyone that is not following the safety protocol from the range and confiscate their gate key. We also have several police departments and swat teams that use the range to better their skills and maintain certifications.

Many of our members are from outside of Milton Freewater which was brought up at the last meeting. These members are paying dues to an organization in Milton Freewater and the money stay's in Milton Freewater. They purchase gas, food and ammunition on their way to and from the range. They meet other members that may be in business and start using their products, services or visit their place of business. This is no different than any other location that has proximity to a state line. Milton Freewater employ's many from Walla Walla and those people do pay taxes to the state. I am sure the members of the club pay a higher percentage of taxes to the county and state than what our range neighbors do.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it. This is impractical as many members work weekends, nights, graveyard shifts or 10 hours a day. During the summer months it can also be over 100 degree's by 9 or 10 in the morning which affects the way a firearm will shoot. We have been using the range for over 20 years and as far as I know never had a complaint from the Rae family. The question to be raised is if any member of the Rae family has ever applied to the range, has ever tried to lease land to the EERGC or purchase the land the range is irrigated farm ground was brought up a lot at the previous meeting and this is pretty much a mute point. The ground the range is on is not irrigated and there cannot be any industrial type well drilled within a 5 mile radius of the City of Milton Freewater as per the State water regulations.

It was brought up in the last meeting about the proximity to the urban growth line for the City of Milton Freewater. If you have ever visited this part of the valley you would have seen that it is a valley. I have spoken with the members of the city council and due to the river and the elevation change there are no plans to grow this direction due to the cost for infrastructure which would include another water tower and a route to get the sanitary sewage across the river. I also have a father resting in the cemetery which was brought up and he has had no complaints. I have attended several services in the cemetery and cannot remember ever hearing anything from the range. Due to the layout of the land the range is protected in another small valley. In fact you cannot even see the Rae home from the range due to the hills.

I live in the farming area of Milton Freewater and they do not farm 9 to 5. If the Rae's want to make this a nuisance issue I can bring up many from farming practices. Even if you are in the commercial or residential area you hear the bird cannons, trucks hauling product 24 hrs a day with Jake breaks, equipment being moved 24 hrs a day in front of our homes. We deal with the wheat truck and their dust and spillage on the roads. We slide around in the pea juice at intersections and spray on our cars along with sprinklers constantly watering down the asphalt. Yes there are days I can hear the range at my residence 4 miles away. It all depends on the weather and air movement. I was at the range on the day of the photos and I could hear the rock pit operation that is over a mile away, it all depends on how the air is moving and cloud layer. Some days I can smell Wallula pulp mill and the Tyson feed lot but I do not try to get them to move. It is life.

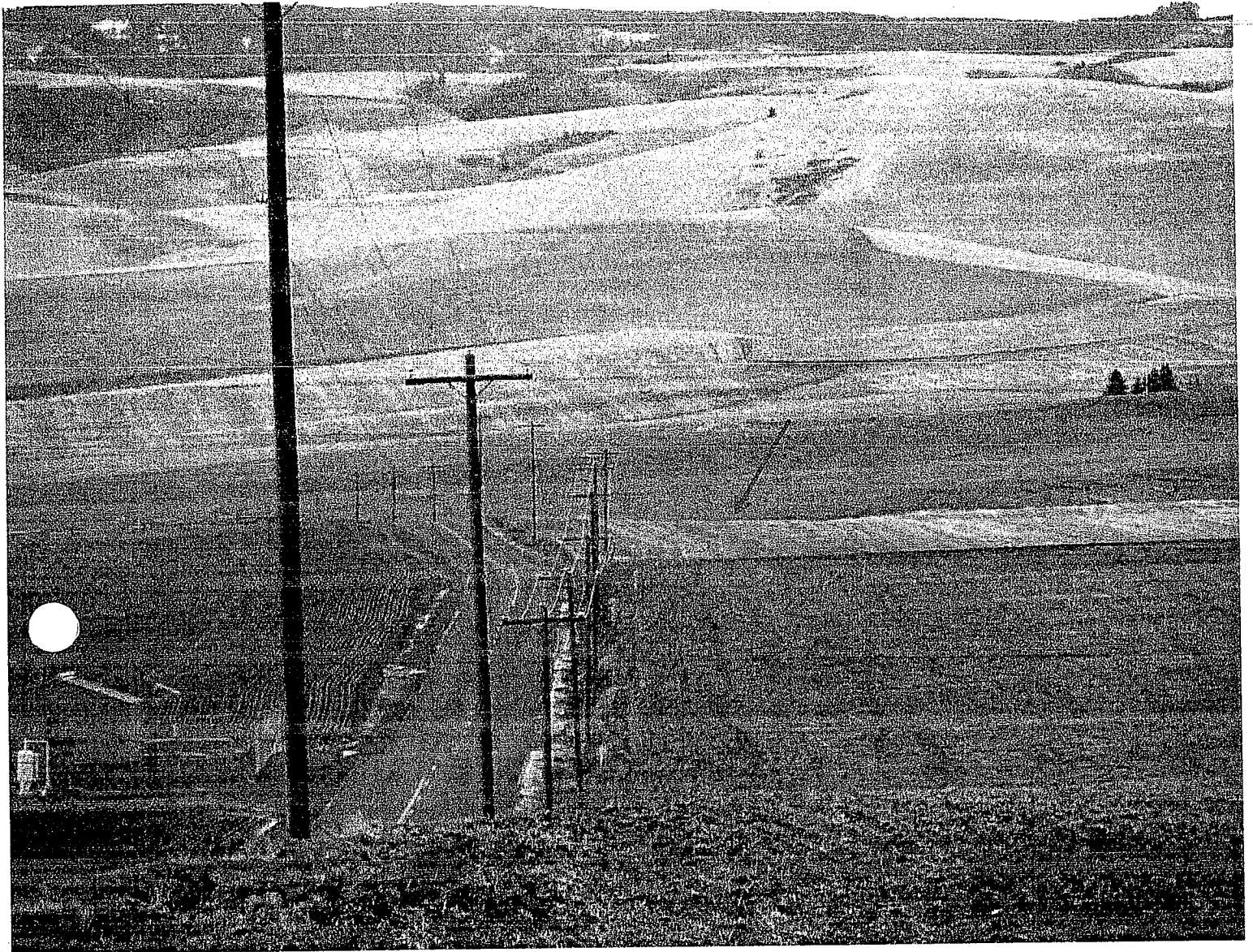
Thank you for your service on the commission. Please help us keep and maintain a place for the members of the county and surrounding areas to have a safe environment to shoot and have family activities.

Ken Sloan
84907 Humbert Lane
Milton Freewater, OR

#310

I have included some ground level photos to show the range and the vision from surrounding areas.

Looking east towards range from cemetery. Range in valley arrow is pointing

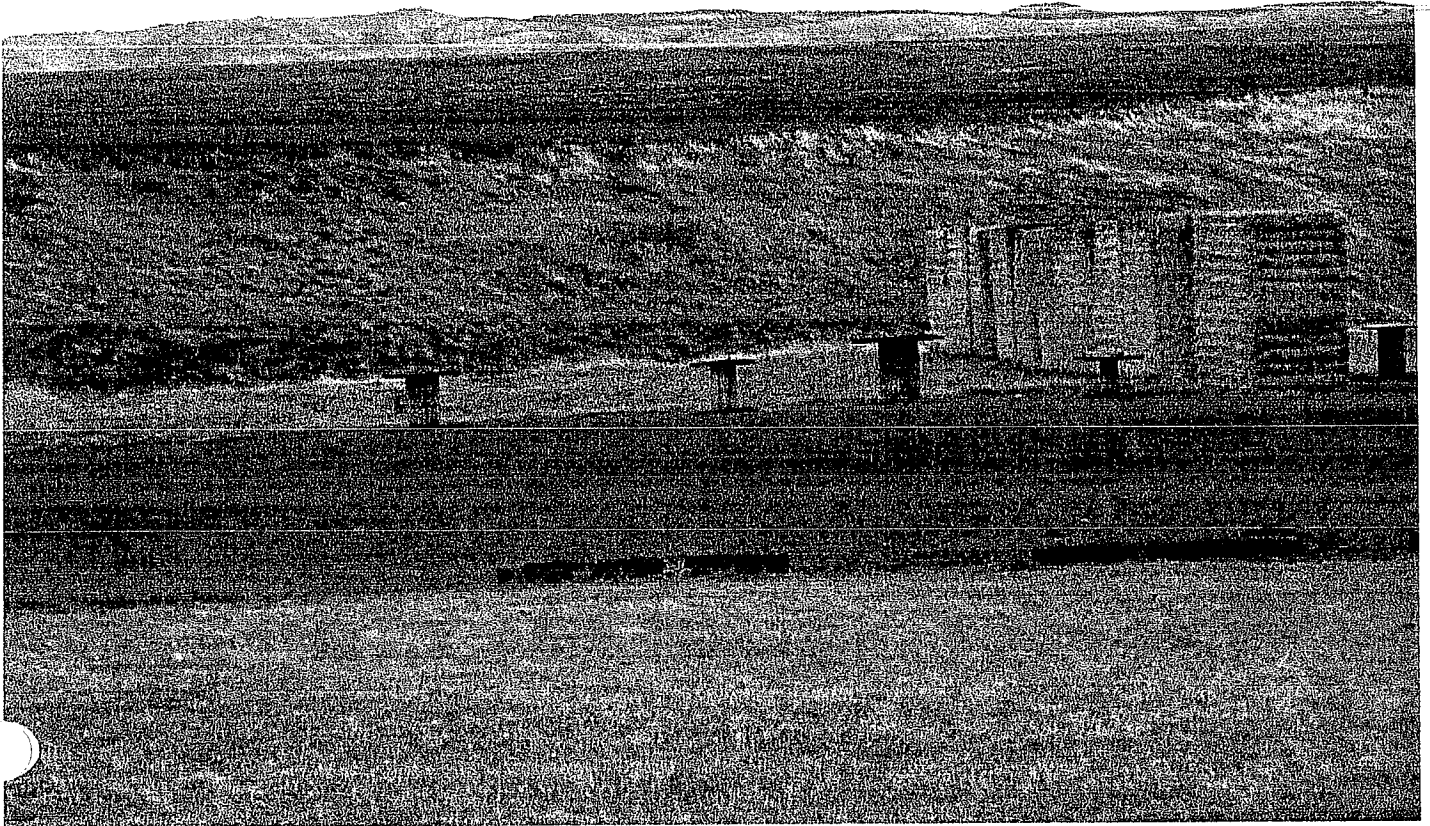




Looking SW from shotgun area



Handgun, lead only range



Handgun range



Rifle range looking South/SE



Rifle range towards Rae's farm (not visible due to hills)



From gate towards Rae's farm (still not visible over the hill)



From Gate looking west back toward cemetery

Richard A. Ullian
1852 SW Athens Avenue
Pendleton, OR 97801
(541) 278-1150
raullian@g.com

RECEIVED

JAN 09 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

January 8, 2014

TO: UMATILLA COUNTY PLANNING COMMISSION
RE: LUD-163-13

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

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Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank you for your consideration on this matter.

Sincerely,



Richard A. Ullian
Member, East End Rod & Gun Club

#37

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

Subject: letter to the planning board

Date: Thu, 09 Jan 2014 19:22:04 -0800

From: Paul <PaulS1950@yahoo.com>

To: tamra@co.umatilla.or.us

CC: Verl Pressnall <verl.pressnall@eergunclub.com>, Paul Stephens
<pauls1950@yahoo.com>

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You
Paul Stephens

please read the following:

#38

Paul Stephens
1309 S. 3rd Ave.
Walla Walla, WA. 99362

Umatilla County Land Use Planning Commission

Dear Sirs;

Since the shooting range known as East End Rod and Gun Club was established in 1947 and we are grandfathered in on the land upon which we shoot I see no question about the use of the land that we lease. Those who have lived as neighbors to us recognize the sound of shooting as the sound of freedom and have not complained of the noise. We are doing our part to have the land inspected and kept clean.

The following are my personal feelings about this situation:

The complaint being brought to this commission is being brought by, or on behalf of, an individual who would attempt, through a back door, to rid the land of that sound of freedom. I am a new member of this club as I have only lived in the larger area for about a year. I find the rules of the range similar to the common sense rules that were in effect at the Seattle Police Athletic Association where I was a member when I lived in Seattle. That range had to deal with even wilder attempts to close it down even though it served the Seattle Police Department and the county sheriff as a shooting and training facility. We were once presented with a live round of 9mm ammo that was supposed to have been fired onto the runway to the north of the range. As you know a bullet still in its cartridge could not have been fired at all but the King County Airport required satisfaction. This is a similar case.

The East End Rod and Gun Club has been a good neighbor and teaches men and women of all ages to properly and safely handle firearms. My granddaughter is learning to shoot skeet and participates with me, her dad, and her other grandfather in small-bore silhouette. Knocking over metal targets with twenty-two caliber rifles from a standing, unsupported position. This provides us with good family time doing what we enjoy and builds the bonds that keep generations together. It provides me with a reason to get out and exercise my bad back which is getting stronger due to my practice.

This is more than a place to go and shoot. It is a place where children learn discipline and respect. It is a friendly competition among people of different ages and genders. It is a place of recovery and a place for newcomers to meet new friends. It centers around guns and the shooting of them, and that worries some people. Especially people who do not understand the sound, that has been heard in conflicts around the world, in the battle for our way of life is the sound of freedom. That bell rings at this small club. The same sounds that were heard at Lexington in the early morning hours on the 19th of April in 1775. They were heard again later that same day in Concord. The sound of freedom was heard in Europe, the Pacific, and in Asia each time the world went to war against those who would take our freedom and our rights.

We are here today to see if those hard fought for rights can be taken through a whimper from a back door instead of shots from an enemy at the front gates. This is the hardest battle to win and it is your hands gentlemen. Your decision here today can remove that sound, those future bonds or ensure that they last at least another generation.

Sincerely yours,

Paul Stephens

File No. 45818



Certificate of Filing Articles of Incorporation

To all to Whom These Presents May Come, Greeting:

Know Ye, That whereas HAROLD OTTO, GEORGE W. BELMER and V. E. NYGREN

having presented Articles for a Nonprofit Corporation, organized and formed under and pursuant to the Laws of the State of Oregon and having paid the required organization fee;

Now, Therefore, I, Maurice Hudson, Corporation Commissioner of the State of Oregon, DO HEREBY CERTIFY that said Articles of Incorporation have been filed in the office of the Corporation Commissioner; that the name assumed by said corporation is

EAST END ROD AND GUN CLUB

the duration perpetual; the object, business or pursuit in which this corporation proposes to engage is as follows:

The objects, business and pursuit of said Corporation shall be the better protection of forests, fish and game; the propagation of fish and game in Umatilla County, State of Oregon, and adjoining territory; the promotion of a better understanding between sportsmen and landowners; the advocacy of legislation in aid of the above stated purposes and objects; to promote recreation for its members; to own, hold, buy, sell, lease, mortgage or encumber real estate and personal property; to develop lands for the purpose of carrying out the objects and purposes of said Corporation; and to do every other act and thing incidental to or growing out of or connected with the aforesaid objects, business and pursuits.

#39

the estimated value of its property and money One Thousand Five Hundred and No/100
(\$ 1,500.00) Dollars;
the location of its principal office at Freewater in the
County of Umatilla State of Oregon; the date of filing its Articles of Incorporation,
the 17th day of July, A.D. 19 47; and the amount of the
organization fee paid Five and 00/100 (\$5.00) Dollars.

In Testimony Whereof, I have herewith set my hand
and affixed hereto the seal of the Corporation
Department of the State of Oregon at Salem,
this 17th day of July, 19 47.

Maurice Hudson

Secretary Corporation

SEAL

STATE PRINTING DEPT.

0000 000012: 0001

ARTICLES OF INCORPORATION

OF

EAST END ROE AND GUN CLUB

we, HAROLD MYRO, GEORGE W. MILLER and V. S. WILSON, President, Vice-president and Secretary-Treasurer, respectively, of the East End Roe and Gun Club, a voluntary association of landowners, having been elected to the respective offices in accordance with the by-laws of said association, do hereby associate ourselves together and do hereby certify in triplicate the following articles of incorporation under the provisions of the laws of the State of Oregon for the incorporation of non-profit corporations, as follows:

ARTICLE I

The name assumed by this corporation and by which it shall be known is "EAST END ROE AND GUN CLUB", a Corporation, and its duration shall be perpetual.

ARTICLE II

The objects, business and purpose of said Corporation shall be the better protection of forests, fish and game; the propagation of fish and game in Multnomah County, State of Oregon, and adjoining territory; the promotion of a better understanding between sportsmen and landowners; the advocacy of legislation in aid of the above stated purposes and objects; to promote recreation for its members; to own, hold, buy, sell, lease, mortgage or encumber real estate and personal property; to travel, travel for the purpose of carrying out the objects and purposes of said Corporation; and to do every act and thing incidental or necessary to or connected with the aforesaid objects, purposes and business.

ARTICLE III

The estimated value of the property and lands possessed by this

Corporation at the time of executing these Articles of Incorporation is approximately ONE THOUSAND SIX HUNDRED DOLLARS (\$1,600.00), and consists of paraphernalia, ammunition, trap-shooting equipment and lawful money of the United States, and its revenues shall be derived from fees for initiation or dues from its members, rents, admission charges and fees for shooting, donations, and other like sources.

ARTICLE IV

The names and official titles of the officers and directors named in these Articles of Incorporation and their respective terms of office are:

Harold Otto, President, Treasurer, Director

George W. Seiler, Vice-President, Director, Director

V. E. Brown, Secretary, Treasurer, Director, Director

The governing body of this Corporation shall be composed of twelve (12) officers above stated and six (6) additional members elected by the Club, which group will form the Board of Directors. The governing body shall be elected at the annual meeting of this Corporation, which will be held at 10:00 o'clock P.M. on the first Monday of April of each year. Each of the officers shall hold their respective offices for a period of one (1) year, and the additional six (6) members shall hold their offices each for periods of two (2), for one (1) year, two (2) for two (2) years, and two (2) for three (3) years; the first group elected shall determine their respective terms of office by lot.

The mode of election shall be by majority vote of the members present.

ARTICLE V

The location and address of the principal office of this Corporation shall be Webster, Oregon.

IN WITNESS WHEREOF, we have hereunto set our hands this the

16th day of July, 1947.

Harold Otto

George W. Bell

W. E. Nyquist

STATE OF OREGON,)
County of Deschutes.) ss:

THIS CERTIFIES that on this 16th day of July 1947, before me the undersigned, a Notary Public in and for said County and State, personally appeared WILFRED OTTO, GEORGE W. BELLER and W. E. NYQUIST, known to me to be the identical persons named in and who executed the foregoing articles of incorporation and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial Seal the day and year first above written.

W. E. Nyquist
Notary Public for Oregon.

My Commission Expires Nov. 7, 1948

POWER OF ATTORNEY

To be executed, acknowledged, and filed in the office of the Corporation Commissioner by a domestic non-profit corporation. Required by the provisions of Section 71-200a or Section 71-200d, O.R.C. 1. A "Pocket Part" (See Sections 9 and 10 of Chapter 71, Oregon Laws, 1947.)

NOW ALL MEN BY THESE PRESENTS:

That EAST END ROD AND GUN CLUB

(Name of Corporation)

is a corporation duly organized under and by virtue of the laws of Oregon, having its principal place of business in Oregon.

That said EAST END ROD AND GUN CLUB

(Name of Corporation)

has made, constituted

and appointed, and does hereby make, constitute and appoint HENRY KAYE

(Name of Attorney-in-Fact)

an citizen

of the United States, and a citizen and resident of the state of Oregon, residing at Milton

Oregon, and whose place of business and postoffice address is No. 344 S. Main Street,

its true and lawful Attorney-in-Fact and authorized Agent for it and in its name, place and stead to make

and accept service of all writs, processes and summonses in any action, suit or proceedings in any of the

courts of the state of Oregon, or the United States courts therein and upon whom all such lawful writs,

processes and summonses may be served requisite and necessary to give competent and complete juris-

isdiction of the said corporation to any of the said courts

This Power of Attorney is irrevocable except by the substitution of another qualified person for the one hereby appointed.

IN WITNESS WHEREOF, said corporation, in pursuance of a resolution duly adopted by its Board

of Directors has caused this instrument

(Directors or Trustees)

to be executed in its name by its Secretary,

and its Corporate Seal

(Name of Officer or Trustee)

(if it have a seal) to be hereto affixed the 21st

day of July 19 47

[Corporate Seal]

EAST END ROD AND GUN CLUB

(Name of Corporation)

By Henry Kaye

(Name of Secretary or Trustee)

NOTE: If the corporation has no seal, please indicate this fact.

(OVER)

045818-15

STATE OF OREGON
CORPORATION DIVISION
158 12TH ST. NE
SALEM, OR 97310

FILED
OFFICE OF THE SECRETARY
STATE OF OREGON
NOV 02 1990
CORPORATION DIVISION

LESS RAY
432 MILLER
MILTONFREETWATER OR 97862

OCTOBER 2, 1990

ACTION: REINSTATEMENT
ENTITY TYPE: DOMESTIC NON-PROFIT
REGISTRY #: 045818-15
RE: EAST END ROD AND GUN CLUB

(831.115)

Please complete and return this letter and any enclosed documents so that we can file the requested reinstatement.

Please submit \$40.00 to cover the fees for the requested reinstatement.

The above entity hereby requests to be active on the records of the Corporation Division. The effective date of administrative dissolution is 9/9/88. Please check one of the following:

- The reason(s) for administrative dissolution has been eliminated.
- The reason(s) for administrative dissolution did not exist.

By: Justin A. Ray Date: 10/12/90
(Authorized Signature)

PLEASE RETURN THIS LETTER AND ALL DOCUMENTS WITH YOUR RESPONSE AS SOON AS POSSIBLE. IF WE DO NOT HEAR FROM YOU IN 45 DAYS, YOUR ACTION WILL NOT BE COMPLETED.

Document Review/Data Entry
Corporation Division

(503) 378-4901, 578-4743

ENC: Duplicate Annual Report

PLP
NONOTH-814200-06-87

10179801503 831.115 40.00

301

831.115
10/12/90

Submit the original
and one true copy
\$10.00

Registry Number:

045818-15



SECRETARY OF STATE
Corporation Division
Business Registry
158 12th Street NE
Salem, OR 97310-0210
(503) 378-4166

THIS SPACE FOR OFFICE USE ONLY

FILED

OCT 19 1992

Secretary of State

ARTICLES OF AMENDMENT Nonprofit Corporation

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

1. Name of the corporation prior to amendment:

EAST END ROD AND GUN CLUB

2. On a separate sheet, please state the article number(s) and set forth the article(s) as it is amended to read.

3. The amendment(s) was adopted on SEP 10, 1992. (If more than one amendment was adopted, identify the date of adoption of each amendment.)

4. Check the appropriate statement:

- Membership approval was not required. The amendment(s) was approved by a sufficient vote of the board of directors or incorporators.
- Membership approval was required. The membership vote was as follows:

Class(es) entitled to vote	Number of members entitled to vote	Number of votes entitled to be cast	Number of votes cast for	Number of votes cast against

Execution:

Richard Jackson
Signature

RICHARD JACKSON
Printed name

Secretary
Title

Person to contact about this filing:

R.A. Andy Millar
Name

(503) 938-4485
Daytime phone number

Make checks payable to the Corporation Division. Submit the completed form and fee to: Corporation Division, Business Registry, 158 12th Street NE, Salem, Oregon 97310-0210.

NP-2 (4/90)

10199204302 881.219

10.00

*cid, g
10-19-92*

63-5818-15

ARTICLES OF AMENDMENT
ARTICLES OF INCORPORATION

FILED
OCT 19 1992
Secretary of State

EAST END ROD AND GUN CLUB

ARTICLE VI

This Corporation shall be a public benefit non-profit corporation.

ARTICLE VII

Upon dissolution of this corporation, the corporation shall distribute its assets to another organization, organized for a public or charitable purpose in accordance with Oregon Revised Statute 65.627.

DATE of adoption of the above amendments: Sep 10, 1992

Approval of the general membership is not required. The amendments were approved by a sufficient vote of the Board of Directors.

SIGNED this 15th day of October, 1992.

Richard A. Jackson
RICHARD JACKSON, Secretary-Treasurer
East End Rod and Gun Club

BY-LAWS
of the

EAST END ROD AND GUN CLUB

MILTON-FREEWATER, OR 97862

AFFILIATED WITH THE NATIONAL RIFLE ASSOCIATION OF AMERICA

ARTICLE I - Name

The name of this organization shall be EAST END ROD AND GUN CLUB.

ARTICLE II - Object

The object of this organization shall be the promotion of the conservation of our natural resources, hunter safety education, and shooting sports among the citizens of our community. It shall be our further object and purpose to forward the development of those characteristics of honesty, good fellowship, self-discipline, team plan and self-reliance which are the essentials of good sportsmanship and the foundation of true patriotism.

ARTICLE III - Membership

Any citizen of the United States 18 years of age or older may become a member of this organization on payment of the usual initiation fee and dues.

ARTICLE IV - Dues

(a) The member's annual dues to the club shall be \$ 50.00 prior to members anniversary date. A new member's anniversary date is determined by the date they first paid membership.

(b) No member of the club in arrears shall be eligible to vote or to enjoy any other of the privileges or benefits offered by this club.

(c) A member is in arrears if dues not paid by the day after members anniversary date.

ARTICLE V - Meetings

(a) **Annual Meeting.** The annual meeting of the club shall be held the second Wednesday of January each year. If the annual meeting shall not take place at the time fixed it shall be held within a reasonable time there-after, and the officers shall hold over until their successors shall have been elected.

(b) **Regular Meetings.** The regular business meeting of the club for the transaction of ordinary business shall be held on the second Wednesday of each month, as such time and place as may be fixed by the executive Committee.

(c) **Special Meetings.** A special meeting of the club may be held at any time upon the call of the President or upon the call of the executive Committee, or upon demand in writing, stating the object of the proposed meeting, and signed by not less than 20 percent of the members entitled to vote. Notice of the time, place and object of any special meeting shall be given all officers and members in good standing in writing by United States mail not less than seven days prior to the date fixed for the holding of the meeting. The place of such special meeting shall be fixed by the Executive Committee.

(d) **Quorum.** Those members in good standing present shall constitute a quorum at any meeting.

ARTICLE VI - Officers

(a) The officer of this club shall be a President, Vice-President, Secretary, Treasurer, three Directors, acting together, shall constitute the Executive Committee. They shall be elected by a majority vote by ballot of the members in good standing present at the annual meeting of the club. They shall hold office for two years or until their successors are elected.

(b) The Executive Committee shall have general supervision and control of all the activities of the club.

(c) Meetings of the Executive Committee shall be held at such time and place as the Committee may determine. Special meetings may be held at any time on the call of the President or on demand, in writing to the Secretary, by three members of the Committee.

(d) Four members of the Committee shall constitute a quorum.

(e) Resignation of any officer may be accepted by a majority vote of the remaining members of the Executive Committee.

(f) A vacancy in the Executive Committee may be filled by a majority vote of the remaining members of the Committee. However, if more than one vacancy exists, a special meeting of the club shall be called and new officers shall be elected to fill the vacancies until the date of the next annual meeting as provided in paragraph VI (a) above.

ARTICLE VII - Duties of the Officers

(a) **President.** The President shall preside at all meetings of the club and of the Executive Committee. He/she shall be a member ex-officio of all regular and special committees, and shall perform all such other duties as usually pertain to his office. The President shall conduct all official correspondence pertaining to the proper preparation and forwarding of all reports required of the club by the National Rifle Association and by the Director of Civilian Marksmanship.

(b) **Vice-President.** The Vice-President shall perform the duties of the President in his absence or at his/her request.

(c) **Secretary/Webmaster.** He/She shall notify the members of the Executive Committee of all meetings and shall notify all members of special and annual meetings, as required in Article V. He/She shall keep a true record of all meetings of the Executive Committee and of the club and have the custody of the books and papers of the club, except the Treasurer's book of accounts. Web maintenance shall be performed as needed to keep the online calendar and information up to date.

(d) **Treasurer.** The Treasurer shall have charge of all funds of the club and place the same in such bank or banks as may be approved by the executive Committee. Such money shall only be withdrawn by check signed by two officers which may or may not include the Treasurer and for the payment of such bills as shall have been approved by the Executive Committee. All applications for membership in the club shall be made to the Treasurer. The Treasurer shall keep an accurate account of all his/her transactions and render a detailed report with vouchers at any meeting when requested and an annual report to the organization at its annual meeting.

(e) **Officers will receive their yearly membership gratis.**

ARTICLE VIII - Suspension or Expulsion

(a) Any officer may be removed by a two-thirds vote of the members in good standing present at any special meeting called for this purpose. No vote on suspension or removal may be taken unless at least fifteen days' notice in writing shall have been given to the officer of the reasons for his/her removal and of the time and place of the special meeting at which such ballot on his removal is to be taken. At such special meeting the officer shall be given a full hearing.

(b) Any member may be suspended or expelled from the club for any cause deemed sufficient by the Executive Committee by a two-thirds affirmative vote of the members of the Committee present at any regular or special meeting. No vote on suspension or expulsion may be taken unless at least fifteen days' notice in writing shall

have been given to the member of the charges preferred and of the time and place of the meeting of the Executive Committee at which such charges will be accorded a full hearing.

(c) Charges against any officer or member may be preferred by any member in good standing. They shall be in writing clearly stating the facts relied upon and accompanied by all affidavits or exhibits which are to be used in their support. Such charges shall be filed with the Secretary-Treasurer, who will immediately notify the President. The President will call a meeting of the executive Committee to hear the charges. The Secretary - Secretary-Treasurer will give at least fifteen days' notice of the meeting to each member of the Executive Committee and to the accuser and to the accused, which notice shall be in writing and will include a true copy of the charges and of the supporting affidavits and exhibits.

(d) Any member suspended or expelled by the executive Committee may appeal to the full membership of the club. Such appeal shall be made in writing to the Secretary - Treasurer who will notify the President. The President will call a special meeting of the club for the purpose of acting on the appeal. The Secretary shall give at least fifteen days' notice in writing to all members of the club in good standing stating the date, time, place, and the reason for such special meeting. At the meeting of the full club, the Secretary will read the original charges, the supporting affidavit, and will read or display the accompanying exhibits, and will read the minutes of the special meeting of the Executive Committee at which the charges were heard and action taken. A full hearing will be ballot of the members in good standing present and a two-thirds vote shall be required to reverse the action of the Executive Committee.

ARTICLE IX - Amendments

Any proposed amendments to these by-laws may be introduced by any member of the club at any regular meeting or special meeting called for the purpose. A two-thirds vote of the members present will be necessary to pass or reject it.

I hereby certify that these revised by-laws have been adopted by this club.

V. D. Russell
President's Signature

12/14/2011
Date

Lelma Renee Kemmerer
Secretary's Signature

12/14/2011
Date



AMERICAN STATES INSURANCE COMPANY
FIRST NATIONAL INSURANCE CO. OF AMERICA

SEATTLE, WASHINGTON
COMMERCIAL INSURANCE POLICY

RENEWAL DECLARATIONS

NAMED INSURED AND MAILING ADDRESS EAST END ROD & GUN CLUB
PO BOX 251
MILTON FREEWATER, OR 97862

POLICY NUMBER 01-CG-626034-0
RENEWAL OF 01-CG-626034-9 09-04

AGENT NAME AND ADDRESS MCDONALD-ZARING INSURANCE INC
PO BOX 648
WALLA WALLA, WA 99362

POLICY PERIOD FROM 09-07-13 TO 09-07-14 12:01 AM
STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE.

4653589 (509) 525-5730

THE TOTAL PREMIUM DUE FOR THE POLICY TERM IS \$1,033.00.
YOU WILL BE BILLED THROUGH YOUR CUSTOMER ACCOUNT #420-3235-581-01.
YOU NEED NOT PAY ANY PREMIUM AT THIS TIME. WE WILL SEND A BILLING STATEMENT IN A SEPARATE MAILING.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE COMPANIES INDICATED ON THE SPECIFIC COVERAGE PART DECLARATIONS AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

COMMERCIAL PROPERTY COVERAGE PART	\$	501.00
COMMERCIAL INLAND MARINE COVERAGE PART	\$	524.00
		<hr/>
		1,025.00
PREMIUM FOR CERTIFIED ACTS OF TERRORISM	\$	8.00
TOTAL POLICY PREMIUM	\$	1,033.00

_____ BY _____ (AUTHORIZED REPRESENTATIVE)
(DATE)



AMERICAN STATES INSURANCE COMPANY
FIRST NATIONAL INSURANCE CO. OF AMERICA

SEATTLE, WASHINGTON

PREMISES-ADDRESSES

PAGE PR 1

NAMED INSURED: EAST END ROD & GUN CLUB

POLICY NUMBER: 01-CC-626034-0

PREMISES 1
57752 CEMETERY RD M.F.
MILTON FREEWATER, OR 97862

1713



9-CC(PR) (0207)

NORTHEAST

(TONDOL)

PREPARED 10-04-13

FIRST NATIONAL INSURANCE COMPANY OF AMERICA
SEATTLE, WASHINGTON

COMMERCIAL PROPERTY COVERAGE PART DECLARATIONS

PAGE CP 1

NAMED INSURED: EAST END ROD & GUN CLUB

POLICY NUMBER: 01-CG-626034-0

PREMISES 1 57752 CEMETERY RD M.F.
MILTON FREEWATER, OR 97862

BUILDING 1 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	\$ 1,400	\$ 250		
COINSURANCE: 100%			\$.493	\$ 7.00
SPECIAL CAUSES OF LOSS			.004	1.00
CERTIFIED ACTS OF TERRORISM				
REPLACEMENT COST				
PERSONAL PROPERTY OF INSURED	29,900	250		
COINSURANCE: 100%			1.491	446.00
SPECIAL CAUSES OF LOSS			.004	1.00
CERTIFIED ACTS OF TERRORISM				
REPLACEMENT COST				

BUILDING 2 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	\$ 1,400	\$ 250		
COINSURANCE: 100%			\$.493	\$ 7.00
SPECIAL CAUSES OF LOSS			.004	1.00
CERTIFIED ACTS OF TERRORISM				
REPLACEMENT COST				

BUILDING 3 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	\$ 1,400	\$ 250		
COINSURANCE: 100%			\$.493	\$ 7.00
SPECIAL CAUSES OF LOSS			.004	1.00
CERTIFIED ACTS OF TERRORISM				
REPLACEMENT COST				

NAMED INSURED: EAST END ROD & GUN CLUB

POLICY NUMBER: 01-CG-626034-0

PREMISES 1 57752 CEMETERY RD M.F.
MILTON FREEWATER, OR 97862
BUILDING 4 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	\$ 1,400	\$ 250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			\$.493	\$ 7.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				

BUILDING 5 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	\$ 1,400	\$ 250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			\$.493	\$ 7.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				

BUILDING 6 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	\$ 1,400	\$ 250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			\$.493	\$ 7.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				

BUILDING 7 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: PORT A JOHN

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	\$ 2,800	\$ 250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			\$.493	\$ 13.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				

COMMERCIAL PROPERTY COVERAGE PART DECLARATIONS

PAGE CP 3

NAMED INSURED: EAST END ROD & GUN CLUB

POLICY NUMBER: 01-CG-626034-0

COMMERCIAL PROPERTY TOTAL

\$ 509.00

A PREMIUM OF \$ 8.00 IS INCLUDED IN THE TOTAL ABOVE FOR CERTIFIED ACTS OF TERRORISM. A PORTION OF THIS PREMIUM INCLUDES FIRE LOSSES FROM CERTIFIED ACTS OF TERRORISM AS REQUIRED BY CERTAIN STATES.

1715



AMERICAN STATES INSURANCE COMPANY
SEATTLE, WASHINGTON

COMMERCIAL INLAND MARINE COVERAGE PART DECLARATIONS

PAGE CM

NAMED INSURED: EAST END ROD & GUN CLUB

POLICY NUMBER: 01-CG-62603

PREMISES 1
57752 CEMETERY RD M.F.
MILTON FREEWATER, OR 97862

COVERAGE (\$)	PREM- ISES	LIMIT OF INSURANCE (\$)	DEDUCT- IBLE (\$)	RATE (\$)	PREMIUM (\$)
CONTRACTORS EQUIPMENT 90% COINSURANCE	1	30,000	250	1.746	524.00

PREMIUM ADJUSTMENTS:

CERTIFIED ACTS OF TERRORISM	\$	0.00
COMMERCIAL INLAND MARINE TOTAL	\$	524.00

NAMED INSURED: EAST END ROD & GUN CLUB

POLICY NUMBER: 01-CG-626034-0

SCHEDULED ITEMS

PREMISES 1 SCHEDULE FOR: CONTRACTORS EQUIPMENT

ITEM	DESCRIPTION	LIMIT OF INSURANCE	
01	1976 RORAN UTILITY TRAILER S#5150027	\$	12,000
02	6 LINCOLN SC 90E TRAPS AT \$750 EACH		4,500
03	FENCING W/ELECTRONIC GATE & 2 CARD READERS		13,500

1716



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

Subject: Letter to Umatilla County Land Use Planning Commission

Date: Fri, 10 Jan 2014 05:15:52 -0800

From: Brian Schnick <bschnick@live.com>

To: <tamra@co.umatilla.or.us>

CC: <verl.pressnall@eergunclub.com>

Ms. Mabbott,

Please note the attached document regarding the East End Rod & Gun Club.

Thank you,

Brian Schnick
509-540-6106
<mailto:bschnick@live.com>

In everything, an opportunity

letter attached

RECEIVED

JAN 10 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You,

Brian Schnick

College Place, WA

#40

To: Umatilla County Land Use Planning Commission

Re: East End Rod & Gun Club Land Use

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms. This is a legal land use.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

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RECEIVED

JAN 10 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#41

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.
I appreciate the Planning Commission's consideration of our position.

Sincerely,

A handwritten signature in black ink, appearing to read "Casey McClellan". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Casey McClellan

Umapine, Oregon

Umatilla County Land Use Planning Commission

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Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

RECEIVED

Thank You

JAN 10 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

Gorne Harney
323 NE Damjan Ave
College Place, WA 99324

#42

Umatilla County Land Use Planning Commission

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Thank You

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JAN 10 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Adam Sherman
117 Depot
Milton Freewater OR 97862

Adam Sherman

#43

Tamra Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th ST | Pendleton, OR 97801

Umatilla County Land Use Planning Commission

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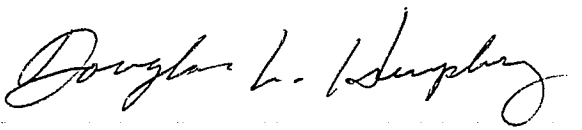
Thank You

RECEIVED

JAN 10 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#44


Douglas Humphrey
53805 Daniel Ct.
Milton Freewater OR 97802

January 8, 2014

Umatilla County Land Use Planning Commission:

First, legally carrying a firearm for the protection of me and my family is a right that carries great responsibility. Part of that responsibility is to be well trained with a firearm not only with regard to accuracy, but also in making split second decisions in difficult situations. My membership with the EERG Club has provided me with a close-in-proximity and safe place to train. The personal value that the EERG Club affords me to keep well trained is unmeasurable.

Secondly, my family and some of our friends consider the EERG Club to be a great recreational resource. We spend at least one Saturday a month using the facility for various shooting activities. It's a family outing that everyone enjoys.

Third, this is one of the reasons why my wife and I chose to live in a rural area, not an urban area. It is wide open spaces that make this kind of recreation possible. This is part of the *uniqueness* of this side of the state; and, this *uniqueness* adds value to our lives. The planning commission would be wise to place a priority on this type of recreation and what it affords the people in our community.

In summary, the EERG Club has proven to be a positive asset to the M-F and Walla Walla area. I urge the Land Use Commission to allow the EERG Club to continue with normal operating procedures at their present location.

Rich Eagon
918 Blue Mtn. Drive
Walla Walla, Wa. 99362

RECEIVED

JAN 10 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#45

On 1/10/2014 8:33 PM, Terry Hayes wrote:

Tamra J. Mabbott

Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801
451.278.6246

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives us a safe place to practice with our firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

I have been told by other members that the Rae family would like to have time and day restrictions placed on the range limiting when the range could and couldn't be used. As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which a farmer should understand more then anyone. As a stay at home dad I myself don't get set times or days that I can go to the range and shoot. I either depend on a babysitter who is in school (college) or I have to wait for my wife to get home from work. So I enjoy the fact my use isn't restricted or I might not be able to use the range at all. Some of our members are limited to certain activities because of religious beliefs Friday afternoon to Saturday afternoon. Many of our members only have week days off and many of them are on a rotating schedule so they never have a regular schedule, such as some of the police officers and firemen that are members. And many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this in the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies and gas locally. Not to mention all of the revenue that is brought in to the local area businesses when there is a special event such as skeet, trap, cowboy action competition.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the twenty nine plus NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

#46

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank you,
Terry Hayes

Berton K. Kinman, POA for Berton E. Kinman
2115 Sudbury Rd.
Walla Walla, WA 99362

January 11, 2014

Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

Re: East End Rod & Gun Club
Land Use Request #LUD-163-13

Dear Members of the Planning Commission:

The Kinman family owns farmland to the east and southeast of the VonDerAhe property, and we are aware of the proposed expansion and request for special permitting of a firearms training facility on the site before the Umatilla County Land Use Planning Commission. My family has owned this farmland for over seven generations. Our land is to the south and southeast of the East End Rod and Gun Club's range. In fact, the rifle range is aimed in the approximate direction of our properties, which are on both sides of Spofford Road.

We are strongly opposed to the permitting of this facility at this location and ask that the planning commission deny any such land use requests.

Our area, although close to Milton-Freewater, is rural in character, and the overwhelming use of the land in our area is for agricultural purposes. I am concerned that if the East End Rod and Gun Club gets a special permit or is allowed to expand in the Exclusive Farm Use zone, it will have a significant negative impact upon the area and upon agricultural practices in our area.

Specifically, I am concerned that this facility will have a significant negative impact on farmland values in our area for the current and future generations who own and operate farmland such as ours neighboring the firearms training facility. Farmland values will be impacted due to the existence of a regional firearms training facility that produces constant loud noises, presents inherent safety issues due to large arms and semi-automatic weapon firing, and because of increased traffic and potential for hosting large regional events. Combined, the existence of this facility in this area and its impacts will impact our ability to sell property in this area now and into the future.

I am strongly concerned about the possibility – accidental or otherwise – of errant bullets leaving the facility's property. This is especially the case since I've learned how much of a regional training facility this facility has become for law enforcement and

#47

Washington State Penitentiary snipers. The possibility of these groups such as these shooting large or even small caliber rifles is very concerning. There are a number of roads in the area and increased use of the gun club will increase the danger to the residents and those conducting farming in our rural area. As a landowner, we want to be sure our current or future farmer tenants have a safe working environment that is not impeded by burdensome safety procedures tied to and resulting from this firearms training facility.

These reasons are why we are asking that Umatilla County deny this land use request. It seems prudent that County Planning Commission, County Commissioners and gun club work to find a more suitable location to conduct its business in a safer and less disturbing way to neighbors, neighboring farmland, and the City of Milton-Freewater. This decision will be much easier today than once this is permitted and causing more serious issues in our area.

Best regards,

Berton K. Kinman
On Behalf of the Entire Kinman Family

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

Subject: East End Rod and Gun Club Location
Date: Sat, 11 Jan 2014 07:34:28 -0800
From: Brian <b_lovgren@msn.com>
To: <tamra@co.umatilla.or.us>
CC: <verl.pressnall@eergunclub.com>

Umatilla County Land Use Planning Commission

I am concerned that without this range, local families will no longer have access to a proper regulated facility for firearms safety training. I try hard to help make those close to me safe, responsible gun owners and this range is a big part of that. It seems that losing this facility could lead to more un-supervised target shooting at sites around the area. I also feel the firearms safety training is incomplete without hands-on training at the range. This range is also hosts numerous events and classes dedicated to helping the local population reach a higher level of firearms safety. In addition, every year hunters rely on this range to sight in a rifle prior to hunting season, which is good for the community and for the animals they pursue. This is a valuable resource that should be cherished and protected for the service it provides to the entire community.

Thank you,

Brian Lovgren
EERGC Member

#48

1/12/14

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

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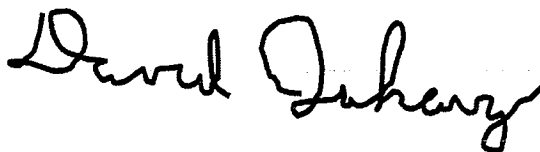
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Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank you,

David Juhasz



#49

RECEIVED

JAN 13 2014

UMATILLA COUNTY

PLANNING DEPARTMENT

UMATILLA COUNTY LAND USE PLANNING COMMISSION

AS A MEMBER OF EAST END ROD AND GUN CLUB
I FEEL THAT THE RANGE IN THE CURRENT LOCATION IS OF
VITAL IMPORTANCE TO UMATILLA COUNTY AND THE WALLA
WALLA VALLEY. THE AVAILABILITY OF THE RANGE TO THE
MEMBERS AND ALL THE PROGRAMS WE HAVE GIVES US A
SAFE PLACE TO LEARN AND PRACTICE FIREARMS SAFELY.
THE RANGE ALSO PROVIDES A SAFE PLACE FOR TRAINING
PROGRAMS SUCH AS 4H SHOOTING SPORTS, BOY SCOUTS
OF AMERICA, NRA WOMEN ON TARGET AND NSSP FIRST
SHOTS PLUS HUNDREDS OF PEOPLE THAT USE THE RANGE
FOR HUNTER SAFETY FIELD DAY TRAINING. THESE PROGRAMS
ASSURE THE NEXT GENERATION WILL LEARN FIREARM SAFETY
AT A VERY SAFE GUN RANGE, THEY ALSO LEARN THE
IMPORTANCE OF THE 2ND AMENDMENT TO THE AMERICAN
WAY OF LIFE. OUR RANGE IS ALSO USED BY SEVERAL
LAW ENFORCEMENT DEPARTMENTS THAT MAY NOT HAVE
ACCESS TO OTHER FACILITIES. THERE ARE MULTI STATE
TASK FORCE AND DEPARTMENT OF CORRECTIONS FOR LONG
RANGE AND SWAT TRAINING.

THE RAE FAMILY WOULD LIKE TO HAVE TIME AND DAY
RESTRICTIONS PUT ON THE RANGE LIMITING WHEN WE
CAN USE THE RANGE.

(IF THEY ARE 4TH GENERATION FARMERS ON THEIR FARM
AND THE RANGE HAS BEEN AT ITS LOCATION SINCE 1994
WHY IS IT NOW ALL OF SUDDEN THERE IS A PROBLEM
WITH THE NOISE?)

WE HAVE OVER EIGHT HUNDRED MEMBERS

#50

AND WE ALL DON'T WORK OR LIVE IN A 9 TO 5
MONDAY THROUGH FRIDAY SOCIETY ANYMORE, WHICH
ANY FARMER SHOULD UNDERSTAND, ALL THE OTHER
FARMERS THAT FARM RIGHT UP NEXT TO THE RANGE
DON'T HAVE A PROBLEM WITH THE NOISE OR THE
SAFETY FACTOR AT ALL, THE RAE FARM IS A
MILE AND A HALF AWAY. WE HAVE ADDED HAY
BALES WALLS AROUND THE RANGE NOT ONLY FOR
SAFETY BUT REDUCED NOISE. ALOT OF OUR
MEMBERS CAN ONLY USE THE RANGE AT THEIR
TIME OFF FROM WORK. OUR OPERATING HOURS
ARE FROM 8AM TO DUSK, NO NIGHT SHOOTING
BECAUSE THERE ARE NO LIGHTS.

THE RANGE IS BENDING OVER BACKWARDS
ALL THE TIME TO MAKE A SAFER AND QUIETER
RANGE FOR ALL TO USE. ALOT OF FARMERS
AROUND THE RANGE KNOW THIS AND WORK WITH
US SO EVERYONE IS HAPPY. WE WOULD LIKE THE
RAE FAMILY TO VISIT THE RANGE TO SEE WHAT
IMPROVEMENTS WE'VE HAVE DONE, IT WOULD BE
NICE IF THEY COULD WORK WITH US TOO.

THANK YOU,

MICHAEL FERGUSON

513 SW Nye Ave
Pendleton 97801

RECEIVED

1-8-14

JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

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Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

Stan Brinkley
541-938-3072

#51

RECEIVED

January 9, 2014

JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Tamra Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th ST | Pendleton, OR 97801

Re: Umatilla County Land Use Planning Commission

Dear Ms. Mabbott:

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#52

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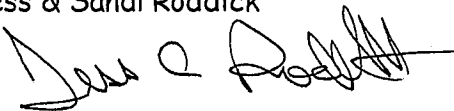
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Thank You!

Sincerely,

Jess & Sandi Roddick



cc: Verl Pressnall - East End rod & Gun Club via e-mail

RECEIVED

1-9-2014

JAN 13 2014

Umatilla County Land Use Planning Commission

UMATILLA COUNTY
PLANNING DEPARTMENT

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Thank You

Paul E. Roquet

Paul E. Roquet
1866 Home Ave
Walla Walla WA 99367
1-201-903-7

#53



Paul E. Roquet
1866 Home Ave.
Walla Walla, WA 99362-9059

JAN 13 2014

Tamra Mabbott

Umatilla County Land Use Planning Commission

UMATILLA COUNTY
PLANNING DEPARTMENT*10-Jan-2014*

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ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

I agree completely with the above letter

Thank You

Leidian W. Jurner
57004 Lone Fir Rd
Milton Freewater,
OR 97862

RECEIVED

JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Land Use Planning Commission

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Thank You

J. Bueton #55

I am writing this letter in behalf of my gun club east end rod and gun club I have attached a copy of the letter from my gun club and I totally support ever part of this letter we do have a go and safe range for all to use do not have a small group sway the use of are very nice range as it is a big part in my hunting sighting in for my rifle.

JIM BUETTNER
NEED MY RANGE

J. Buettner

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JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

January 8, 2014
1570 Kaniksu Loop
Walla Walla, WA 99362

Umatilla County Department of Land Use Planning
216 SE 4th ST
Pendleton, OR 97801

ATTENTION: Tamra Mabbott, Planning Director

Dear Ms. Mabbott and Planning Department Members:

I am a retired citizen of Washington State and I cherish the right to exercise and enjoy the freedoms granted to me under the US Constitution. I am a recent member of the East End Rod and Gun Club (EERGC) and feel that the range in its current location is of prime importance to Umatilla County and the Walla Walla Valley.

The availability of the range to members gives us a safe place to practice with our firearms. I have looked for similar facilities for some time but to no avail until introduced by a friend to EERGC. This range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training as well as those members who simply shoot for recreation and competition. These programs and individuals assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long-range and Swat-Entry training.

I have become aware that the Rae family would like to have time and day restrictions placed on the range, limiting when we would be able to use it. As you and your Department members are probably aware, we do not live in a 9-5, Monday through Friday society in this agrarian locale. Farmers in particular are

#50

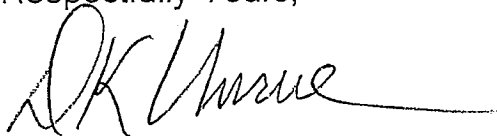
keenly aware of this fact and would be severely handicapped if restricted to operate their farms on certain days and then only from 9-5. Many of our members only have week-days off and many of them are on a rotating schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place with facilities for them to come and shoot as well as feel safe bringing their families along. Many if not most of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the EERGC board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern while the range safety committee is constantly reviewing and revising the rules as needed. When the farmers are in the neighboring fields, a black flag is flown that closes appropriate portions or all of the range as needed for safety. We also use a safety flag system to alert users down-range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

I earnestly urge you all to allow us to keep this safe place to train, practice and even occasionally compete with our firearms. We have been using this location for several years and the EERGC is almost as old as I am, founded way back in 1947. Please do not allow the voices of the few to infringe on the rights of the many.

Respectfully Yours,



Darrel Unrue, EERGC member

RECEIVED

JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Tamra Mabbott
Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th St.
Pendleton, OR 97801

January 9, 2014

Subject: East End Rod and Gun Club

Dear Ms. Mabbott:

As a long standing member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. The NRA in conjunction with the EERGC also use the range for certain other training schedules such as its Range Safety Officer training scheduled in February. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world. These programs also are a continuing reminder to the current members of the above as well.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training. If my memory serves me correctly the Army National Guard has also used the range for its training missions.

I have heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it. As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week ends off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights. The Waitsburg Gun Club is a good example.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

#57

Safety is the paramount concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. Each member before renewing their membership must attend the Member Orientation class. There is a mechanism in place to completely shut down the range, or certain portions, when the farmers are in the neighboring fields. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

The range has been active for many decades without incident both on the range and outside of it boundaries. The EERGC has always driven to be a good and considerate part of the community. No issues have been left unaddressed in complying with our good neighbor policy.

The club has recently spent many thousands of dollars upgrading the facility. Most of that money was to introduce additional safety items throughout the range. Most of the money was received in the form of grants from the State of Oregon. The labor was almost all volunteers. If the club were to move all of that money would have been wasted and not easily, if at all, duplicated. Even so it would take years to build a new range to the current condition of this one.

The club now has over 800 memberships outstanding. This membership along with the many neighbors, friends and family members that also share the club on a guest basis is a substantial number for the area. They come to the range for a safe and controlled environment to shoot, for the camaraderie, and the competition shoots. I ask that you continue to support the EERGC going forward making the changes necessary to allow the club to continue as it has.

Sincerely,



Richard Backlund
4641 Peppers Bridge Rd.
Walla Walla, WA. 99362
509-520-7656

cc: V. Presnall, President EERGC

RECEIVED

JAN 14 2014

January 12, 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Tamra Mabbott, Planning Director
Umatilla County Dept. of Land Use Planning
216 SE 4th Street
Pendleton, Oregon 97801

Re: East End Rod & Gun Club

"Women On Target" a program for women interested in the sport of shooting, is presented by East End Rod & Gun Club. The site reflects many hours of planning and work. Strict rules and regulations are in effect. Trained members are there to answer your questions; and, you have the opportunity to learn about and shoot various weapons. Many women have participated in this popular event.

The club has a busy calendar and offers various events.

I believe this facility, and, it's members, fill a need for the community and surrounding area.

Thank you,

Deanna D. Ferguson

Deanna D. Ferguson
52497 Ferguson Road
Weston, Oregon 97886

#58

Umatilla County Land Use Planning Commission

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Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

Unfortunately, as you know, Umatilla County is becoming more and more urbanized and safe places to hone skills, enjoy plinking, and to train new shooters are becoming hard to find. We need to keep the EERGC free of interference by others residents and government generated regulations for a significant segment of Umatilla County residents.

Respectfully,

Bill Janner

1/13/14

RECEIVED

JAN 14 2014

#59

UMATILLA COUNTY
PLANNING DEPARTMENT

NEXT PAGE

Bill Timmermann
81368 Kupers Rd
Helix OR 97835

Member, EERGC

COREY, BYLER, REW, LORENZEN & HOJEM, L.L.P.
ATTORNEYS AT LAW

STEVEN H. COREY*
DOUGLAS E. HOJEM
DAVID M. BLANC*
TIMOTHY P. O'ROURKE
STEVEN N. THOMAS
KARIN E. DALLAS
JENNIFER E. CURRIN
PATRICK M. GREGG

222 S.E. DORION AVE.
P.O. BOX 218
PENDLETON, OREGON 97801-0218

TELEPHONE (541) 276-3331
FAX (541) 276-3148

HENRY C. LORENZEN, OF COUNSEL

ROBERT E. O'ROURKE, RETIRED
GEORGE H. COREY, DECEASED
ALEX M. BYLER, DECEASED
LAWRENCE B. REW, DECEASED

*Admitted in Oregon and Washington

RECEIVED

January 14, 2014

JAN 14 2014

Ms. Tamra Mabbot
Planning Director
Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

UMATILLA COUNTY
PLANNING DEPARTMENT

Re: East End Rod & Gun Club
Land Use Request #LUD-163-13
Our File No. 113-398

Dear Tamra:

At the request of the Planning Commission at the first hearing on LUD-163-13 we offer, on behalf of H.T. Rea Farming Corp. the following legal analysis of the East End Rod & Gun Club's application.

In summary, H.T. Rea Farming Corp. believes the application sought by the East End Rod & Gun Club in LUD-163-13 should be denied because the proposed use does not satisfy the requirements of ORS 197.770 and otherwise seeks an impermissible expansion of a non-conforming use.

i. The East End Rod & Gun Club must meet ORS 197.770 in order to receive approval of their application.

The East End Rod & Gun Club is presently located in an Exclusive Farm Use ("EFU") zone. Shooting ranges and firearms training facilities are not permitted on EFU zoned land under the Umatilla County Development Code ("the Development Code"), nor under the Oregon Revised Statutes, except for the limited application of ORS 197.770. That statute provides as follows:

- (1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.
- (2) For purposes of this section, a "firearms training facility" is an indoor or

#60

outdoor facility that provides training courses and issues certifications required:

- (a) For law enforcement personnel;
- (b) By the State Department of Fish and Wildlife; or
- (c) By nationally recognized programs that promote shooting matches, target shooting and safety. ORS 197.770.

The East End Rod & Gun Club has failed to provide sufficient evidence that their location was a "firearms training facility" as of September 9, 1995. The evidence in the record consists of letters in support of the facility from East End Rod & Gun Club members and an affidavit from Andy Millar, a former president of the East End Rod & Gun Club. None of these documents provides evidence sufficient to meet the requirements of ORS 197.770. The East End Rod & Gun Club has not shown that any training within the meaning of ORS 197.770 (2)(a) through (c) took place.

Further, the use of the word "and" in subsection (2) of ORS 197.770 means that training and the issuance of certifications both must have occurred with respect to any law enforcement activity. The same principle applies to any training courses or certifications issued on behalf of the Department of Fish and Wildlife and "nationally recognized programs that promote shooting matches, target shooting, and safety." Put another way: Two separate elements must be shown for any of the three categories (law enforcement, Fish and Wildlife, and nationally recognized programs promoting shooting). First, the training courses must have actually occurred at the current site used by the East End Rod & Gun Club. Second, the East End Rod & Gun Club must have actually issued certifications for that training.

No evidence has been presented that any certifications were issued for law enforcement personnel by the East End Rod & Gun Club. Even if law enforcement personnel trained at the facility before September 9, 1995, the lack of any certification being issued by the East End Rod & Gun Club is fatal. Thus, the location cannot qualify as a firearms training facility under ORS 197.770 (2)(a). Similarly, the only evidence in the record regarding issuance of certifications and training was contained in Andy Millar's affidavit which indicates that he personally conducted Hunter's Safety classes. Thus, the East End Rod & Gun Club does not qualify under ORS 197.770 (2)(b).¹ Finally, there was no evidence presented of any training or certifications conducted pursuant to "nationally recognized programs" as of September 9, 1995. Thus, the East End Rod & Gun Club cannot qualify under ORS 197.770 (2)(c).

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¹ Even if Andy Millar's individual actions are viewed as applicable to the East End Rod & Gun Club there still must be some evidence provided from some person who actually participated in training at the facility and received a certification in order for the East End Rod & Gun Club to meet their burden of proof before the Planning Commission.

Further, to the extent that any additional evidence is proffered by the East End Rod & Gun Club at the hearing two salient points should be considered. First, in order to meet the requirements of ORS 197.770 certifications issued to particular persons on or before September 9, 1995, under the ambit of the East End Rod & Gun Club must be provided. Mere self-serving letters that indicate a person went to the facility sometime in the vicinity of the early to mid-1990s are insufficient to meet the requirements of ORS 197.770.

The second point to consider goes to the weight of the evidence. If additional evidence of use that satisfies ORS 197.770 is proffered the weight of this evidence should be considered in light of the fact that in 2002, when the East End Rod & Gun Club originally applied for land use approval for this facility, the application never proceeded under ORS 197.770, which was in existence at the time. Instead the East End Rod & Gun Club simply withdrew the application. The presentation of evidence and testimony tailored toward ORS 197.770 at this time, over a decade after the original application was withdrawn with no mention of ORS 197.770, should raise a significant question as to why that evidence was not originally provided.

ii. The East End Rod & Gun Club cannot rely on ORS 197.770 to gain approval of buildings and development at the location subsequent to September 9, 1995.

If the Planning Commission finds that the East End Rod & Gun Club satisfied the elements of ORS 197.770 the protections of that statute only apply to the facility and continued use of the facility as it existed on September 9, 1995. Any buildings or portions of the facility constructed subsequent to that date—as well as any of the expansions to the facility proposed to be constructed should not be analyzed under ORS 197.770 because it does not apply to expansion.

Analysis of the text and context of ORS 197.770 makes it clear the statute was not intended to apply to any future expansions or alterations of a “firearms training facility.” First, the express language of the statute does not mention expansion, it only says that a facility which qualifies as of September 9, 1995, “may continue operating” as long as it is used as a firearms training facility. Further, the legislative history behind ORS 197.770 makes expressly clear that the statute was designed to allow permitting of firearms training facilities in existence at the time the law was passed so that they were not subject to a “moving goalpost” regarding land use approval. The following exchange in the Oregon Senate makes that point clear:

NEW SPEAKER: I have a question.

NEW SPEAKER: Senator Shannon?

NEW SPEAKER: What about siting new ones? This would mean that --

NEW SPEAKER: This has nothing to do with that.

NEW SPEAKER: No, nothing to do with that.

NEW SPEAKER: Mr. Chair, Senator Shannon. No, it would not -- new ranges, new construction would have to comply with provisions in existence at the time and go through the process. This is just simply for things that are there and have been there.

Examination of the text of ORS 197.770 and the context of the statute—including the legislative history—makes clear that any structure added or proposed to be added after September 9, 1995, does not fall under the protections of the statute. This view of the statute also comports with the idea that the purpose of the statute was to prevent a “moving of the goalpost” for any firearms training facilities that were in existence as of the date of the statute. Additions made after September 9, 1995, are not facing a “moving goalpost.” Rather, they must simply satisfy the applicable land use criteria similar to any other proposed use.

This analysis is consistent with the most recent analysis of ORS 197.770 by the Oregon Court of Appeals. In the recent case of *Conrady v. Lincoln County* the Oregon Court of Appeals engaged in a detailed analysis of the legislative history behind ORS 197.770. In discussing ORS 197.770 the Oregon Court of Appeals said:

In the debate on the House floor, the bill’s carrier, Representative Adams, clarified that the bill specifically referring to those facilities ‘in existence’ and would not include expansion of existing facilities. The obvious implication, both from his remarks and from the text of the statute itself, is that firearms training facilities that were not in existence would continue to be subject to local zoning restrictions, as would those facilities that were in existence but had ceased being used as firearms training facilities as defined in the statute. *Conrady v. Lincoln County*, ___ Or App ___, (slip op at 17) (citations omitted).

Thus, any portion of the East End Rod & Gun Club that was put in place after September 9, 1995, and any proposed additions to the facilities contained in this application, must be analyzed under the remaining portions of the Umatilla County Development Code Chapter 152 and ORS 215.213, the Oregon revised statute dealing with those uses allowed in EFU zones. Unless the East End Rod & Gun Club can demonstrate its facility is an allowed use under those criteria then the land use application as to any portion of the facility added after September 9, 1995, or now proposed to be added, violates applicable land use law and cannot continue to exist in its present location.

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iii. Alteration and expansion of the shooting range after September 9, 1995, must be analyzed under UCDC § 152.591, which applies to non-conforming uses.

As noted in section ii above, the portions of the East End Rod & Gun Club's application that seek approval of structures completed after September 9, 1995, and which seek approval for construction of new facilities, are not protected by ORS 197.770. Thus, the only basis for approval must come from some other section of the Development Code. Since the proposed uses do not qualify as an allowed use under any other portion of the Development Code applicable to an EFU zone the East End Rod & Gun Club's application—to the extent it applies to facilities built or proposed to be built after September 9, 1995—must be rejected.

Uses in an EFU zone are governed by ORS 215.213 and UCDC §§ 152.056, 152.057, 152.058, 152.059, and 152.060. The only location where a firearms training facility or a shooting range is identified as being permitted is in § 152.059 (E). That section of the UCDC provides that a firearms training facility may be permitted through a land use decision if the facility was in existence on September 9, 1995, and meets "the intent and purposes of ORS 197.770 (2)."

UCDC 152.059 merely adopts at the local level the requirements of ORS 197.770. As noted above, ORS 197.770 does not apply to any expansion or change in a firearms training facility after September 9, 1995. To read UCDC § 152.059 in a broader fashion than ORS 197.770—and to construe UCDC § 152.059 as applying to expansion of a firearms training facility after September 9, 1995—is incorrect. Local land use requirements cannot be more permissive than state statutes. This is a foundational principle of Oregon land use law. Thus, UCDC 152.059 (E) does not aid the East End Rod & Gun Club to the extent the application seeks approval of anything at the location after September 9, 1995, or anything now proposed to be added.

To the extent the Planning Commission desires to perform additional analysis—which is not necessary as the East End Rod & Gun Club's application does not meet the requirements of ORS 197.770 and UCDC § 152.059, the remainder of the Development Code must be consulted. That is a short inquiry. Nowhere in the Development Code are firearms training facilities otherwise permitted on EFU land. The use is therefore not a permitted use and must instead be analyzed under ORS 215.130 and UCDC § 152.590 through § 152.600, governing non-conforming uses. Here, the applicable code section is § 152.591 (B) which provides as follows:

A nonconforming use shall not be increased, except the permission to extend the use to any portion of a building or lot, which portion was arranged or designed for such nonconforming use at the time of the passage of this chapter, may be granted as a variance to the provisions of this chapter. UCDC § 152.591 (B).

Ms. Tamra Mabbot
January 14, 2014
Page 6 of 6

The expansion of the existing facility by adding an additional 35 acres under lease by the East End Rod & Gun Club is clearly an increase under UCDC § 152.591 (B) because it expands both the physical area and the intensity of the use, and is therefore impermissible. Further, under the language of UCDC § 152.591 (B) the existing parcel under lease—the 85 acres the East End Rod & Gun Club leases from the Von der Ahe family—was not “designed” nor “arranged” for use as a shooting range when the Umatilla County Development Code was enacted in 1982. Thus the exception in UCDC § 152.591 (B) does not apply. Further, the proposed increase in use, by adding a skeet range and five additional buildings, some on the 85 acre parcel and some on the 35 acre parcel, also would result in an increase in the intensity of the use and thus violate UCDC § 152.591 (B). Finally, the expansion in members and frequency of use of the existing site also violates UCDC § 152.591 (B) as the increased frequency of use by more members is also an impermissible expansion of a non-conforming use.

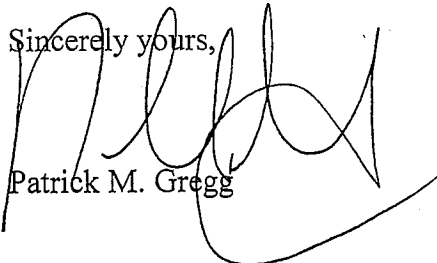
iv. Conclusion

Two levels of analysis apply to the East End Rod & Gun Club’s application. First, the East End Rod & Gun Club, to even be allowed to continue operating at its current location, must meet the requirements of ORS 197.770. If these requirements are not met the East End Rod & Gun Club cannot continue to operate in its present location irrespective of the length of time that it has been in place.

Second, any changes in the scope of use and physical structure to the East End Rod & Gun Club’s facility that occurred after September 9, 1995, cannot be approved under ORS 197.770. Such changes must be analyzed under the non-conforming use analysis. Such an analysis leads to a single conclusion: the Development Code does not permit expansion of a non-conforming use. Thus, even if the East End Rod & Gun Club qualifies under ORS 197.770, anything built after September 9, 1995, is not a permitted use in an EFU zone, and would be an impermissible expansion of a non-conforming use. It cannot be approved. Similarly, any future buildings contemplated by the East End Rod & Gun Club also cannot be approved.

We look forward to discussing these matters further at the January 23, 2014, public hearing before the Planning Commission. Thank you very much.

Sincerely yours,


Patrick M. Gregg

Affidavit In Support of The East End Rod and Gun Club

STATE OF OREGON)
) ss.
County of Umatilla)

I, Gary VanBlokland _____, under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.
2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 14th ___ day of January, 2014.

Gary VanBlokland

Subscribed and sworn to before me this ___ day of January, 2014.

Tina M Schroeder
Notary Public for Oregon
My commission expires: 6-16-2017



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JAN 15 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#61

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JAN 15 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

January 13, 2014

Tamara Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801

RE: East End Rod and Gun Club Issues

Dear Ms. Mabbott:

First I would like to address safety - that is exactly what this range in its current location is all about. That safe and proper training is available to whole families and allows testing of most types of firearms. Best of all is the long range testing that allows for knowing the limits of the weapons thus making all more safe in the field. Ever diligent members take the range and field safety very seriously.

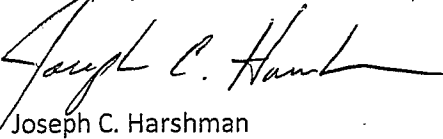
Next I would like to address noise issue - I would point out that the closest neighbors are agriculture fields and a rock crushing business with tractors and large trucks, grape fields and orchards. We all know the sounds of those hail and bird cannons at all times of the day and night.

Next I would like to address time and day restrictions - having to work a six day schedule with limited time off it is very important that the range be available when I do get that rare opportunity to use it. It is even rarer that the whole family can participate due to school and other activities - thus the need for late evenings and 7 day usage - it is very important to all.

Please consider the options if this range is closed - unsupervised shooting off the rural roads and close by foothills - not a safe or pleasant thought.

In closing I would say that the whole community should be proud and happy to have this range due to the generosity of the land owner and members who do so much for the cause.

Thank you,



Joseph C. Harshman
211 East Cherry Street
Walla Walla, WA 99362

Family Member and Local

#602

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JAN 15 2014

TAMRA MABBOTT

To: Umatilla Land Use Planning Commission
Re: East End Rod and Gun Club

UMATILLA COUNTY
PLANNING DEPARTMENT

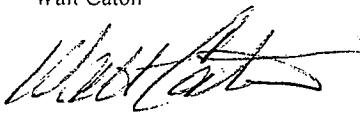
I have been a member of the East End Rod and Gun Club for the last 3 years and was really disheartened when I heard that there was issue with our club and that there was an individual that was trying to limit or close the range. I have loved to shoot for years and have in the past found it hard to find a safe and practical place to shoot firearms without just going out into the country and hoping that no one would complain. The range provides a safe place to shoot and to give people a place to teach others how to use a gun. I have taken 2 of my grandkids there and I hope showed them what a gun is and how to use it right. I also know that the range is used for several of the police depts. and clubs in the area for the same purposes as well.

If safety is or misuse is a concern I know that all the members have to go on site to a instruction program and to the use and where you can shoot different firearms. I was not allowed to use the range until I had completed that class. There is a good program with flags of when to shoot and not shoot, there are quite a few range officers that are there to make sure that people don't abuse the range and a general concern for safety that I appreciate when I go to the range. They have a good program for notifying the members if issues do come up and I have always felt comfortable using the range. I know there are limits to the type of firearms that can be used and know that there are certain arms that cannot be used on the range.

There is also the issue of limiting the hours that are part of the discussion and would like to say that I feel the hours are already limited as to when we can use the range. The more you limit the hours you end up with either people not able to go at all or too many people trying to use the range at the same time. We are not allow to use the range at night or early in the morning as they do in some areas so I have a hard time understanding how limiting our times even more would be right.

I don't know why the Rae family picked this point in time, the range has been a part of the area for a long time and I feel has been in a good position to serve a lot of people who live in the area . To use land use violation as an excuse and to try to push us out I think is just wrong. I would hope that you would take that into consideration at your hearing and put an end to this.

Walt Caton


1-14-14

#63

1011 S.E. Broadway
College Place, WA 99324
11 January 2014

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JAN 15 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Tamra Mabbott, Planning Director
Umatill County Dept. of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

Dear Tamra Mabbott:

I am currently a member in good standing of the Fort Walla Walla Muzzleloaders and of East End Rod and Gun Club.

Please keep the East End Rod and Gun Club open, giving us a safe place to train, practice our skills, and occasionally compete with our firearms.

Allowing us to continue to shoot in these protected environs also will keep folks from shooting (and littering!) all over the county.

Thank you.

Sincerely,

Richard McCann

Richard McCann

#64

Jan 10, 2014

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

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JAN 15 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Thank You

Ernest Stanley Ray #65
345 Short Rd
Touchet, WA 99360

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JAN 15 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

April Dyntaxa
P.O. Box 122
210 N College Street
Adams OR 97810

January 14, 2014

Tamra Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th Street
Pendleton OR 97801

Dear Ms. Mabbott,

Others have written in support of the East End Rod & Gun Club retaining its use of the property in Milton-Freewater. Many have addressed the various advantages in having a safe gun range locally as well as all the benefits provided to a wide variety, both near and far, of organizations, individuals, and law enforcement agencies. I am a member of the EER&GC. I use our facility and want it to remain at the current location, but I have to question the motives to the current claims made by Mr. Rea and his family.

Why is he raising an issue of safety and noise now when activity had been increasing at the range for quite a few years prior? Why has he not visited the range and talked to the club officers to gain knowledge of the standards of safety and use, and express his concerns at one of the meetings? I suspect that in talking with his neighbors, he has learned of the measures taken when workers are in the fields, and yet he has not made any attempt to make use of the flag system that other farmers take advantage of. He has not made any attempts to achieve a reasonable arrangement but has opted to take his grievances to the county government and the public.

I suspect his motives are for personal advantage and the issues of safety and noise are bogus. Anyone familiar with firearms is not frightened or bothered with the noise resulting in the safe discharge of firearms. While Mr. Rea enjoys peace and quiet between dusk and 8am, my neighbors' barking dogs, yelling kids, and loud music know no bounds. Nor would anyone near the current gun range be excessively worried about "what if" when no incident of harm has ever occurred. I suspect Mr. Rea and his family have had their eye on acquiring the acreage where we have our range and are trying to push their agenda in this direction.

In my opinion, there are no legitimate grounds for removing our club from the current location.

Thank you for your time and consideration.

April Dyntaxa

April Dyntaxa

#666

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

Subject:[FWD: Re: response]
Date:Wed, 15 Jan 2014 15:19:59 -0700
From:<verl.pressnall@eergunclub.com>
To:Tamra Mabbot <tamra@co.umatilla.or.us>

This is what I received from MF Rural Fire.

Verl Pressnall
President
East End Rod & Gun Club

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

Subject: Re: response
From: "R. Saager" <rsaager@mfrfd.com>
Date: Wed, January 15, 2014 2:10 pm
To: <verl.pressnall@eergunclub.com>

Hi Verl,

I can not remember one time that we have made a response to the gun range for a fire or ambulance call in the last 20 years.

Thanks.

Rick Saager Chief
MFRFD/EMS

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

From: verl.pressnall@eergunclub.com
To: rsaager@mfrfd.com
Sent: Wednesday, January 15, 2014 1:38 PM
Subject: response

Rick

This is Verl Pressnall with the gun club. Tamra Mabbot suggested I contact you regarding any emergency calls or dispatches to the range on Milton cemetery road since it has been in operation. She was unable to make the request herself at this time.

Sent from my Verizon Wireless 4G LTE Smartphone.

#67

Umatilla Planning Commission

My name is Sheldon Ferguson 51854 Watts Rd Weston, OR 97886.

I'm submitting this letter IN SUPPORT of the East End Rod and Gun Club in Milton-Freewater OR. I urge that you approve the land use request under the provisions of ORS197.770.

I'm a current member of the gun club and have participated in several community oriented functions at the site. I have obtained Range Safety Officer training from the gun club that is sanctioned by the NRA.

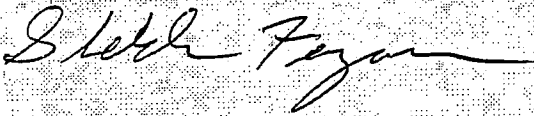
Each time I participate in shooting events at the range, I'm impressed with how much this range means to the community. From young hunters participating in the hunters safety course to women learning how to handle firearms safely in the Women on Target program. A lot of people benefit from the shooting and safety instruction that is provided -- which is directly a result of having this range available.

As further testimony to the importance of this range to the community, I have attached a list of people in support of this range. The majority of these people are members of the club, have participated in shooting events at the range, or feel strongly that this facility is important to our community.

Again, I urge that you approve the land use permit that is being considered for the East End Rod and Gun Club.

Thank you,

Sheldon Ferguson



#68

Umatilla Planning Commission

I'm signing this letter IN SUPPORT of the East End Rod and Gun Club in Milton-Freewater OR. I urge that you approve the land use request under the provisions of ORS197.770.

NAME

CITY

Steve Ferguson

Wester

John A. Drogan

M-F Live NW of Range

Howard Willertson

Milton Freewater

Larry Bussell

Milton - Freewater

John Hougay

Milton - Freewater

Jerry Schmieren

Milton Freewater

Tom Brumback

Milton Freewater

Ron Hayes

Milton Freewater

du Schward

WALLA WALLA

Janet Ewert

walla walla

Dan McLawson

Milton Freewater

Kevin Horton

College Place

Donna McLeod

Walla Walla

Paul Barlett

Walla Walla

Elliot Talley

Walla Walla

Greg Kland

Milton - Freewater

Ken Hurl

Kennebec

Umatilla Planning Commission

I'm signing this letter IN SUPPORT of the East End Rod and Gun Club in Milton-Freewater OR. I urge that you approve the land use request under the provisions of ORS197.770.

<u>NAME</u>	<u>CITY</u>
Eric Mason (Eric Mason)	Walla Walla
Todd Hoff	Adams, OR.
George Anderson	M-F, OR.
Lee T. Gooden	M-F, OR.
Bob Maus	Walla, Wa
Stan Coogha	M-F OR.
Daniel W Boyer	M-F OR.
Alf Mills	M-F OR.
R. W. Hoff	WALLA WALLA WA
J.D. Jones	WALLA WALLA WA.
Brad Tinhof	Pendleton, OR
Walla Walla	WALLA WALLA
Walla Walla	M.F.
Karl Blom	M-F OR
Donald Bolling	M-F OR
Curtis Partnes	M-F OR
David Jaska	walla walla, wa

Umatilla Planning Commission

I'm signing this letter IN SUPPORT of the East End Rod and Gun Club in Milton-Freewater OR. I urge that you approve the land use request under the provisions of ORS197.770.

NAME

CITY

Jeff Bryan

WALLA WALLA

Red Ross

College Place

Albert Main

Milton Freewater

Abie Woodruff

Milton-Freewater

Tom Mc

Athens

Mark Esay

Milton Freewater



1120 N.W. Couch Street, Tenth Floor
 Portland, OR 97209-4128
 PHONE: 503.727.2000
 FAX: 503.727.2222
 www.perkinscoie.com

Michael C. Robinson
 PHONE: (503) 727-2264
 FAX: (503) 346-2264
 EMAIL: MRobinson@perkinscoie.com

VIA E-MAIL

January 16, 2014

RECEIVED

JAN 16 2014

UMATILLA COUNTY
 PLANNING DEPARTMENT

Mr. Randy Randall, Chair
 Umatilla County Planning Commission
 Umatilla County Department of Land Use Planning
 216 SE 4th Street
 Pendleton, OR 97801

Re: Umatilla County File No. LUD-163-13,
 Application by the East End Rod and Gun Club

Dear Chair Randall and Members of the Umatilla Planning Commission:

This office represents the East End Rod and Gun Club (the "Gun Club"). This letter on behalf of the Gun Club fully explains why the Planning Commission can make a determination that the Gun Club complies with ORS 197.770. For the reasons set forth below, the Planning Commission should reject the arguments against the determination made by opponents.

1. The Gun Club satisfies the requirements of ORS 197.770. (Exhibit 1).

ORS 197.770 is entitled "Firearms Training Facilities" and provides in its entirety:

- "(1) Any firearms training facility in existence on September 9, 1995 shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.
- (2) For purposes of this section, a "firearms training facility" is an indoor or outdoor facility that provides training courses and issues certifications required:
 - (a) For law enforcement personnel;
 - (b) By the State Department of Fish and Wildlife; or

#609

(c) By nationally recognized programs that promote shooting matches, target shooting and safety."

The plain language of the statute provides for the following:

- A firearms training facility meeting the definition of "firearms training facility" in ORS 197.770(2) is allowed to continue operating under the statute. The statute does not require that the firearms training facility have been lawfully established or obtained any permits when it was established. *Citizens for Responsibility v. Ziebert*, 207 Or App 500, 142 P3d 486 (2006).
- The firearms training facility need only have been in existence on September 9, 1995.
- The statute uses the word "shall", which is mandatory, and means that as long as substantial evidence demonstrates that the Gun Club meets ORS 197.770, the Planning Commission *must* make a determination that the Gun Club satisfies this statute, providing substantial evidence supports such determination.
- The statute is intended to permit the continuation of firearms training facilities that meet the statutory definitions in ORS 197.770. *Citizens for Responsibility, id.*
- The statute does not require that the firearms training facility provide certificates in any particular number or within any particular timeframe in order to continue to qualify as a firearms training facility. *Citizens for Responsibility, id.* As long as the facility is functioning and able to and has the intent to conduct training and issue certificates, ORS 197.770 is satisfied.
- The administrative rule governing farm uses authorizes the expansion of the Gun Club. OAR Chapter 660-033-0120, Table 1 (Exhibit 2), provides that firearms training facilities are a use that may be allowed after required review subject to OAR 660-033-0130 (Exhibit 3). OAR 660-033-0130(2)(a)-(c) provides that "existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract subject to other requirements of the law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule." The Planning Commission can find that any Gun Club facilities established after September 9, 1995 are allowed pursuant to this administrative rule, subject only to the provisions of OAR 660-033-0130(2)(a)-(c). Those provisions, in turn, prohibit enclosed structures with an individual or cumulative design capacity greater than 100 people. The Gun Club does not have any enclosed structures

with a design capacity greater than 100 people. The Planning Commission is not required to apply additional criteria to the Gun Club facilities established after September 9, 1995.

- Umatilla County allows the continuation of a firearms training facility under Umatilla County Development Code ("UCDC") 152.059(E) subject to the requirements of ORS 197.770(2) and as provided in UCDC 152.617(ii)(5). UCDC 152.617(ii)(5) simply repeats ORS 197.770 without imposing any additional substantive requirements.
- *Citizens for Responsibility*, discussed in more detail below, addressed the issue of whether ORS 197.770 is subject to non-conforming use standards and concluded that it is not. The Court of Appeals held:

"ORS 197.770 does have some similarities to a non-conforming use provision. "Firearms training facility" is not listed as a permitted or conditional use in exclusive farm use zones under ORS 215.213 and ORS 215.283, and an existing facility in such a zone (or other restricted zone) may be regarded as a non-conforming use. Also, the statute includes a means to end the protected use, providing certain conditions are met. Nonetheless, the statute does not import the specific abandonment or disuse provisions from the other statutory nonconforming use provision found in ORS 215.130, and nothing in the statute requires local governments to treat the allowed firearms training use as a nonconforming use. Authorization in ORS 197.770 to continue a use coming within the definition of a firearms training facility does leave the specifics of implementation to the local government."

Id. at 6 and 7. Therefore, the nonconforming use provisions in ORS Chapter 215 and the UCDC do not apply to the requested determination that this firearms training facility satisfies ORS 197.770.

2. ***Conrady* does not control the outcome of this application.**

The Reas have cited *Conrady v. Lincoln County*, ___ Or App ___ (2013) as controlling the outcome of this application but they are mistaken. The most relevant appellate decision is *Citizens for Responsibility v. Lane County*, 207 Or App 500, 142 P3d 486 (2006).

The Oregon Court of Appeals in *Citizens for Responsibility* had the occasion to consider questions relevant to the application before the Planning Commission and an application by firearms training facility in Lane County. In that case, a firearms training facility had applied for a permit under ORS 197.770. Lane County approved the permit. Opponents to the firearms training facility appealed the County's land use decision to the Oregon Land Use Board of Appeals ("LUBA"), LUBA remanded the County's decision. Lane County appealed the decision to the Oregon Court of Appeals, which remanded and reversed LUBA.

The Oregon Court of Appeals made four important findings relevant to this application. First, the Oregon Court of Appeals rejected the argument that a firearms training facility under ORS 197.770 must have been lawfully established or otherwise obtained all land use permits when it began operation. The Oregon Court of Appeals noted the express language of ORS 197.770, which uses the word "any" in describing firearms training facility eligible for its determination under ORS 197.770 and noted the lack of the words "lawfully established" or "lawful" in the statute.

Second, the Oregon Court of Appeals determined that a firearms training facility need only show an intent to provide training courses and issue certifications required by the statute to find that a firearms training facility is functioning and able to conduct training and issue certificates so that it has been continued since the beginning of its operation.

Third, as discussed above, the court held that a firearms training facility under ORS 197.770 is not subject to non-conforming use provisions.

Finally, the Oregon Court of Appeals determined that the authorization in ORS 197.770 to continue the use leaves the specifics of implementation of the statute to the local government.

Applying *Citizens for Responsibility* to the present application, the Planning Commission can find that the substantial evidence before it shows that the Gun Club was established before September 9, 1995, that it meets the definition of a firearms training facility because it provides training courses and issues certifications required by the statute and that its members have had an intent to provide training courses and to issue certifications since its founding in 1994. *Citizens for Responsibility* is the controlling appellate decision that guides the Planning Commission in applying ORS 197.770 to this land use application.

3. The Gun Club satisfies the statutory requirements of ORS 197.770.

The Gun Club submitted an application for a determination to allow the continuance of the firearms training facility pursuant to ORS 197.770 and also to approve a 35-acre expansion of the facility.

Substantial evidence demonstrates that the Gun Club was in existence on September 9, 1995. Exhibit 4 is an affidavit of Mr. R.A. Andy Millar dated August 14, 2013 in which he states in paragraph 2 that:

"On April 24th, 1993, we conducted the first Range and Field Day at the present facility. Not only were the students trained in marksmanship and conducted live fire of rifles and shotguns, the students also demonstrated their proficiency in handling firearms when crossing fences and other obstacles, entering and exiting a vehicle, hunting 3 abreast, walking on trails with others in front, behind, or to the side and shoot-don't-shoot scenarios. After successfully completing the training and testing at the site, the students were certified by Oregon Department of Fish and Wildlife."

The Planning Commission can find based on Mr. Millar's affidavit that the firearms training facility was in existence on September 9, 1995 as required by ORS 197.770(1). Further, the Planning Commission can find that the Gun Club constituted a firearms training facility pursuant to ORS 197.770(2)(b) because it provided, beginning on or before September 9, 1995, training courses and the attending certificates required by the State Department of Fish and Wildlife ("ODFW"). Additionally, four (4) other affidavits are substantial evidence that the Gun Club was a firearms training facility in existence on September 9, 1995. (See Exhibits 5-8, Affidavits by Mr. Malcolm Miller, Mr. Buddy Birdwell, Mr. Robert Sallee, and Mr. Larry Zalazenk).

As the Court of Appeals held in *Citizens for Responsibility*, "The [Lane] County understood that the statutory definition [in ORS 197.770] was satisfied if the operator of the facility intended to provide training and issue certificates and retain the ability to do so. We believe that that understanding is consistent with the text of the statute. As long as the facility is functioning and able to conduct training and issue certificates, we believe that the statutory definition is satisfied." *Citizens for Responsibility, id.* (Emphasis added). The County can find that the Gun Club intends to provide and has continued to provide training and issue certificates and that it retains the ability to do so.

The record contains substantial evidence demonstrating that the Gun Club has provided and has had the intent and continues to have the intent to provide training and certification as required by ORS 197.770(2). The fact that members have conducted the training does not defeat this conclusion; a member of the Gun Club offers training certifications on behalf of the Gun Club.

First, the December 16, 2013 letter from Mr. Mike Davis states that he used the Gun Club for official training programs for the Oregon State Police Special Weapons and Tactics ("SWAT")

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team and the Explosive Disposal unit about 10 years ago. This satisfies the requirement of ORS 197.770(2)(a). (Exhibit 9).

Second, Mr. Zalaznik's letter states that he is a certified National Rifle Association ("NRA") Range Safety Officer. His letter further states that he conducts a regular shoot schedule each month. This activity meets the requirements of ORS 197.770(2)(c). (Exhibit 10).

Third, Lieutenant Douglas Jones' December 17, 2013 letter states that he is the lead firearms instructor for the United States Department of Veterans Affairs Police in Walla Walla, Washington, and that the group has been using the Gun Club for its firearms training for the past three years. This satisfies the requirements of ORS 197.770(2)(a). (Exhibit 11).

Fourth, Mr. John Shafer's December 19, 2013 letter states that he is a 4-H shooting sports instructor and that all 4-H Umatilla County students use the Gun Club. This satisfies ORS 197.770(2)(c). (Exhibit 12).

Fifth, Mr. Scott Gilmore's undated letter states that the Gun Club provides safety and education courses and NRA training courses. He also states that the Gun Club provides training courses for women shooters through the NRA's Women on Target program. This satisfies the requirements of ORS 197.770(2)(c). (Exhibit 13).

Sixth, Ms. Stacy Alexander, an NRA certified instructor Range Safety Officer, submitted an undated letter in which she states that the Walla Walla chapter of "A Girl and a Gun Women's Shooting League" uses the Gun Club. This satisfies ORS 197.770(2)(c). (Exhibit 14).

This evidence demonstrates, consistent with the Court of Appeals' decision in *Citizens*, that the Gun Club meets the requirements of ORS 197.770 to be a firearms training facility.

For the above reasons and based on substantial evidence in the whole record, the Planning Commission can find that the Gun Club is a firearms training facility, as that term is defined in ORS 197.770(2), that has been in existence since September 9, 1995, that has continued since that time and that may continue because the Gun Club continues to be used as a firearms training facility with the intent to provide training courses and issue certificates.

4. The arguments and evidence submitted by the Reas in opposition to the Gun Club application must be rejected.

The Reas make four (4) main arguments in opposition to the application, all of which are without merit under the statute.

First, the Reas argue that the Gun Club "never obtained land use approval for its operations." The Planning Commission must reject this argument because the Oregon Court of Appeals has

done so. In *Citizens for Responsibility*, the Court of Appeals expressly rejected this argument when it held:

"There is no language in ORS 197.770 that provides that the statute is intended to permit the continuation of only those firearm training facilities established in conformity with whatever regulations existed prior to the effective date of the statute. Indeed, the statute says only that "[a]ny firearms training facility *in existence* on September 9, 1995, shall be allowed to continue operating until "it is no longer used" (emphasis added). *Id.*, ___ Or App ____, ... The County's understanding of the statutory language is also consistent with the apparent purpose of the statute, namely, to permit the continuation of firearms training facilities that meet the statutory definition of such facilities set out in ORS 197.770." *Id.* (emphasis added).

Just as in *Citizens for Responsibility*, the Planning Commission must reject the argument advanced by the Reas that there is any requirement for a firearms training facility under ORS 197.770 to have been lawfully established or to have obtained any permits in order to be found to be consistent with the statute.

Second, the Reas argue that the Gun Club's use is "inconsistent with the EFU zone in which it is located and the Gun Club conflicts with the farming activities in the EFU zone." The Planning Commission must also reject this argument. Nothing in ORS 197.770 requires that a firearms training facility must be consistent with the purposes of the EFU zone or that it not conflict with farming activities in the EFU zone. For a firearms training facility that is shown by substantial evidence to meet the statutory definition of such facility and to have been in operation as of September 9, 1995, there is no further test to meet the statute. Moreover, the County is not required to apply any statutory provisions to the continuation of the firearms training facility provided that it continues to show an intent to provide training courses and issue certifications as required by ORS 197.770(2).

Third, the Reas argue that the Planning Commission improperly applied ORS 215.296. The Planning Commission must reject this argument. First, there is no requirement that ORS 215.296 be applied to the determination required by ORS 197.770. A firearms training facility is not a use allowed under ORS 215.283(2). So ORS 215.296 is not applicable.

Fourth, and not found in the Reas' written submittal but advanced by the Reas in their oral argument to the Planning Commission on December 18, 2013, the Oregon Court of Appeals decision in *Conrady v. Lincoln County* is irrelevant. The issue before the Court of Appeals in

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that case was whether Lincoln County's permit requirement was preempted under state law. Nothing about that case is relevant to the determination the Planning Commission must make about the satisfaction of ORS 197.770. Indeed, the Court of Appeals in *Conrady* mentions ORS 197.770 in only two places in its opinion:

First, court said in note 9:

"Plaintiff suggests, by way of a footnote, that the County's interpretation of the term 'firearms training facility' in LCC1.1375(2)(m) is somehow inconsistent with the legislative definition of that term in ORS 197.770(2). The County interpretation of 'firearms training facility' is not properly before us in this case. In any event, we note that ORS 197.770(2), set out previously (citation omitted) was enacted after the County's ordinance."

Second, the court noted the legislative history of the bill that became ORS 197.770. At best, the passage relying on legislative history is *dicta*. *Dicta* is an opinion of the court that is unrelated to the specific controversy before the court. In *Conrady*, the issue involved an argument that statutes other than ORS 197.770 pre-empted Lincoln County's regulation of firearms training facilities. The court of appeals rejected that argument, as did the lower court, and cited to the legislative history in ORS 197.770 only as a way of examining the pre-emption case but the legislative history analysis was not relevant to the court's holding. *Conrady* is not a case that stands for any holding on ORS 197.770. In fact, n9 of *Conrady* (*Id.* 260 Or App 115, 129) makes clear that the statute was not before them in that case.

In any event, OAR 660033-0130(2)(c) expressly allows existing firearms training facilities to be expanded, maintained or enhanced subject only to OAR 660-033-0130(2)(a) and (b). These two provisions are inapplicable because the Gun Club's evidence shows no enclosed structures within an individual or cumulative decision capacity greater than 100 persons.

For these reasons, *Conrady* has no relevance on the determination that the Planning Commission is required to make in this quasi-judicial application.

5. Conclusion.

For the reasons contained in this letter, the Planning Commission must reject the arguments advanced by the Reas in their letter dated December 12, 2013 and in their oral testimony at the initial evidentiary hearing on December 18, 2013 and find that the Gun Club meets the statutory requirements for ORS 197.770 for a determination that the Gun Club was in existence on September 9, 1995, that the Gun Club continues to have the intent to provide training courses

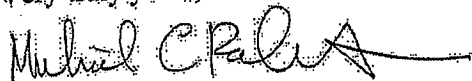
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and issue certifications required by the statute and that the County has the authority under the statute to determine how to implement ORS 197.770. The Gun Club respectfully requests that the Planning Commission approve its request and find that the Gun Club meets the requirements of ORS 197.770.

Very truly yours,



Michael C. Robinson

MCR:rsp
Enclosures

cc: Mr. Verl Pressnall (via email) (w/ encls.)
Ms. Tamra Mabbott (via email) (w/ encls.)

FILED: August 30, 2006

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITIZENS FOR RESPONSIBILITY,
an unincorporated association,
PHILIP ZIEBERT, ADAM NOVICK,
and MAUREEN HUDSON,

Respondents,

v.

LANE COUNTY,

Petitioner.

2005-082; A132091

Judicial Review from Land Use Board of Appeals.

Argued and submitted June 6, 2006.

Stephen L. Vorhes argued the cause for petitioner. With him on the brief was Lane County Office of Legal Counsel.

Daniel J. Stotter argued the cause for respondents. With him on the brief was Bromley Newton LLP.

Before Linder, Presiding Judge, and Wollheim, Judge, and Deits, Judge pro tempore.

DEITS, J. pro tempore.

Reversed and remanded.

DEITS, J. pro tempore

✓ Lane County seeks review of a Land Use Board of Appeals (LUBA) decision remanding the county's approval of a special use permit for a firearms training facility for further proceedings consistent with LUBA's understanding of ORS 197.770. We reverse and remand LUBA's decision.

Before addressing the merits of the county's challenge to LUBA's decision, we consider whether the county has standing to bring this review proceeding. If the county lacks standing to seek review, this court does not have jurisdiction to review LUBA's decision. As we held in *Utsey v. Coos County*, 176 Or App 524, 546-47, 32 P3d 933 (2001), *rev dismissed*, 335 Or 217 (2003), any party seeking review under ORS 197.850 of a decision by LUBA must satisfy the constitutional requirement that our decision will "have a practical effect" on the party. Accordingly, the county must demonstrate a practical effect

EXHIBIT 1

on its interests in order to establish standing to bring this appeal.

The county's petition for judicial review alleges that "a decision of this court will have a practical effect on the interests of petitioner by determining the meaning of the applicable law and the scope of any further county proceedings, if required." That statement, by itself, does not necessarily answer the question of standing here. The same could be said of many court decisions. As the Oregon Supreme Court recently reiterated in its decision in *MacPherson v. DAS*, 340 Or 117, 134, 130 P3d 308 (2006), governmental entities perform multiple functions; they are not solely legislative, executive, or judicial. Whether a governmental entity has standing to seek judicial review of a judicial or quasi-judicial decision will depend on the particular functions that the governmental entity is exercising in the case.

The Oregon Supreme Court considered an analogous issue in *Valley & Siletz Railroad v. Laudahl*, 296 Or 779, 681 P2d 109 (1984), in which LUBA sought review of a decision of this court. In that case, the court held that LUBA had not demonstrated the statutorily required adverse affect or aggrievement that was necessary to invoke the court's jurisdiction. The court explained:

"LUBA's role in policy development is no greater than that of any quasi-judicial body which applies the law to factual settings consistently and over a period of time in its area of specialty. Certainly, land use regulation is a matter of statewide public interest, but this alone does not render every agency involved in land use regulation, for instance a local planning commission, 'aggrieved' when it is dissatisfied with a judicial ruling. The role delegated to the agency apart from its use of quasi-judicial procedures is the controlling consideration. We find no indication in the duties delegated to LUBA that the legislature contemplated that the tribunal would assume the role of advocate. Both enforcement and primary policy making responsibility reside in the Department and the Commission. LUBA's 'statutorily defined interest or responsibility,' *Ochoco Const. v. DLCD*, [295 Or 422,] 433[, 667 P2d 499 (1983)], lies in impartial, consistent and speedy review of local land use decisions. Having no statutory interest beyond this, LUBA cannot be aggrieved by a reversal of its order on appeal."

Id. at 788.

The county's functions here involve the application and interpretation of county land use regulations relating to ORS 197.770.⁽¹⁾ The county's review of the permit application at issue here is, of course, quasi-judicial in nature. However, the county's exercise of this quasi-judicial authority is inextricably intertwined with its legislative and executive responsibilities to adopt and implement county policies and regulations that carry out the statutory directives. For example, implementation of the statutory requirements involves decisions concerning the allocation of county staff and governing body time and the expenditure of county funds, which the county is required to appropriate from limited resources, as well as other local policy decisions relating to this particular type of use.

This difference is significant because, in contrast to the circumstances in *Valley & Siletz Railroad*, where LUBA was acting solely in an adjudicative capacity, the county here was exercising both legislative and executive functions in addition to its adjudicative

function. Whether sufficient practical effects have been demonstrated to establish standing by a governmental entity to seek review of a judicial or quasi-judicial decision will depend to a great degree on the particular circumstances of a case. Based on the circumstances here, however, we conclude that the county has shown sufficient impact on its interests to establish standing to bring this review proceeding. Accordingly, we proceed to the merits.

The permit that is the subject of this appeal was sought by the property owner, the Izaak Walton League (the League). The League has operated a gun club on the property, which consists of 17 acres, since the mid-1950s. The property was once zoned AGT (Agriculture, Grazing, Timber). That zone did not expressly allow shooting ranges but allowed authorization of such uses by means of a conditional use permit. In 1975, the League obtained a conditional use permit to facilitate the expansion of the facility, apparently to include a skeet shooting range.⁽²⁾ Subsequently, the property was rezoned "F-2" which, under the provisions of the county code for that zone, allows a firearms training facility "that shall not significantly conflict with the existing uses on adjacent and nearby lands" under Lane Code (LC) 16.211(3)(c-c). Since the time of the rezoning, a number of changes have been made to the operation of the facility.

The League applied for the permit at issue here in 2003. It asked for *post hoc* approval of modifications made to the facility after 1975. In its request, the League relied on the provisions of ORS 197.770 that allow firearms training facilities in existence on September 9, 1995, to continue until such time as the facility is no longer used as a firearms training facility. The League asserted that the modifications made before the effective date of the statute would not need to be evaluated under LC 16.211(3)(c-c) to determine whether the uses "significantly conflict with the existing uses on adjacent and nearby lands."

The county planning director conducted a hearing on the permit application in April 2004. The planning director agreed with the League that, as of September 9, 1995, the facility qualified as a "firearms training facility" under ORS 197.770(2). The planning director reached that conclusion based on his determination that, before September 9, 1995, the facility provided training courses and issued certifications required by nationally recognized programs that promote shooting matches, target shooting, and safety. Consequently, the planning director evaluated only the modifications made to the facility after September 9, 1995, under LC 16.211(3)(c-c) to determine whether the facility conflicts with existing uses on adjacent and nearby lands. The planning director found that the modifications made after September 9, 1995, did not conflict with existing adjacent uses and approved the application.

Citizens For Responsibility, Novick, Ziebert, and Hudson (Citizens) appealed the planning director's decision to the county hearings officer. Citizens argued to the hearings officer that there was no evidence that the facility provided training courses and certifications after 1995. It was Citizens' position that, for that reason, the facility was no longer used as a firearms training facility after 1995 under the terms of ORS 197.770(2) and, accordingly, the facility lost the protection of that statute. Citizens asserted to the hearings officer that, therefore, all of the post-1975 modifications must be evaluated under LC 16.211(3)(c-c). In Citizens' view, the modifications could not be approved because the facility as a whole significantly conflicts with forestry and other uses on adjacent lands.

The county hearings officer agreed with the League that the facility was in existence on September 9, 1995, and, consequently, could continue to operate until such time as it was no longer used as a firearms training facility. The hearings officer concluded that the intent and the capability to provide training and certifications were sufficient indications of the use of the facility as a firearms training facility. Because of his view that the facility was in existence on September 9, 1995, the hearings officer held that only modifications or improvements made after September 9, 1995, were subject to the "significantly conflict" standard of LC 16.211(3)(c-c). The hearings officer affirmed the planning director's decision but did note that, if the facility as a whole were subject to the "significantly conflict" standard, it would not comply with the code because there was evidence of significant impacts by the facility as a whole on neighboring forestry operations and other uses.

Citizens appealed the county's decision to LUBA. Before LUBA, Citizens asserted that, under ORS 197.770, the fact that the facility *existed* on September 9, 1995, is not enough for it to be entitled to the protection of the statute. Citizens argued before LUBA that the statute only authorizes the continued use of and improvements to a firearms training facility that *lawfully existed* on September 9, 1995. In other words, the uses and improvements must have been "authorized" and "lawful" under the regulations that existed when the improvements were first constructed and the particular use began in order for a facility to be considered to be *in existence* on September 9, 1995. Citizens argued that, because modifications made to the League facility between 1975--that is, the year that the conditional use permit was issued--and 1995 were not authorized and were unlawful, ORS 197.770 may not be used to "grandfather" the League facility. The county, on the other hand, asserted before LUBA that the statute provides protection for all uses and improvements associated with a firearms training facility in existence on September 9, 1995, regardless of whether the uses were authorized or lawful.

LUBA agreed with Citizens, concluding that "it seems unlikely that the legislature intended to protect unauthorized or unlawful facilities, or the entirety of facilities with unauthorized and unlawful expansions." *Citizens for Responsibility v. Lane County*, 51 Or LUBA ___, ___ (Apr 7, 2006) (slip op at 10). LUBA explained that "[t]he statute protects only lawful uses (including lawful nonconforming uses), and does not protect unauthorized uses that required the county's discretionary approval but did not receive such approval." *Id.* at ___ (slip op at 12-13). Accordingly, LUBA remanded the county's decision for further proceedings consistent with its reading of ORS 197.770. As we will explain in more detail, LUBA also concluded that, under its interpretation of the statute, the property was no longer being used as a firearms training facility.

On review in this court, the county first assigns error to LUBA's holding that the statute protects only lawful or authorized uses in existence on September 9, 1995. The county argues to this court that the statute protects any firearms training facility in existence on September 9, 1995, that meets the statutory criteria for a firearms training facility regardless of whether the particular use was authorized or lawful. The county argues that LUBA's interpretation of ORS 197.770 is inconsistent with the text of the statute and requires the addition of language that does not appear in the statute, an act inconsistent with rules of statutory interpretation set out in ORS 174.010 and articulated in *PGE v. Bureau of Labor and Industries*, 317 Or 606, 611, 859 P2d 1143 (1993).⁽³⁾

We agree with the county's understanding of the text of the statute. There is no language in ORS 197.770 that provides that the statute is intended to permit the continuation of

only those firearm training facilities established in conformity with whatever regulations existed prior to the effective date of the statute. Indeed, the statute says only that "[a]ny firearms training facility *in existence* on September 9, 1995, shall be allowed to continue operating until" it is no longer used. (Emphasis added.) Were the legislature to have intended to limit the statutory authorization as Citizens asserts and LUBA opined, the legislature easily could have added such limiting language. ORS 92.017 exemplifies such language. That statute provides that "[a] lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law." Another example is found in ORS 215.705, which controls the construction of dwellings on lots of record within farm and forest use zones. See also *Yamhill County v. Ludwick*, 294 Or 778, 790, 663 P2d 398 (1983) (unauthorized subdivision tracts not "existing legal lots of record" as that term is used in county ordinance).

The county's understanding of the statutory language is also consistent with the apparent purpose of the statute, namely, to permit the continuation of firearms training facilities that meet the statutory definition of such a facility set out in ORS 197.770. We conclude that the county's reading of the statute is consistent with the text and apparent purpose of the statute. See *PGE*, 317 Or at 610-11.

The county also assigns error to LUBA's holding regarding the county's understanding and application of the statutory provision that allows the continued use of a firearms training facility in existence on September 9, 1995, until such time as it is "no longer used as a firearms training facility." LUBA agreed with Citizens that the county hearings officer erred in his interpretation of the statutory provision that the firearms training facility may continue to operate until it is "no longer used as a firearms training facility." Citizens asserted to LUBA that, in order to determine if a firearms training facility is "no longer used," the *actual* use of the facility must be considered. In explaining its decision, LUBA acknowledged that the statute requires "a significant degree of interpretation and reasoning by analogy, given that the text and context of the statute say nothing about how to determine when a qualifying facility is 'no longer used as a firearms training facility.'" *Citizens for Responsibility*, 51 Or LUBA at ____ (slip op at 6). It reasoned, however, that ORS 197.770 treats firearms training facilities as something like nonconforming uses. LUBA explained:

"In other words, like nonconforming uses, a 'firearms training facility' may lose its qualifying status through disuse or discontinuation of qualifying activities. See ORS 215.130(7)(a). Significantly, the statutory language focuses on how the facility is 'used,' not on the intent of the property owner or whether the facility continues to be capable of qualifying uses. We agree with petitioners, therefore, that a determination whether a qualifying firearms training facility has lost the protection of ORS 197.770 requires evaluation of the actual use of the facility following September 9, 1995, and whether it continues to qualify as a firearms training facility. If the facility is 'no longer used as a firearms training facility,' the mere intent and capability to use it as a qualifying facility are insufficient to prevent loss of the statute's protection.

"As the hearings officer noted, ORS 197.770 does not specify how long qualifying uses at a facility may be discontinued before losing the protection of the statute. The hearings officer apparently viewed the statute as allowing indefinite discontinuation of actual use as a firearms training facility, as long

as there remains an intent and capacity to use it as a training facility. We reject that view. As explained, the statute clearly contemplates that a qualifying facility will be disqualified when it is 'no longer used as a firearms training facility.' While the statute does not specify what period of disuse disqualifies a facility, in this respect the statute is again similar to the statutes governing non-conforming uses at ORS 215.130, which do not specify the length of the period of interruption that will terminate the right to continue a non-conforming use. Instead, ORS 215.130(10)(b) leaves it up to individual counties to establish criteria to determine when a use has been interrupted or abandoned. We note that the county has adopted regulations providing that nonconforming uses are deemed interrupted or abandoned if discontinued for more than one year. LC 16.251(1)(c). Absent some other basis to apply a different period of time, we conclude that whether a qualifying facility in the county is 'no longer used as a firearms training facility' for purposes of ORS 197.770 depends on whether qualifying use of the facility has continued since 1995 with no interruption longer than one year."

Id. at ___ (slip op at 7-8) (emphasis omitted).

LUBA added that the county erred in relying on evidence that the facility had been used for training by several organizations not listed among the types set out in ORS 197.770 (2). LUBA also agreed with Citizens that evidence of such use does not support a finding that the facility continues to be used as a firearms training facility.

On appeal, the county argues that LUBA erred in concluding that the property was "no longer used as a firearms training facility" under the terms of the statute. We agree with the county that LUBA erred in its understanding of ORS 197.770. First, we do not find any support in the statute for a requirement that the firearms training facility provide certificates in a particular number or within a particular time frame in order to continue to qualify as a firearms training facility. The certificate issuance provision in the statute is part of the definition of a "firearms training facility," ORS 197.770(2), and not a mandate for a particular level of facility performance. The county understood that the statutory definition was satisfied if the operator of the facility intended to provide training and issue certificates and retained the ability to do so. We believe that that understanding is consistent with the text of the statute. As long as the facility is functioning and *able* to conduct training and issue certificates, we believe that the statutory definition is satisfied. (4)

Our second disagreement with LUBA's treatment of the continuation of operation issue is its importation of the one-year abandonment of use provision from the nonconforming use provisions in the county's zoning ordinance. Notably, the county did not treat the statutory authorization for a particular kind of firearm training facility as analogous to a locally declared nonconforming use. The county did not apply any of its nonconforming use regulations. Because the legislative grant required the continuation of the statutorily described uses, the local planning jurisdiction was required to permit them; thus, the legislature took the described uses out of the traditional definition of "nonconforming use." (5) ORS 197.770 does have some similarities to a nonconforming use provision. A "firearms training facility" is not listed as a permitted or conditional use in exclusive farm use zones under ORS 215.213 and ORS 215.283, and an existing facility in such a zone (or other restrictive zone) may be regarded as a nonconforming use. Also, the statute

includes a means to end the protected use, providing certain conditions are met. Nonetheless, the statute does not import the specific abandonment or disuse provisions from the other statutory nonconforming use provision found in ORS 215.130, and nothing in the statute requires local governments to treat the allowed firearms training use as a nonconforming use. The authorization in ORS 197.770 to continue a use coming within the definition of a firearms training facility does leave the specifics of implementation to the local government.

In this case, the county did not apply its nonconforming use provisions as an implementing tool. We conclude that LUBA erred in doing so. Consequently, LUBA erred in establishing a hard time line of nonuse to show an end to the statutorily protected activities. As discussed above, the hearings officer used a "reasonable person" standard, which we find to be consistent with the statute. The hearings officer explained the standard that he used as follows:

"I believe that several factors are paramount in a determination of whether a facility is no longer used as a firearms training facility. Primary among these factors are intent to utilize a facility for firearms training, whether the facility has retained the ability to serve in that capacity and, o[f] course, whether the facility has actually served in that capacity."

As to the first factor, the hearings officer found that the League had approved the range for hunter education courses and for use by the U.S. Marine Corps Reserve, the Emerald Empire Gun Club, and the Oregon State Defense Force.⁽⁶⁾ Also, he noted that the record demonstrated there are several League members who have taught courses and awarded certificates and wish to do so in the future at the facility. With regard to the second factor, the hearings officer found that the League maintained and enhanced its ranges since 1995, and that they can be and are used for training and shooter education "to this day." Finally, he found that there was ample evidence that the facility had been used for firearms training during the last eight years, but there was no evidence to support a finding that certificates issued during the last several years. The hearings officer determined that a reasonable person would not conclude the facility no longer qualified as a firearms training facility merely because "training certificates have not been issued for a couple of years."

Citizens and LUBA identify nothing inherently wrong in using a "reasonable person" standard under the apparently very broad delegation to local planning jurisdictions that is evident in ORS 19.770, and we find that the standard is consistent with the statutory scheme. The hearings officer's decision provided an explanation of how he applied this standard given the facts before him. Given the lack of standards in the statute, we conclude that nothing more was required in support of the decision to grant the requested permit, assuming the facts stated are supported by substantial evidence. The county identified the standard, applied the available facts, and explained its decision.

Admittedly, the use of a reasonable person standard does not provide much general guidance about what the county believes would support a conclusion that a facility was no longer used as described in the statute and about the required duration of nonuse that would support denial of a request to reestablish the use. Although it would be helpful for the county to provide such guidance and, for that matter, it would be helpful for the statute to provide more definite guidance, we cannot say that articulating a standard that will provide the answer as to how each case that might come before it would be decided

is necessary for the county's decision to be upheld in this case.

As LUBA itself recognized, ORS 197.770 calls upon the county to exercise "a significant degree of interpretation and reasoning by analogy, given that the text and context of the statute say nothing about how to determine when a qualifying facility is no longer used as a firearms training facility." *Citizens for Responsibility*, 51 Or LUBA at ___ (slip op at 6). We agree, but we also conclude that the county did so with respect to the particular application before it by explaining both its interpretation and how the facts before it fit within the interpretation.

Reversed and remanded.

1. ORS 197.770 provides:

"(1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.

"(2) For purposes of this section, a 'firearms training facility' is an indoor or outdoor facility that provides training courses and issues certifications required:

"(a) For law enforcement personnel;

"(b) By the State Department of Fish and Wildlife; or

"(c) By nationally recognized programs that promote shooting matches, target shooting and safety."

Return to previous location.

2. The conditional use permit required a three-year review to ensure compatibility with the neighborhood, limited the allowed uses to the recreational shooting of rifles, shotguns, and handguns, and placed a limit on development and improvements.

Return to previous location.

3. In view of our holding, it is unnecessary to address the county's argument that LUBA erred in remanding the county decision for a determination of what authorized or lawful uses existed on September 9, 1995, while at the same time making findings relating to that determination.

Return to previous location.

4. The hearings officer's decision included a finding that

"[t]he Eugene Practical [S]hooters Association, which is affiliated with the United States Practical Shooting Association (USPSA), has continuously held monthly target matches at the range from the mid-1980s through at least 1995. The testimony of Oscar Thomsen, Mr. Sam Pitts, Mr. Carl McGlothlin, and Mr. Monty Millican establishes that firearms training and certifications occurred through 1996 and that firearms training continued after that date at the applicant's facility."

Return to previous location.

5. In *Bergford v. Clack. Co./Trans. Serv.*, 15 Or App 362, 367, 515 P2d 1345 (1973), we articulated a definition of "nonconforming use":

"Furthermore, a nonconforming use is, by its very nature, a use which has been determined to be contrary to the zoning plan, and one which is allowed only because to eliminate it forthwith upon adoption of a zoning plan would constitute a taking without compensation. It follows that a zoning plan, by its very existence, forbids the expansion of a nonconforming use--absent a finding by the appropriate authorities that given the choice of continuing an existing nonconforming use 'as is' or allowing a proposed expansion with attendant changes in the nature of the structure, the changes will result in a situation in which the nonconforming use will be more compatible with the goals of the zoning plan than the existing nonconforming use."

(Footnotes omitted.)

Return to previous location.

6. Of those, only the Gun Club appears to come within the language of ORS 197.770(2).

Return to previous location.



Home

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

OREGON ADMINISTRATIVE RULES

CHAPTER 660, DIVISION 033, RULE 0120, TABLE 1

February 2012

Uses Authorized on Agricultural Lands

OAR 660-033-0120 The specific development and uses listed in the following table are allowed in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

A Use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.

R Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

* Use not allowed.

Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

HV All
Farmland Other USES

Farm/Forest Resource

- | | | |
|-----|-----|---|
| A | A | Farm use as defined in ORS 215.203. |
| A | A | Other buildings customarily provided in conjunction with farm use. |
| A | A | Propagation or harvesting of a forest product. |
| R6 | R6 | A facility for the primary processing of forest products. |
| R28 | R28 | A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141. |

Natural Resource

- | | | |
|-------|-------|--|
| A | A | Creation of, restoration of, or enhancement of wetlands. |
| R5,27 | R5,27 | The propagation, cultivation; maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. |

Residential

- | | | |
|-------------|--------|--|
| A1,30 | A1,30 | Dwelling customarily provided in conjunction with farm use. |
| R9,30 | R9,30 | A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either, if the farm operator does, or will, require the assistance of the relative in the management of the farm use. |
| A24,30 | A24,30 | Accessory Farm Dwellings for year-round and seasonal farm workers. |
| A3,30 | A3,30 | One single-family dwelling on a lawfully created lot or parcel. |
| R5,10
30 | R5,10, | One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building 30 in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the |

R2,5,36	R2,5,36	Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.
R2, 18(a)	R2,5, 20	Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.
R2,5,21	R2,5,21	Living history museum
R2	R2	Firearms training facility as provided in ORS 197.770.
R2, 25	R2, 25	Armed forces reserve center as provided for in ORS 215.213(1).
A	A	Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.
R5	R5	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.
A26	A26	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.
R5	R5	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
R5	R5	Operations for the extraction and bottling of water.
A11	A11	Land application of reclaimed water, agricultural or industrial process water or biosolids.
R5	R5	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(1).
Outdoor Gatherings		
A33	A33	An outdoor mass gathering or other gathering described in ORS 197.015(10)(d).
R34	R34	Any outdoor gathering subject to review of a county planning commission under ORS 433.763.

(The numbers in the table above refer to the section numbers in OAR 660-033-0130)

(5) A county may choose to establish a different minimum parcel size for distinct commercial agricultural areas of the county. The appropriate minimum lot or parcel size for each area shall reflect the type of commercial agriculture in the area, consistent with section (2) of this rule.

(6) Counties may allow the creation of new parcels for nonfarm uses only as authorized by ORS 215.263. Such new parcels shall be the minimum size needed to accommodate the use in a manner consistent with other provisions of law except as required for the nonfarm dwellings authorized by section (7) of this rule.

(7)(a) Counties may allow the creation of new lots or parcels for dwellings not in conjunction with farm use pursuant to ORS 215.263(4) or (5), whichever is applicable.

(b) In the Willamette Valley, a new lot or parcel may be allowed if the originating lot or parcel is equal to or larger than the applicable minimum lot or parcel size, and:

(A) Is not stocked to the requirements under ORS 527.610 to 527.770;

(B) Is composed of at least 95 percent Class VI through VIII soils; and

(C) Is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and

(D) The new lot or parcel will not be smaller than 20 acres.

(c) No new lot or parcel may be created for this purpose until the county finds that the dwelling to be sited on the new lot or parcel has been approved under the requirements for dwellings not in conjunction with farm use in ORS 215.284(3) or (4), 215.236 and OAR 660-033-0130(4).

Stat. Auth.: ORS 197.040, 197.230 & 197.245
 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700 - 215.710 & 215.780
 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 1994, f. & cert. ef. 1994; LCDC 5-1995, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 7-2012, f. & cert. ef. 2-14-12

660-033-0120

Uses Authorized on Agricultural Lands

The specific development and uses listed in the following table are allowed or may be allowed in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

(1) A — Use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.

(2) R — Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

(3) * — Use not allowed.

(4) # — Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table\(s\).](#)]

Stat. Auth.: ORS 197.040 & 197.245
 Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700 - 215.710 & 215.780
 Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994, f. & cert. ef. 6-3-94; LCDC 2-1995(Temp), f. & cert. ef. 3-14-95; LCDC 7-1995, f. & cert. ef. 6-16-95; LCDC 5-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD 5-2009, f. & cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 9-2011, f. & cert. ef. 11-23-11; LCDD 7-2012, f. & cert. ef. 2-14-12

660-033-0130

Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

The following standards apply to uses listed in OAR 660-033-0120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

(1) A dwelling on farmland may be considered customarily provided in conjunction with farm use if it meets the requirements of OAR 660-033-0135.

(2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

EXHIBIT 3

(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

(3)(a) A dwelling may be approved on a pre-existing lot or parcel if:

(A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (3)(g) of this rule:

(i) Since prior to January 1, 1985; or

(ii) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

(B) The tract on which the dwelling will be sited does not include a dwelling;

(C) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

(D) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

(E) The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in subsections (3)(c) and (d) of this rule; and

(F) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

(c) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a);

(C) A hearings officer of a county determines that:

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;

(ii) The dwelling will comply with the provisions of ORS 215.286(1); and

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(D) A local government shall provide notice of all applications for dwellings allowed under subsection (3)(c) of this rule to the Oregon Department of Agriculture. Notice shall be provided in accordance with the governing body's land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the hearings officer under paragraph (3)(c)(C) of this rule.

(d) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The tract on which the dwelling will be sited is:

(i) Identified in OAR 660-033-0020(8)(c) or (d);

(ii) Not high-value farmland defined in OAR 660-033-0020(8)(a); and

(iii) Twenty-one acres or less in size; and

(C) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(D) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993; within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

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JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Thank You

Douglas A. Tesh #71
Proud Member & Veteran
U.S. Army

Umatilla County Land Use Planning Commission: Attn Tamra Mabbott, Planning Director

I am writing this letter as a local sportsman and member of East End Rod and Gun Club. I use the club's range frequently. The range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives us a safe place to practice and pass on the shooting sports to future generations.

The range also provides a safe place for training programs such as 4-H, Boy Scouts of America, National Rifle Association 'Women on Target' and National Shooting Sports Foundation 'First Shots', as well as hundreds of people who have used the range for Hunter Safety field day training. These programs assure future generations will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world. Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

Safety is a very serious concern addressed by members and the club's board of directors. Annual range orientation is a recently added requirement to assure that all club members understand the range safety rules. The club currently has 29 National Rifle Association certified Range Safety Officers who are on alert for anything that may be of concern and the range safety committee is constantly reviewing and updating the rules as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety, or the complete range may be closed if appropriate. We also use a safety flag system to alert people when others are down range checking and placing targets, as well as a flag letting us know when the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

While it is true that many members are from Washington, there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only established range for them to shoot as well as feel safe bringing their families to. Many of these people from outside the county spend money on food as well as purchase shooting supplies locally.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it. As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore. Many of our members only have weekdays off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8 a.m. start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

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JAN 16 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

TICE.BENJAMIN.J.1229098566
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TICE.BENJAMIN.J.1229098566
DN: cn=US, o=U.S. Government,
ou=DoD, ou=PKI, ou=USA,
cn=TICE.BENJAMIN.J.1229098566
Date: 2014.01.16 16:41:28 -08'00'

Thank You

Benjamin J. Tice

#72

Affidavit In Support of The East End Rod and Gun Club

STATE OF OREGON)
) ss.
County of Umatilla)

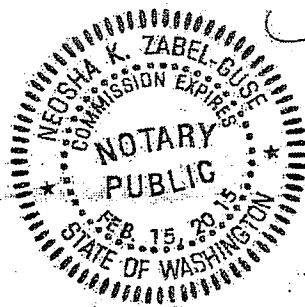
I, R.V. Williams Jr, under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.
2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 14 day of January, 2014.

R.V. Williams Jr

Subscribed and sworn to before me this 14 day of January, 2014.



Neosha K. Zabel-Gilse
Notary Public for Oregon Washington
My commission expires: 2-15-15

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JAN 16 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#73

Affidavit In Support of The East End Rod and Gun Club

STATE OF OREGON)
) ss.
County of Umatilla)

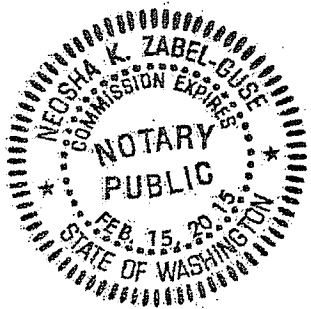
I, Richard Wagner under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.
2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 14 day of January, 2014.

Richard Wagner

Subscribed and sworn to before me this 14 day of January, 2014.



Neosha K Zabel-Gunn
Notary Public for Oregon Washington
My commission expires: 2-15-15

RECEIVED

JAN 16 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#74

Affidavit In Support of The East End Rod and Gun Club

STATE OF WAHSINGTON)

) ss.

County of Walla Walla)

I, Lorne J Harvey, under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.

2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.

~~3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.~~

4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 14th day of January, 2014.

Lorne Harvey
Lorne J Harvey

Subscribed and sworn to before me this 14th day of January, 2014.

Notary Public
State of Washington
Kristi A. Campbell
Commission Expires 2-24-16

Kristi A. Campbell
Notary Public for Washington
My commission expires: 2-24-2016

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JAN 16 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#75

Affidavit In Support of The East End Rod and Gun Club

STATE OF OREGON)
) ss.
County of Umatilla)

I, Ken Sloan under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.
2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 14 day of January, 2014.

Ken Sloan
KEN SLOAN

Subscribed and sworn to before me this 14 day of January, 2014.

MICHELLE L. POTTS
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
FEBRUARY 22, 2017

Michelle Potts
Notary Public for ~~Oregon~~ Washington
My commission expires: 2/22/17

RECEIVED

JAN 16 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#76

Affidavit In Support of The East End Rod and Gun Club

STATE OF ~~OREGON~~ ^{Washington})

County of ~~Umatilla~~ ^{Walla Walla}) ss.

I, Jim Buettnier, under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.

2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.

3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.

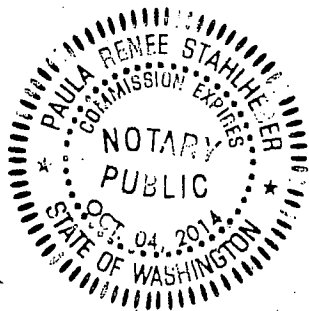
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 14 day of January, 2014.

James Buettnier
1-14-14

Subscribed and sworn to before me this 14 day of January, 2014.

Paula Renee Stahlheber
Notary Public for Oregon Washington
My commission expires: 10-4-14



RECEIVED

JAN 17 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#77

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

James Buettner

Duplicate of Exhibit #55
sent w/ Exhibit #77

1/14/14

Umatilla County Land Use Planning Commission

I am a member of the East End Rod and Gun Club, a member of the National Rifle Association and a NRA certified Range Safety Officer. As the only safe, regulated shooting facility in the region, the range serves a need in Umatilla County and the Walla Walla Valley that is unmet by any other facility. The range is in a location far away from inhabited areas and on ground that wouldn't be of much use for anything else. The automated security gate and multiple safety measures provide members a place to safely practice and enjoy the shooting sports as well as prevent use by unauthorized individuals who may not know and follow all of our safe practices. Many Gun Club members volunteer time to teach firearm safety, improve and maintain range facilities, and supervise events. Our range is often used by law-enforcement officers and other public-safety personnel for practice and training.

Use of the range facilities is only allowed between 8AM and sunset each day. Procedures are in place to close the range to shooting if any farming operations are going on in the vicinity so that no one is endangered.

It is in the best interest of all in the area to maintain this safe and affordable place to train, practice and compete in shooting sports.

Sincerely,



Roger Treis

Walla Walla, WA

RECEIVED

JAN 17 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#78

Affidavit In Support of The East End Rod and Gun Club

State of Washington)

County of Walla Walla)

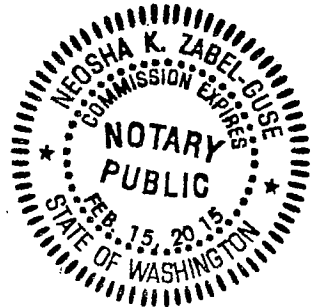
I, Larry Zalaznik, under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.
2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 14th day of January, 2014.

Larry Zalaznik
Larry Zalaznik

Subscribed and sworn to before me this 14th day of January, 2014.



Neosha K. Zabel-Guse
Notary Public for Washington
My commission expires: 2-15-15

RECEIVED
JAN 17 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

#79

. January 15, 2014

To whom it concerns at the
Umatilla Land Use Planning Commission,

I have been a member of the East End Rod and Gun Club for two years. Prior to that time I had to find BLM lands or spaces that I thought were safe and legal for shooting practice. I never felt particularly confident in the safety of the places I had to select. I was always concerned that someone could walk into the area, ricochets were unpredictable, and the spaces were general not as safe for walking around with a firearm.

The discovery of East End Rod and Gun Club has been fantastic. The range is full of safety measures, grounds are well maintained and safe, there are spaces for specific weapons use, classes, competitions, and great people.

My two girls, ages 11 and 15, and I began shooting the .22 silhouette competitions. We go out to the range once or twice a month for family target shooting. We all enjoy the activity and they are learning a new skill and the important safety procedures.

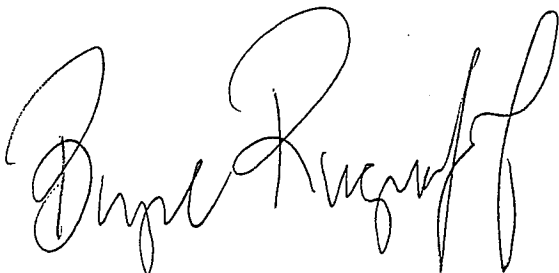
I additionally, use the range for clay target shooting and long range shooting of my antique WWII rifles that I recondition. I plan to join the skeet shooting competitions this coming summer.

Though I am not a hunter, I am aware of the hunter safety classes that take place at the range. I also, see law enforcement officers at the range training quite regularly. These seem like great services that the range provides.

I have been made aware of the fact that a family somewhere in the area of the range, feels inconvenienced by the range, but I hope that there are other ways to solve this inconvenience in order to continue the great services and safety this facility provides for the hundreds of people enjoying this space.

Thank you for taking the time to read this letter of support for the range.

Bryce Rugraff
205 Erin Lane
Walla Walla, WA 99362



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JAN 17 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#80

Jan 15, 2015

TO: Tamra Mabbott, Planning director
From: Charles E. Danforth, Member East End Rod and Gun Club
Subject: East End Rod and Gun Club TRAINING RANGE

~~Enclosed you will find an article from the Valley Herald in case you missed it.~~

But more important is a list of LOCAL individuals and businesses that have donated to the range and who believe the range is an important part of the community. This does not include the National Rifle Association, law enforcement, or other outside sponsors.

All the legal fees for this matter are being donated by an individual with very strong feelings for the 2nd amendment to the United States Constitution.

The following have donated labor, materials, and/or equipment for the range.

360.com

Walla Walla Electric

Mike Johnson Excavating

City Light and Power

Doyle Electric and Security

Humbert Asphalt and Rock Products

Platt Electrical Supply

American Rock Products

Konen Rock Products

Bob Humbert and Sons

And all the club members who have donated time, tools, and money for improvements.

Thank you in advance for your concern in this matter

Charles E. Danforth, Captain, Los Angeles City Fire Dept. retired.

Charles E Danforth

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JAN 17 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

81

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

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Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

Charles E Danfaith

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JAN 17 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

(#81)
COPY



Sports



Community

Valley Herald

JAN 10, 2014

MATILLA COMMUNITY
PLANNING DEPARTMENT

January 10, 2014

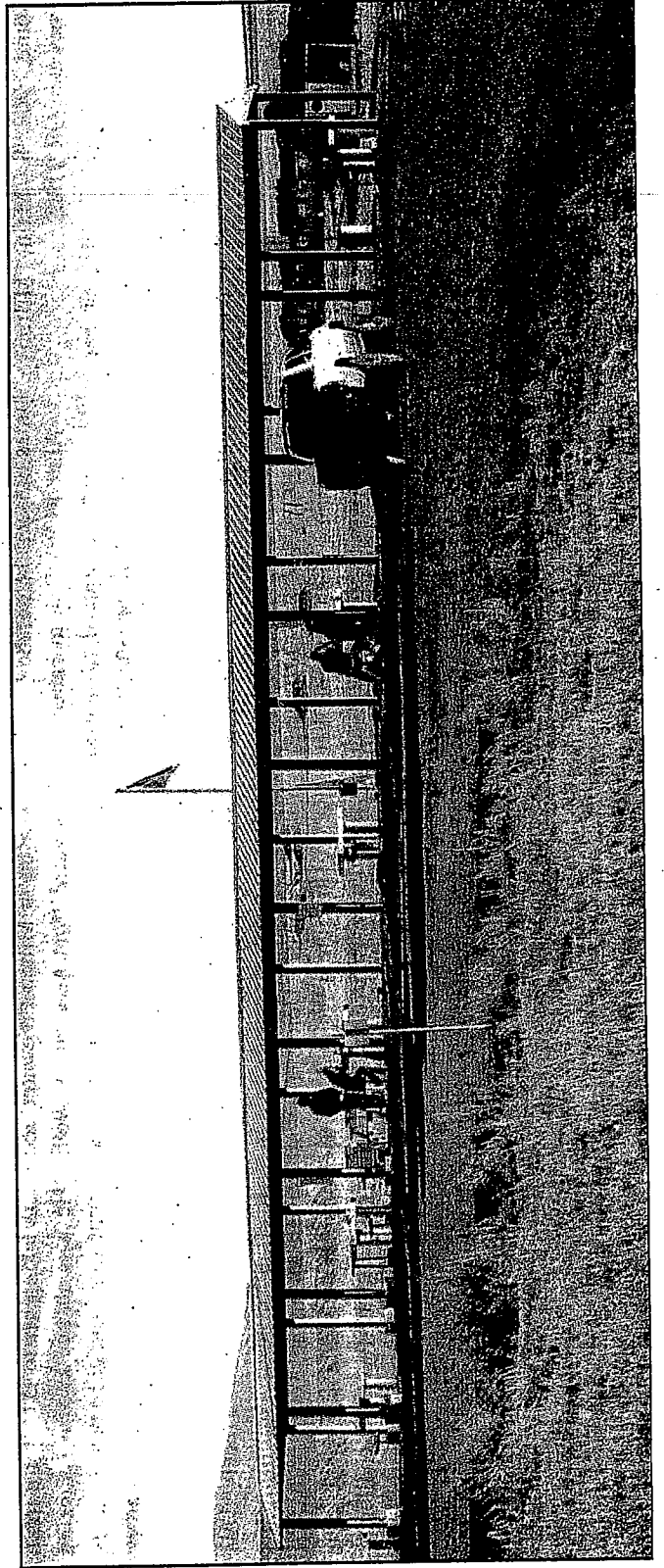
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June 14, Number 15

75 Cents

Food

East End Rod & Gun Club



#81
cont.

al people were at the rifle range Sunday afternoon, taking advantage of the nice weather to do a little target practice.

encer Shelton

the summer of 1947, fishing on Walla Walla River was good. "Locals" liked to get together at different locations to shoot. The 2nd Rod and Gun Club was

an indoor range, located on 5th Street, was the meeting place for many years. 4-H youth programs, Scouts and Hunter's Safety classes were all programs supported by the Rod and Gun Club. When the facility burnt down, members met at various locations to continue their activities. The Dairy was a common site for shooting while the Dairy hosted 4-H and Boy Scout events.

During the 1990's, Pete Von der Ahe generously allowed members to use his land to shoot.

By this time, the Rod and Gun Club owned a mobile trailer for shooting purposes.

"gentleman's agreement"

between Von Der Ahe and the Rod and Gun Club continued for ten years, with small tokens "thank you" gifts given to Von Der Ahe for the use of his property.

In 2003, the East End Rod and Gun Club signed a 20 year Lease with two 20 year extension options on 98 acres.

East End Rod and Gun Club President, Verl Pressnall, became an officer in 2008 and took over the presidency in 2010.

With over 800 current members, Pressnall keeps busy coordinating activities and member sponsored programs for the growing club. Fifteen new membership applications have been received by Pressnall in the last week alone.

The Washington State Department of Corrections, the Veteran Administration Police, Athena-Weston Police Department and police personnel from Walla Walla and Milton-Freewater use the facility for training purposes

and personal use. These various entities are charged a fee if the range needs to be closed down to paying members for specialized training or workshops.

Pressnall explained that members join for several reasons. The Rod and Gun Club is a safe place for members to shoot different disciplines at different distances. Pistols, rifles and muzzle loaders are commonly used by members.

A \$50 annual fee is charged for a family membership. Children and grandchildren of club members are welcome. Pressnall noted that an afternoon at the shooting range is often a family event.

Projects, funded by grant dollars, have made the facility a favorite.

False-fronted buildings have been erected for Cowboy Action Shooting. Concrete shooting benches, berms, graveled driveways, traps in dog houses and parking benches are projects com-

pleted and enjoyed year around. Grant funding has come from Oregon Department of Fish and Wildlife, National Shooting Sports Foundations, and Friends of Blue Mountain National Rifle Association.

Most grant monies require matching funds or in-kind labor. Because the East End Rod and Gun Club are involved in minimal fundraisers, in-kind labor is used. A dedicated and passionate group of volunteers have made grant money requirements a reality.

Other groups have also donated materials, time and labor to the facility. Fort Walla Walla Muzzleloaders is a local group which has constructed an additional lean-to for member use.

Certain firearms are not allowed. A 50 caliber Browning or a machine gun is prohibited. Police or Department of Corrections per-

See Club/A5

Club

Continued from page A1

sonnel will use certain firearms for training purposes which are not permitted to be used at the facility by the general public.

The Rod and Gun Club strongly supports and encourages members to patronize local businesses that carry supplies and hold firearm workshops.

Once a sponsor of concealed weapons courses, the number of people taking the course grew beyond a number manageable by the Rod and Gun Club. Concealed weapon courses have been offered locally at Ranch and Home and the Rod and Gun Club is quick to share information with members and the general public.

Many members are worried about a "conspiracy" theory.

Pressnall stated that a common concern voiced by many is that the federal government is working toward taking guns away from the general public. In response, members join to learn how to shoot. By taking the time to learn how to handle a firearm correctly, mem-

bers feel they have a "voice" when speaking about their 2nd Amendment rights.

Members range in age from 18 to "up in their 90's" and can be found living in the local area or as far away as the I-5 corridor between Salem and Seattle.

Individual applications from women make up a large portion of membership numbers. Blue Mountain N.R.A. finances a very popular program, "Women on Target." Seven individual clinics have been scheduled for 2014 at the Milton-Freewater facility. Because of the popularity of this event in years' past, participants are encouraged to enroll early.

All events and participation information is listed on the East End Rod and Gun Club website and Facebook page.

Pressnall explained that officer positions held at the East End Rod and Gun Club are all volunteer, no positions are paid. The majority of members are contacted by email, with the exception of a small number who still prefer regular postal

mail.

The East End Rod and Gun Club are currently working through land use issues with a neighboring landowner.

Because the facility is located in "the middle of farm use ground," restrictions apply to usage. Pressnall clarified that the facility is "grandfathered in" regarding newer usage restrictions.

A January 23, 2014 hearing in Pendleton is scheduled before of the Land Use Zoning Commission. Because a sizeable turnout is expected to attend the public forum, the location has not yet been announced. Once again, information will be available on the club's website and Facebook page.

Verl Pressnall believes the East End Rod and Gun Club is hugely beneficial to the community. Recreational dollars are spent in the community while members enjoy a wildly popular event. Individuals, couples and extended families come from all over the Pacific Northwest to enjoy sponsored events or evening shoots at the base of the scenic Blue Mountains.

(H.S.I.)
2014

RECEIVED

JAN 17 2014

To: Umatilla County Commissioners
From: Lieutenant Cliff Pease/Washington Dept. of Corrections
Ref: East End Rod and Gun Club

UMATILLA COUNTY
PLANNING DEPARTMENT

Submitted via Verl Pressnall/EER President

My name is Cliff Pease. I am a Lieutenant with the Washington Department of Corrections, based at the Washington State Penitentiary in Walla Walla, Washington. I am sending this document on behalf of the East End Rod and Gun Club of Milton-Freewater, Oregon. I want to qualify myself to the commissioners. I am certified through Washington State Criminal Justice Training Commission and/or Washington Department of Corrections in the following disciplines.

Basic and Advanced Sniper
Basic and Advanced Sniper Instructor
Basic and Advanced SWAT
Basic and Advanced SWAT Instructor
Urban Rifle/Urban Rifle Instructor
Basic Firearms Instructor

I am a current board member for the Washington State Law Enforcement Firearms Instructor Association (WSLEFIA). This organization is dedicated to keeping criminal justice firearms instructors knowledgeable in the latest tactics, techniques and laws involving firearms use. I am the Lead Sniper Instructor/Coordinator for Washington Department of Corrections.

In the unique specialty of law enforcement sniper training, range training facilities that are designed in such a manner that it allows snipers to train on various topics without undo concern of having specific confidential tactics compromised and without undo safety concerns that accompany specific tactical training are relatively rare. Finding ranges that have enough distance to allow long range shooting, and what is not well known, but also a range short enough to allow what can best be described as a form of simultaneous interval training, are not that common. We currently utilize only three gun club facilities that can meet that need, which we make a practice of rotating through those three clubs based on the training agenda for a specific class. They are located in the communities of Ravensdale and Wenatchee Washington, and East End Rod and Gun Club in Milton-Freewater. Since 2001, I have instructed three Basic Sniper Classes at the East End Rod and Gun club range. This club has agreed to closure of the range on our training dates to accommodate confidentiality. Furthermore, the Washington State Penitentiary Marksman/Spotters (ie: Snipers) have utilized the clubs facilities on numerous occasions for monthly training (they pay dues as club members) when they are training on fundamental marksmanship that is not of a confidential nature. This means that we are not closing the range down to the club membership. When this takes place, there is a very evident bond developed with club members out of mutual interest in the shooting sports and a definite show of support for those of us who work in criminal justice. It is very pleasing to experience.

Three years ago, the firearms range at the Washington State Penitentiary was under remodel. The East End Rod and Gun Club allowed our Firearms Instructors to utilize the range for a period of several months allowing the instructors to test, evaluate firearms and maintain their skills necessary for completion of their jobs. The gun club has twice in the past graciously allowed me to schedule sniper training for my department and for the Washington State Patrol SWAT Snipers. Unfortunately, these training classes were cancelled due to current budget reasons faced by the State of Washington. The point is, this club was willing to provide their facilities for these training classes.

#82

In the times that I have been on the East End Rod and Gun Club Range, I have not witnessed a single unsafe firearms mishap. Furthermore, closure of this range will obviously effect more than just the shooting sport discipline for civilians, but it will limit the options for criminal justice agencies to train at the East End Rod and Gun Club. Please feel free to contact me if you have any questions.

Respectfully Submitted

Lieutenant Cliff Pease

Washington Department of Corrections

East Representative/Washington State Firearms Instructor Association

(509) 525-6310

RECEIVED

JAN 9 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

January 20, 2014

Shanna Hatfield
53316 Highway 332
Milton-Freewater, OR 97862

Tamra Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th ST
Pendleton, OR 97801

Dear Ms. Mabbott,

My husband has been a member of the East End Rod and Gun Club for several years. Although I'm not much of a shooter, I have gone with him a few times out to the range and always found it to be a safe, friendly environment to learn better shooting skills.

His mother and I have participated twice in the Women on Target program which I think every woman should take at least once just for the educational opportunity it provides. The Gun Club members who staff that event are so knowledgeable, helpful, and patient.

My mother-in-law drove three hours just to take the classes because there is nothing like it offered where she lives.

The East End Rod and Gun Club truly provides so many wonderful programs and services that are open not just to gun club members, but guests as well.

I would hate to see the good they do for this region be altered in anyway.

Please allow the operation and improvements at the range to continue unfettered.

Your thoughtful consideration is greatly appreciated.

Kindest regards,

Shanna Hatfield

#83

RECEIVED

January 20, 2014

JAN 20 2014

Scott Hatfield
53316 Highway 332
Milton-Freewater, OR 97862

UMATILLA
PLANNING DE

Tamra Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th ST
Pendleton, OR 97801

Dear Ms. Mabbott,

I have been a member of the East End Rod and Gun Club for several years. The shooting range not only provides a safe place for people to practice shooting and improve their skills, it also provides wonderful training opportunities.

My wife and mother have both participated in the Women on Target program, learning about basic gun safety and shooting.

I would hate to see restrictions imposed that would alter the great benefit and service the club provides to members and their guests.

Now more than ever it is vital we are teaching gun safety and responsibility. Places like the East End Rod and Gun Club provide a safe and educational venue for that to happen.

Please allow the operation and improvements at the range to continue unfettered.

Thank you for your consideration.

Sincerely,

Scott Hatfield

#84

RECEIVED

JAN 21 2014

Perkins
Coe

UMATILLA COUNTY
PLANNING DEPARTMENT

1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
PHONE: 503.727.2000
FAX: 503.727.2222
www.perkinscoie.com

Michael C. Robinson
PHONE: (503) 727-2264
FAX: (503) 346-2264
EMAIL: MRobinson@perkinscoie.com

VIA EMAIL

January 21, 2014

Mr. Randy Randall, Chair
Umatilla County Planning Commission
Umatilla County Department of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801

Re: Umatilla County File No. LUD-163-13

Dear Chair Randall and Members of the Umatilla County Planning Commission:

This office represents the East End Rod and Gun Club (the "Gun Club"). This letter responds to the January 14, 2014 letter from Mr. Gregg.

- 1. Substantial evidence in the whole record demonstrates that the Gun Club satisfies ORS 197.770.**

I submitted a letter on behalf of the Gun Club dated January 16, 2014 with several affidavits and have submitted additional affidavits since that letter. The affidavits demonstrate that the Gun Club is a firearms training facility that was in existence on September 9, 1995 and that the Gun Club through its members provides training courses and certifications and continues to do so for law enforcement personnel and nationally recognized programs that promote shooting matches, target shooting and safety. Notwithstanding Mr. Gregg's arguments, the affidavits, oral and written testimony submitted by the Gun Club members, and additional affidavits demonstrate that the Gun Club clearly meets the requirements of ORS 197.770. Moreover, Mr. Gregg ignores the Oregon Court of Appeals opinion in *Citizens for Responsibility v. Lane County*, 207 Or App 500, 142 P3d 486 (2006), that held "as long as [firearms training] facility is functioning and *able* to conduct training and issue certificates, we believe the statutory definition is satisfied" (emphasis in original). *Id.*

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PALO ALTO · PHOENIX · PORTLAND · SAN DIEGO · SAN FRANCISCO · SEATTLE · SHANGHAI · TAIPEI · WASHINGTON, D.C.

Perkins Cole LLP

#85

The Court of Appeals' decision in *Citizens for Responsibility* also defeats Mr. Gregg's argument that the Gun Club must both provide training courses and issue certificates. The Court of Appeals is clear that having the intention to do so satisfies the requirements of ORS 197.770(2). However, even if this were not the case, the Planning Commission can find that the Gun Club still satisfies the statute. The word "certifications" is not defined. The statute does not require, as Mr. Gregg asserts, that any particular kind of certifications be issued. Based on the plain language of the statute, having a training course that "certifies" one of the things required by ORS 197.770(2) is sufficient.

In any event, Mr. Gregg is incorrect because the Court of Appeals that has held that having the intention to provide training courses and issue certification is sufficient to establish a firearms training facility. That being the case, the affidavits submitted on behalf of the Gun Club are substantial evidence that such an intention exists.

2. The Gun Club's members may provide training and certification.

Mr. Gregg is also incorrect that members offering the training and certifications does not meet the statute. The members make up the club. Having Gun Club members on the Gun Club premises offering training and certification is sufficient to satisfy the statute.

3. Withdrawal of a prior application is irrelevant.

Mr. Gregg also argues that the Gun Club's application should be judged by the fact that the Gun Club withdrew its 2002 application. The record before the Planning Commission is clear that the Gun Club determined that proceeding as a private park was advice they received from both the State and the County but ultimately elected not to proceed on that basis. The Planning Commission can draw no negative inference from the fact that an applicant decided not to proceed with an application in one year and then decided to proceed with another type of application in another year. This set of facts simply has no legal or evidentiary relevance and the Planning Commission should ignore it.

4. The Gun Club may expand its facilities.

Mr. Gregg also argues that the Gun Club is limited to the facility as it existed on September 9, 1995. There are two (2) responses to this argument.

First, OAR 660-033-0120, Table 1, and OAR 660-033-130(2)(c) expressly provide that a firearms training facility may expand subject only to the requirement that it not include a single or number of buildings with a design capacity of more than 100 persons. Notwithstanding the legislative history cited by Mr. Gregg, the administrative rule allow the expansion of a firearms training facility in existence on September 9, 1995.

Alternatively, even in the event the Planning Commission chooses to agree with Mr. Gregg's citation of legislative history, the Oregon Court of Appeals in *Citizens for Responsibility* held that "the authorization in ORS 197.770 to continue a use coming within the definition of a firearms training facility does leave the specifics of implementation to the local governments." *Id.* Umatilla County, like other local governments, may determine how to apply ORS 197.770. In this case, the Planning Commission may find that even if a permit is required for the expansion of the Gun Club's facility since September 9, 1995, the County may approve the expansion based on the requirements of OAR 660-033-0120 and 0130(2)(c). The Planning Commission may do so in this case because substantial evidence shows that no single building or aggregation of buildings provides a design capacity of more than 100 persons.

5. A firearms training facility is not authorized under ORS 215.213.

Mr. Gregg's assertion that the Gun Club must be reviewed under ORS 215.213 is incorrect. The Gun Club is a firearms training facility that is allowed pursuant to ORS 197.770, not ORS 215.213. Mr. Gregg's letter ignores OAR 660-033-0120 and 0130(2)(c) which govern uses in Exclusive Farm Use ("EFU") zoning districts. The administrative rule adopted by the Oregon Land Conservation and Development Commission ("LCDC") authorize an expansion of a firearms training facility subject to the prohibition on design capacity of buildings.

Mr. Gregg is also incorrect that the Gun Club application must be reviewed pursuant to non-conforming use provisions. Again, *Citizens for Responsibility* is clear on this point: firearms training facilities are not treated as non-conforming uses and the UCDC does not do so, either.

6. The Gun Club withdraws its current application for further expansion.

The Gun Club withdraws its application for the proposed expansion. The Gun Club requests that the Planning Commission determine that it is a firearms training facility meeting ORS 197.770 and to the extent the Planning Commission believes it is required to do so, the Planning Commission make a determination that that Gun Club's expansion since 1995 is approved because it satisfies OAR 660-033-0120 and 0130(2)(c). The Gun Club reserves the right to submit an application in the future for further expansion.

7. Conclusion.

The Planning Commission must reject Mr. Gregg's arguments for two (2) principal reasons. First, Mr. Gregg fails to address the *Citizens for Responsibility* decision in his analysis of the Gun Club application. *Citizens for Responsibility* controls the questions concerning non-conforming uses and what is required to be a firearms training facility.

Mr. Randy Randall, Chair

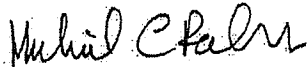
January 21, 2014

Page 4

Second, the Gun Club may be expanded based on the administrative rule. The Gun Club is not a non-conforming use and its expansion is not prohibited under the administrative rule.

On behalf of the Gun Club, I respectfully request that the Planning Commission conclude the public hearing on Thursday night (because this is not the initial evidentiary hearing, no party is entitled to an additional continuance or an open record period) and approve the Gun Club's application with conditions of approval.

Very truly yours,



Michael C. Robinson

MCR:lcr

cc: Mr. Verl Pressnall (via email)
Ms. Tamra Mabbott (via email)

RECEIVED

Affidavit In Support of The East End Rod and Gun Club

JAN 21 2014

STATE OF OREGON)
) ss.
County of Umatilla)

UMATILLA COUNTY
PLANNING DEPARTMENT

I, Parvin "Lance" Hallmark, under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement. I am also an NRA Certified Instructor in Basic Pistol Shooting and the Range Safety Officer Course. I have conducted training at the Gun Club in my capacity as an NRA Instructor with the intent to provide training and issue certifications as required by ORS 197.770(2).

2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.

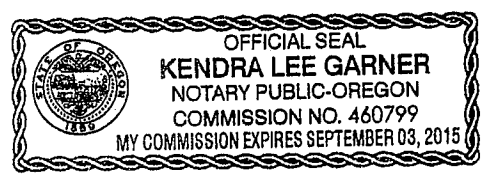
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.

4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 17th day of January, 2014.

Parvin L Hallmark
Chief Range Safety Officer

Subscribed and sworn to before me this 17 day of January, 2014.



Kendra Lee Garner
Notary Public for Oregon
My commission expires: September 3, 2015

#86

Affidavit In Support of The East End Rod and Gun Club

RECEIVED

STATE OF OREGON)
) ss.
County of Umatilla)

JAN 21 2014

UM PLANN: COUNTY PTM...

I, Brian Schnick, under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.
2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 15th day of January, 2014.

Brian Schnick

Brian Schnick

NRA ID: 143753681

Subscribed and sworn to before me this 15 day of January, 2014.

Les T Coyle

Notary Public for Washington

My commission expires: 9-1-14

NOTARY PUBLIC
STATE OF WASHINGTON
LES T COYLE
MY COMMISSION EXPIRES
SEPTEMBER 1, 2014

37

RECEIVED

JAN 21 2014

Umatilla County Land Use Planning Commission

UMATILLA COUNTY
PLANNING DEPARTMENT

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

Brian Howard

#88



RECEIVED

JAN 21 2014

UMATILLA CO.
PLANNING DEPARTMENT

January 15, 2014

To Whom it may concern,

I fully support the East End Gun Club in Milton Freewater, OR. I have given two large NRA Basic Handgun Training classes at our range. When shooting at EEGC range, there is ALWAYS a Range Safety Officer to go over the range rules with the students prior to shooting. This is a mandatory part of the training course. There is an NRA Forum called *Women on Target*. This forum is held for women only all over the country. It informs women on firearm safety and the operations of firearms. They have the opportunity after watching safety video's to shoot several different kinds of rifles and handguns. This club has successfully done a lot of the *Women on Target* forums with over two hundred women coming to the training. It takes a lot of instructors and seasoned shooters to come out and VOLUNTEER their time to make sure all of the attendees are safely handling the firearms, to explain how to hold, clear and know what to expect when firing. This club has women from all over both Oregon and Washington to come to *Women on Target*. I had to opportunity to help this past summer. It was done very professionally and all the women had a great time learning about firearms in a safe controlled environment. My classes are done through Certified NRA Training Course curriculum. It is taught the same way throughout all the NRA courses. Each and every shooter is instructed in handgun safety, knowledge of rules on the range, skills of properly handling a firearm and shooting. I have chosen to teach women through the NRA's Basic Handgun Course. I feel that more and more women are feeling it necessary to protect their home and children from intruders. Most women buy or are given a handgun and never properly learn to shoot it. When I ask why they have never shot their own handgun the answer I hear most is "there is nowhere to shoot, and I don't know who to take lessons from". The NRA has a webpage with NRA trained instructors and where to take the classes. I am on this webpage and I know a couple more women in this club who are also NRA instructors. We need a safe place for people to learn to safely handle and shoot firearms. I feel that with communication between the local farmers and neighbors and with the club officers and members, this could be a great place for women, men, and families to learn and shoot. They have the right to own firearms and should have a local gun range to shoot them *safely* in a controlled range with rules and regulations.

Victoria Hendrickson
Victoria Hendrickson

Certified NRA Instructor, EEGC Club Member
NRA# 54571474

#89

Women Only Handgun Training, LLC



Viki Hendrickson
NRA Certified Instructor

360.989.7302 Office
360.799.5126 Fax

Viki@WomenOnlyHandgunTraining.com
www.WomenOnlyHandgunTraining.com



Affidavit In Support of The East End Rod and Gun Club **RECEIVED**

STATE OF OREGON WA)
) ss.

JAN 21 2014

County of Umatilla (Umatilla)

UMATILLA COUNTY
PLANNING DEPARTMENT

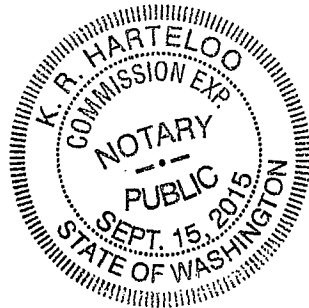
I, Viki Henderson, under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.
2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 16th day of January, 2014.

Viki Henderson

Subscribed and sworn to before me this 16 day of January, 2014.



[Signature]
Notary Public for Oregon Washington
My commission expires: 9-15-2015

#90

Tamra Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th ST
Pendleton, OR 97801

RECEIVED

JAN 21 2014

Re: East End Rod and Gun Club Conditional Use Permit and Expansion

UMATILLA COUNTY
PLANNING DEPARTMENT

Jan. 15, 2014

To Whom It May Concern,

I am writing this letter in support of the expansion and continuation of the Conditional Use Permit for the East End Rod and Gun Club in Milton-Freewater, OR.

I was introduced to the EERG Club during my participation in the 2010 Women on Target. This class is sponsored by the NRA for the safe introduction to and instruction on the use of firearms for women. I participated in this, Women on Target in order to become more familiar with firearms that I did not own as well as to receive instruction with other women. I joined the Gun Club shortly after because I was impressed with the safety rules and the range.

In 2011 I was invited to participate as one of the instructors and did so. In 2012, both my husband and I were asked as members of the Gun Club to instruct at Women on Target. We have been a team on the 2013 series of Women on Target classes in the 10/.22 rimfire section.

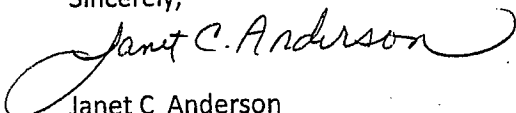
I am grateful there has been a safe place for women to come and be comfortable with learning more about the safe handling of firearms. The Women on Target program has helped several hundred Women in this valley through the efforts of the East End Rod and Gun Club to become safe handlers of several different styles of firearms.

I am also impressed that the board and its members continually watch for areas they can improve on. There have been several safety improvements in the short amount of time that we have been members including the use of a flag system to show when the range is closed to all users.

If I remember correctly, something has been mentioned about shooting in a northerly direction from the range property. If one is using the range correctly, no such shooting should be taking place in that direction! I myself and other members would try to correct the misbehavior in some responsible manner.

I sincerely urge you to approve of a continuation of the EERG Club's conditional use permit and to allow the proposed expansion. This will allow for a safe place for the continuation of firearms safety instruction and usage.

Sincerely,



Janet C. Anderson
85569 Tum A Lum Rd.
Milton -Freewater, OR 97862

#91

Affidavit In Support of The East End Rod and Gun Club **RECEIVED**

STATE OF OREGON)
) ss.
County of Umatilla)

JAN 21 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

I, Janet Anderson, under penalty of perjury, do say the following:

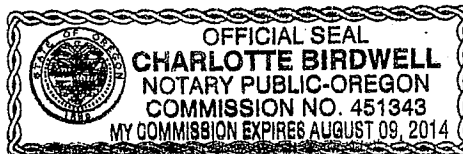
1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.
2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 15th day of January, 2014.

Janet C. Anderson
NRA # 160609626

Subscribed and sworn to before me this 15th day of January, 2014.

Charlotte Birdwell
Notary Public for Oregon
My commission expires: 8-9-2014



Affidavit In Support of The East End Rod and Gun Club

RECEIVED

STATE OF OREGON)
) ss.
County of Umatilla)

JAN 21 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

I, Steve Anderson under penalty of perjury, do say the following:

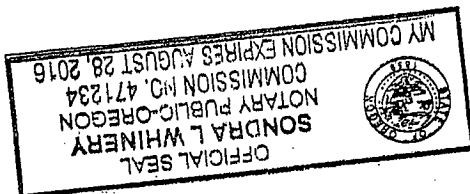
1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement. (#158655050)
2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 15th day of January, 2014.

[Signature]
Steve Anderson

Subscribed and sworn to before me this 15th day of January, 2014.

[Signature]
Notary Public for Oregon
My commission expires: Aug 28, 2016



#93

January 16, 2014

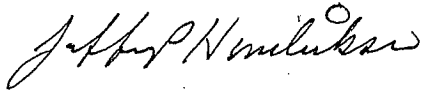
Jeffrey Hendrickson
2106 NE 124th Avenue
Vancouver, WA 98684

To Whom It May Concern;

I would like to express my support for the East Eng Gun Club in Milton Freewater, OR. It is very important to have a safe environment to practice and enjoy the shooting sports.

Closing the range or severely restricting the hours of operation would be a disservice to individual club members and the community at large.

Jeffrey P. Hendrickson



East End Gun Club Member
NRA Life Member #CMA0488M

RECEIVED

JAN 21 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#94

Affidavit In Support of The East End Rod and Gun Club

STATE OF OREGON WA)
) ss.

County of Umatilla (Clark)

I, JEFFREY HENRICKS, under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.
2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 16 day of January, 2014.

[Signature]

Subscribed and sworn to before me this 16 day of January, 2014.

[Signature]
Notary Public for Oregon Washington
My commission expires: 09-15-2015



RECEIVED

JAN 21 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#95

January 17, 2014

RECEIVED

JAN 21 2014

Tamra Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 S.E. 4th St.
Pendleton, OR 97801

UMATILLA COUNTY
PLANNING DEPARTMENT

Regarding the East End Rod and Gun Club:

Dear Ms. Mabbott,

During the past five decades I have belonged to a number of shooting clubs in Idaho, Washington, and Oregon. While these several clubs all emphasized safe and responsible firearms use, none offered the comprehensive programs available at the East End Rod and Gun Club.

EER&G offers a safe and well regulated range with separate areas for handgunners, shotgunners, and rifle users.

Regulation of target materials and ongoing clean-up work provides a tidy range area. That the downrange areas of the club support populations of Hungarian partridge, cottontail rabbits, meadow larks, and (much to my consternation) trophy size bull snakes, attests to the club members' concern regarding the physical appearance of the range.

EER&G currently has more than 800 members. This clearly demonstrates a need for the facility.

EER&G provides specialized programs for many different types of firearm users. Youth groups such as 4-H and Boy Scouts use the range. Women shooters (the fastest growing demographic among shooters) are offered a variety of classes to encourage their participation in the sport. Hunter safety education classes for youngsters are held on the range as well. The range is sometimes closed to general members to accommodate training activities for local law enforcement agencies.

Curtailing operation of the East End Rod and Gun Club would greatly diminish its very positive impact on Umatilla County and the surrounding region.

Sincerely yours,



John Geidl

27 Elk Fork Dr.

Walla Walla, WA 99362

#96

Affidavit In Support of The East End Rod and Gun Club

STATE OF OREGON)
) ss.
County of Umatilla)

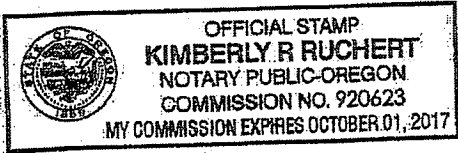
I, Randy Black under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.
2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.
3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.
4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 17 day of January, 2014.

Randy P. Black
Randy Black

Subscribed and sworn to before me this 17 day of January, 2014.



Kimberly R. Ruchert
Notary Public for Oregon
My commission expires: 10/1/17

#97

KENT AND ANDREA BIGLER
720 NE 6TH COURT, MILTON FREEWATER OREGON
541-938-4592

Amra Mabbott, Planning Director

Umatilla County Department of Land Use Planning
216 SE 4th ST | Pendleton, OR 97801

Dear Umatilla County Planning Commission:

My name is Kent Bigler and my wife and I have been members of the East End Rod and Gun Club for years. We live in the Town of Milton Freewater and I am employed by the State of Washington as one of their Staff Attorneys. My wife and I enjoy using the range for recreation and more importantly to continue to know how to use and safely appreciate firearms. It is a great place to take my children and grandkids to help them also appreciate the safe use and care of firearms. In addition I have been involved with the local Boy Scouts for years and it is a very convenient location to teach these young people how to safely use firearms.

The gun club has operated in this convenient location for years. The location is close to town and yet out in the country where very few people reside. There will always be a few neighbors no matter how far in the country we go. I ride my dirt bike through the area often and no matter where I ride in the country and in the mountains there will always be a few residents. The gun club location is the best location in the area and as remote as any location that I am aware of.

It is my understanding that "one" family would like the gun club to move from the area after all these years of use or at least have time and day restrictions placed on the range. I am not sure of all their complaints and I am sorry our world is not perfect. There are many distractions to our lives caused from animals, planes and helicopters and automobiles. Sometimes we all need to sacrifice somewhat for the benefit of many other people.

Most people I know who use the range would not be able to use the range with limited or restricted hours such as 9-5 Monday through Friday. My situation is as unique as many others. I work out of two offices, one in the Tri Cities and one in Walla Walla. Three days a week I arrive home from work around 7 PM, the other two days I arrive home around 6 PM. I have also taught night classes at two colleges which truly makes my schedule unpredictable. I am sure most people have similar schedules. We really need to keep the range open in order to serve the majority of people.

Your consideration is appreciated.


Kent H. Bigler

January 2014

#98

1738 Livingston Ct

Walla Walla, WA 99362

RECEIVED

JAN 22 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

January 21, 2014

Tamra Mabbott

Planning Director

Umatilla County Department of Land Use Planning

216 SE 4th St

Pendleton, OR 97801

Dear Ms. Mabbott:

On September 25, 1789 the United States Congress passed twelve amendments to the Constitution onto the states for ratification. The states passed ten of those amendments, which are today known as the Bill of Rights. As you are probably aware the second amendment reads "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." As time passed this amendment has changed in the eyes of politicians from the local to the federal level. Today many read this amendment as "...the right of the people to keep and bear Arms, shall not be infringed, except at the post office, except in the court house, unless the gun scares me, unless your neighbor doesn't like it, ad nauseam." Please do not add "except at the gun range" to the second amendment.

Sincerely,

Brian Head

#99

Tamra Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th ST | Pendleton, OR 97801

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

I joined the club in 2012 to have a place to shoot that was safe and undeniably legal. That of itself makes the travel time and fuel costs from Pendleton to Milton-Freewater well worth it.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it. As you are probably aware we do not live in a 9-5, Monday through Friday society anymore, which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. I work a 10PM-6:30AM graveyard shift myself, and the 8:00AM opening time is a very good thing; I can get in some practice and still be home and asleep by noon. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Sincerely,

John Kaufman

2410 N.W. Carden Ave., #50

Pendleton, OR 97801

RECEIVED

JAN 23 2014

UMATILLA COUNTY

PLANNING DEPARTMENT

#100

January 23, 2014

RECEIVED

JAN 23 2014

Umatilla County Department of Land Use Planning
216 SE 4th ST
Pendleton, OR 97801

UMATILLA COUNTY
PLANNING DEPARTMENT

Re: East End Rod and Gun Club Land Use Hearing

Attn: Tamra Mabbott, Planning Director

Umatilla County Land Use Planning Commission

I am a resident of Milton-Freewater and a relatively new member of the East End Rod and Gun Club. Personally, my interest in shooting is purely for target sports and the opportunity to teach my family members the safe use and proper respect of firearms. I appreciate the privilege of having a place to go that is safe and designated for this use. Without this range I would be hard pressed to find such a location.

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives all of us a safe place to practice with our firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

#101

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food, shopping and staying in our community. They also purchase shooting supplies locally, supporting many local businesses in addition to revenue generated through sales to community residents.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rules as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as needed for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

I understand that a neighboring family would like to have time and day restrictions placed on the range limiting when we would be able to use it. I appreciate their concerns for safety and their rights as farmers in this location. However, I am confident that safety is and will continue to be the first priority of the club and its members. Certainly, the undoing all of the hard work in developing this range and the long history of service and respect to our community by the club would be an injustice and detriment to all members of our community.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

Kurt Van Batavia

Kurt Van Batavia
612 S. Main St.
Milton-Freewater, OR 97862

Steve Timmons
54171 Miller Road
Milton Freewater Or 97862
1-541-938-6073

RECEIVED

JAN 23 2014

Attn Tamra Mabbot
RE- Hunter Safety

UMATILLA COUNTY
PLANNING DEPARTMENT

1 January 23, 2014

I have been involved with Hunter safety program since 1992 and have used the East End Rod and Gun Club range for the State program along with other instructors and find the faculty's quite well for this activity with safety being the key issue with students

Any questions regarding this you may call me at the above number

Steve Timmons
Hunter Education Instructor #
12836



#102

ROSS DAY*
ross@daylawpc.com



T. BEAU ELLIS
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ANDREA R. MEYER
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Day Law Group, P.C.

ATTORNEYS AT LAW

January 24, 2014

RECEIVED

JAN 27 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Via email (planning@umatillacounty.net) and first-class mail

Ms. Tamra Mabbott
Planning Director
Umatilla County Department of
Land Use Planning
216 S.E. 4th Street
Pendleton, Oregon 97801

RE: LUD-163-13, East End Rod N Gun Club

Ms. Mabbott:

This letter is in regards to the above-referenced application. Please be advised that my office has been retained by the East End Rod N Gun Club to provide advice concerning the issues raised in a December 12th, 2013 letter to you from H.T. Rea Farming Corp.¹

The East End Rod N Gun Club (herein "East End") is an Oregon Non-Profit Corporation recognized as a tax-exempt under 26 U.S. §501(c)(3) of the Internal Revenue Code. East End has been in operation since 1947, albeit not in the same location. Twenty one (21) years ago, in approximately the spring of 1994, East End moved to its current location in Milton-Freewater.

East End is a popular community organization, boasting over ___ members. East End hosts a full range of event including 4-H competitions and training, Boy Scout events, NSSF First Shot competitions and a variety of National Rifle Association events.

The application referenced above (herein "Application") initially sought two "permissions" from Umatilla County: (1) a permit to continue its current operations at East End's current location, and (2) permission to expand East End's current operations onto a neighboring 35-acre parcel. Since the initial hearing, however, East End has removed its request to expand its operations from the Application.

Therefore, the remaining issue to be considered in the Application is the issuance of a permit to allow East End to continue to operate at its current location.

Consideration of East End's application must begin with ORS 197.770 which provides:

¹ The December 12th, 2013 letter to you from Mr. Patrick M. Gregg identifies H.T. Rea Farming Corp. as his client, but then goes on to discuss the objections the owners of H.T. Rea Corp. – Dennis, Laura and Nathan Rea – have with my client's land use application. For purposes of my response, I will simply refer collectively to "the Reas" which will include the individuals and the corporation, where appropriate.

Any firearms training facility in existence on September 9th, 1995 shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.

Importantly, this statute authorizes the continuation of a firearms facility in existence before September 9th, 1995, regardless of whether the facility was authorized or lawful at the time of its creation. *Citizens for Responsibility v. Lane County*, 207 Or. App. 500, 507, 142 P.3d 486, 490 (2006).

The Affidavit of R.A. Andy Millar conclusively establishes that East End began operations at its current location on or about April 24th, 1993. The statements of Robert Sallee, Malcolm Millar, Buddy Birdwell and Larry Zalaznik provide further support for the conclusion that East End was in operation well before the September 9th, 1995 date contained in ORS 197.770.

To the best of my knowledge the Reas (or any other opponents to the Application) have presented no credible evidence to suggest that East End was not in existence prior to September 9th, 1995. The only evidence in the record supports the conclusion that East End was in existence prior to September 9th, 1995. Accordingly, pursuant to ORS 197.770, East End must be allowed to continue to operate at its current location.

This does not end the inquiry, however. As stated above, the purpose of the Application is to receive formal approval from Umatilla County for East End to operate its facility. The question to be answered is: what standards, if any, must Umatilla County apply in order to issue a permit for East End?

The Oregon Court of Appeals decision in *Citizens for Responsibility* offers some guidance on this question, as well. In *Citizens for Responsibility*, the Oregon Court of Appeals held that "The authorization in ORS 197.770 to continue a use coming within the definition of a firearms training facility does leave the specifics of implementation to the local government." *Citizens for Responsibility*, 207 Or. App. At 511.

In other words, how to determine whether a permit should be issued, and what type of permit should be issued, is left by the statute to the determination of Umatilla County.

Staff has identified ORS 215.296 as criteria applicable to the Application (as modified). With respect, I disagree. The express language of ORS 215.296 states that the criteria contained in ORS 215.296 apply only to uses allowed under ORS 215.213(2) or (11) or uses allowed under ORS 215.283(2) or (4). East End's use of the property is allowed under ORS 197.770.

Further, staff has identified OAR 660-033-0120 and OAR 660-033-0130 as criteria applicable to the Application (as modified). Again, I respectfully disagree. The specific language of OAR 660-033-0120 and OAR 660-033-0130 states that the standards contained therein apply only to uses indicated on the chart. The use allowed by ORS 197.770 is not included in the chart. Accordingly, OAR 660-033-0120 and OAR 660-033-0130 do not apply to the Application (as modified).

Instead, it is my opinion that the provisions of the Umatilla County Development Code, §152.611 *et. seq.* control. My opinion is based upon the Court of Appeals' language in *Citizens for Responsibility* which recognized that implementation of ORS 197.770 (i.e. the regulation of firearms training facilities) was left largely to local governments.

UCDC §152.617 sets the standards for review for Land Use Decisions on EFU and GF zoned lands. UCDC §152.617(II)(5) defines what constitutes a "Firearms Training Facility" for purposes of the Umatilla County Development Code. According to this section of the UCDC, a Firearms Training Facility must:

- (1) Be an indoor or outdoor facility;
- (2) That provides training courses, and
- (3) Issues certifications required for law enforcement personnel, by the State Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting and safety.

East End meets all of these criteria. First, East End is an outdoor facility. Second, as evidenced by the affidavit of R.A. Andy Millar, East End provides training courses to its members. Finally, again from Mr. Millar's affidavit, East End's training programs include certification of shooters, as well as certifications from the Oregon Department of Fish and Wildlife. In short, East End meets all the criteria in the UCDC to qualify as a Firearms Training Facility.

Lastly, the Preliminary Findings and Conclusions correctly notes that UCDC §152.615 authorizes a hearings officer, the Planning Director, or the appropriate planning authority to impose additional conditions on a land use approval if the circumstances warrant additional conditions.² Among the additional conditions authorized by this section of the UCDC are: (1) limiting the manner in which a use is conducted, including the hours of operation and other restraints to control noise, vibration, air pollution or odor, (2) establishing special yard, lot or open space dimensions, (3) controlling access to the use, and (4) controlling parking on the property.

As the Preliminary Findings and Conclusions correctly observe, East End does not cause vibration, air pollution, glare or odor. However, one possible conflict is noise from East End that may conflict with surrounding residences.

East End proposed two solutions to mitigate possible noise conflicts. First, East End will plant a row of trees to the west of the gun club to minimize noise impacts on the residences in Milton-Freewater. Second, East End will limit operations of the club during daylight hours, but in no circumstances before 7 a.m. or after 9 p.m.

The Reas have suggested that shooting be limited to no time before 8:00 a.m. during the weekdays and 10:00 a.m. on the weekends, and ceasing at 7:00 p.m. or dark (whichever is earlier) at all times during the year. The Reas claim that a condition limiting activities to "daylight hours" is too broad and unenforceable.

² UCDC §152.615 is entitled "ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS." The caption of this section of the UCDC is not entirely accurate, as this section of the UCDC seems to apply both to conditional permit applications and land use applications. East End simply wishes to bring this point to the attention of the planning department for possible future amendment, if the planning department sees fit.

It is difficult to understand how the conditions suggested by East End – 7:00 a.m. shooting times at the earliest – are unenforceable, and yet the Reas' suggested conditions – 8:00 a.m. on the weekdays and 10:00 a.m. on the weekends – is somehow magically enforceable. If the Reas' conditions are enforceable, so too are the conditions suggested by East End. The Reas' argument to the contrary is unavailing.

Equally confusing is the Reas' position that shooting activities on the weekends should be limited to beginning no earlier than 10:00 a.m., but during the weekdays shooting activities can begin at 8:00 a.m. The Reas claim such a restriction would not "unduly disturb weekend mornings". However, the Reas offer no explanation as to how allowing shooting activities on weekend mornings beginning at 8:00 a.m. would unduly disturb weekend mornings. Put another way, are the Reas suggesting that weekday mornings may be "unduly disturbed", but weekend mornings should not?

The Preliminary Findings and Conclusions propose to impose a condition that limits the operation of East End to daylight hours and not before 7 a.m. or after 9 p.m. every day. The conditions suggested by staff are consistent, easily enforceable, and based upon common sense.

Lastly, the Reas complain about the condition agreed upon by East End to close a firing range when farming practices occur within the vicinity of the range. According to the Reas, the phrase "farming practices" is imprecise and should be better defined.

Although there is no specific definition of "farming practice" in the UCDC, there is a definition of "accepted farming practice":

Means a mode of operation that is common to farm of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

UCDC §152.003.

For most residents of Umatilla County, what is (and is not) a "farming practice" would be self-evident. For instance, if I were in a field operating some type of farm implement, a reasonable person would conclude that I was engaging in a "farming practice". If I were in the same field, throwing a football around with my son, few people (if any) would conclude that I was engaged in a "farming practice".

A list of what would constitute a "farming practice" for purposes of this condition would be impracticable and likely under inclusive. Suffice it to say that a "farming practice" is any work undertaken by a property owner to cultivate land. For most of us, we know a "farming practice" when we see it. The exercise of sound judgment and a little common sense should guide the implementation of this condition. There is no need for a rigid formulary as the Reas suggest.

Conclusion

East End has been a member of the Milton-Freewater community for over 65 years, and looks forward to another 65 years of service. East End appreciates the time and effort the Umatilla

East End Rod N Gun Club
Letter to Umatilla County Planning Department
January 23, 2014
Page 5 of 5

County Planning Department has put into this application and we look forward to working with the county in the months and years ahead.

Please feel free to contact me with any questions you may have.

Regards,

/s/Ross Day

Ross Day
Attorney at Law
Day Law Group, P.C.

Cc: Client

197.770 Firearms training facilities. (1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.

(2) For purposes of this section, a "firearms training facility" is an indoor or outdoor facility that provides training courses and issues certifications required:

- (a) For law enforcement personnel;
- (b) By the State Department of Fish and Wildlife; or
- (c) By nationally recognized programs that promote shooting matches, target shooting and safety.

[1995 c.475 §2]

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

OREGON ADMINISTRATIVE RULES

CHAPTER 660, DIVISION 033, RULE 0120, TABLE 1

February 2012

Uses Authorized on Agricultural Lands

OAR 660-033-0120 The specific development and uses listed in the following table are allowed in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

A Use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.

R Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

* Use not allowed.

Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

APPLIES
TO
"R"
USES

HV All
Farmland Other USES

Farm/Forest Resource

- A A Farm use as defined in ORS 215.203.
- A A Other buildings customarily provided in conjunction with farm use.
- A A Propagation or harvesting of a forest product.
- R6 R6 A facility for the primary processing of forest products.
- R28 R28 A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141.

Natural Resource

- A A Creation of, restoration of, or enhancement of wetlands.
- R5,27 R5,27 The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.

Residential

- A1,30 A1,30 Dwelling customarily provided in conjunction with farm use.
- R9,30 R9,30 A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either, if the farm operator does, or will, require the assistance of the relative in the management of the farm use.
- A24,30 A24,30 Accessory Farm Dwellings for year-round and seasonal farm workers.
- A3,30 A3,30 One single-family dwelling on a lawfully created lot or parcel.
- R5,10 30 R5,10, 30 One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building 30 in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the

105

R2,5,36 R2,5,36 Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.

R2, 18(a) R2,5, 20 Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.

R2,5,21 R2,5,21 Living history museum

R2 R2 Firearms training facility as provided in ORS 197.770.

- REFERS TO 660-033-130(2)(a)-(c)
- 215.296 IS NOT APPLICABLE

R2, 25 R2, 25 Armed forces reserve center as provided for in ORS 215.213(1).

A A Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.

R5 R5 Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.

A26 A26 A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.

R5 R5 Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

R5 R5 Operations for the extraction and bottling of water.

A11 A11 Land application of reclaimed water, agricultural or industrial process water or biosolids.

R5 R5 A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(1).

Outdoor Gatherings

A33 A33 An outdoor mass gathering or other gathering described in ORS 197.015(10)(d).

R34 R34 Any outdoor gathering subject to review of a county planning commission under ORS 433.763.

(The numbers in the table above refer to the section numbers in OAR 660-033-0130)

660-033-0130

Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

The following standards apply to uses listed in OAR 660-033-0120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

(1) A dwelling on farmland may be considered customarily provided in conjunction with farm use if it meets the requirements of OAR 660-033-0135.

(2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

→ FIREARMS TRAINING FACILITY

→ EXPANSION ALLOWED

215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties; rules. (1) The following uses may be established in any area zoned for exclusive farm use:

(a) Churches and cemeteries in conjunction with churches.
 (b) The propagation or harvesting of a forest product.
 (c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275.

FIREARMS
TRAINING FACILITY
NOT LISTED in (1)

(d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

(e) Subject to ORS 215.279, primary or accessory dwellings and other buildings customarily provided in conjunction with farm use.

(f) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(g) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(h) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(i) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

(j) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(k) Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(L) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.

(m) Creation, restoration or enhancement of wetlands.

(n) A winery, as described in ORS 215.452 or 215.453.

(o) Farm stands if:

(A) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

(p) Alteration, restoration or replacement of a lawfully established dwelling that:

- (A) Has intact exterior walls and roof structure;
- (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (C) Has interior wiring for interior lights;
- (D) Has a heating system; and
- (E) In the case of replacement:

(i) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph; and

(ii) For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

(q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(r) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.

(s) Fire service facilities providing rural fire protection services.

(t) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.

(u) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are

located on one or more of the following:

- (A) A public right of way;
- (B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
- (C) The property to be served by the utility.

(v) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.

(w) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

(a) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection (1)(r) of this section.

(b) Operations conducted for:

(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under subsection (1)(f) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

(c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

(d) Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.

(e) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A community center authorized under this paragraph may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

(f) Golf courses on land determined not to be high-value farmland, as defined in ORS 195.300.

(g) Commercial utility facilities for the purpose of generating power for public use by sale.

(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport, as used in this section, means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip.

-NOT LISTED IN

(2), SO 215.296

DOES
NOT
APPLY

Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

(i) Home occupations as provided in ORS 215.448.

(j) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(k) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

(L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under subsection (1)(p) of this section.

(m) Transmission towers over 200 feet in height.

(n) Dog kennels.

(o) Residential homes as defined in ORS 197.660, in existing dwellings.

(p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(q) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(r) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

(s) Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.

(t) A destination resort that is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.

(u) Room and board arrangements for a maximum of five unrelated persons in existing residences.

(v) Operations for the extraction and bottling of water.

(w) Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

(x) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an

exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. As used in this paragraph:

(A) "Living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and

(B) "Local historical society" means the local historical society recognized by the county governing body and organized under ORS chapter 65.

(y) An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.

(z) A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

(aa) Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.

(3) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.

(4) The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established in any area zoned for exclusive farm use:

(a) A county may authorize a single agri-tourism or other commercial event or activity on a tract in a calendar year by an authorization that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

(A) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

(B) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

(C) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

(D) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;

(E) The agri-tourism or other commercial event or activity complies with ORS 215.296;

(F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and

(G) The agri-tourism or other commercial event or activity complies with conditions established for:

(i) Planned hours of operation;

(ii) Access, egress and parking;

(iii) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and

(iv) Sanitation and solid waste.

(b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event

license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

- (A) Must be incidental and subordinate to existing farm use on the tract;
- (B) May not begin before 6 a.m. or end after 10 p.m.;
- (C) May not involve more than 100 attendees or 50 vehicles;
- (D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
- (E) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;
- (F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and
- (G) Must comply with applicable health and fire and life safety requirements.

(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

- (A) Must be incidental and subordinate to existing farm use on the tract;
- (B) May not, individually, exceed a duration of 72 consecutive hours;
- (C) May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;
- (D) Must comply with ORS 215.296;
- (E) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and
- (F) Must comply with conditions established for:

(i) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

(ii) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

(iii) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

(iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(v) Sanitation and solid waste.

(d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:

(A) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;

(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

(D) Do not exceed 18 events or activities in a calendar year.

(5) A holder of a permit authorized by a county under subsection (4)(d) of this section must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

(a) Provide public notice and an opportunity for public comment as part of the review process; and

(b) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by subsection (4)(d) of this section.

(6) For the purposes of subsection (4) of this section:

(a) A county may authorize the use of temporary structures established in connection with the agri-tourism or other commercial events or activities authorized under subsection (4) of this section.

However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The county may not approve an alteration to the land in connection with an agri-tourism or other commercial event or activity authorized under subsection (4) of this section, including, but not limited to, grading, filling or paving.

(b) The county may issue the limited use permits authorized by subsection (4)(c) of this section for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of subsection (4)(c) of this section, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

(c) The authorizations provided by subsection (4) of this section are in addition to other authorizations that may be provided by law, except that "outdoor mass gathering" and "other gathering," as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities. [1983 c.826 §17; 1985 c.544 §3; 1985 c.583 §2; 1985 c.604 §4; 1985 c.717 §7; 1985 c.811 §7; 1987 c.227 §2; 1987 c.729 §5a; 1987 c.886 §10; 1989 c.224 §27; 1989 c.525 §2; 1989 c.564 §9; 1989 c.648 §61; 1989 c.739 §2; 1989 c.837 §27; 1989 c.861 §2; 1989 c.964 §11; 1991 c.459 §348; 1991 c.950 §1; 1993 c.466 §2; 1993 c.704 §3; 1993 c.792 §14; subsections (3) to (8) renumbered 215.284 in 1993; 1995 c.528 §2; 1997 c.250 §2; 1997 c.276 §2; 1997 c.312 §2; 1997 c.318 §3; 1997 c.363 §2; 1997 c.862 §3; 1999 c.320 §1; 1999 c.608 §2; 1999 c.640 §2; 1999 c.756 §§14a,14b; 1999 c.758 §2; 1999 c.816 §2; 1999 c.935 §22; 2001 c.149 §§2,3; 2001 c.488 §§2,3; 2001 c.544 §§1,2; 2001 c.613 §§8,9; 2001 c.676 §§2,3; 2001 c.757 §§2,3; 2001 c.941 §§2,3; 2003 c.247 §3; 2005 c.22 §163; 2005 c.354 §4; 2005 c.609 §26; 2005 c.625 §76; 2005 c.693 §3; 2005 c.737 §1; 2007 c.71 §72; 2007 c.541 §2; 2007 c.739 §36; 2009 c.850 §2; 2011 c.459 §3; 2011 c.462 §2; 2011 c.567 §2; 2011 c.679 §8]

215.284 Dwelling not in conjunction with farm use; existing lots or parcels; new lots or parcels.

(1) In the Willamette Valley, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designee, in any area zoned for exclusive farm use upon a finding that:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(b) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils;

(c) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(d) The dwelling will not materially alter the stability of the overall land use pattern of the area; and

(e) The dwelling complies with such other conditions as the governing body or its designee considers necessary.

(2) In counties not described in subsection (1) of this section, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designee, in any area zoned for exclusive farm use upon a finding that:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(b) The dwelling is situated upon a lot or parcel or portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel may not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land;

(c) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(d) The dwelling will not materially alter the stability of the overall land use pattern of the area; and

(e) The dwelling complies with such other conditions as the governing body or its designee considers necessary.

(3) In counties in western Oregon, as defined in ORS 321.257, not described in subsection (4) of this section, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designee, in any area zoned for exclusive farm use upon a finding that:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(b) The dwelling is situated upon a lot or parcel or portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel may not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land;

(c) The dwelling will be sited on a lot or parcel created after January 1, 1993, as allowed under ORS 215.263 (4);

(d) The dwelling will not materially alter the stability of the overall land use pattern of the area; and

(e) The dwelling complies with such other conditions as the governing body or its designee considers necessary.

(4)(a) In the Willamette Valley, a lot or parcel allowed under paragraph (b) of this subsection for a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designee, in any area zoned for exclusive farm use upon a finding that the originating lot or parcel is equal to or larger than the applicable minimum lot or parcel size and:

(A) Is not stocked to the requirements under ORS 527.610 to 527.770;

(B) Is composed of at least 95 percent Class VI through Class VIII soils; and

(C) Is composed of at least 95 percent soils not capable or producing 50 cubic feet per acre per year of wood fiber.

(b) Any parcel to be created for a dwelling from the originating lot or parcel described in paragraph (a) of this subsection will not be smaller than 20 acres.

(c) The dwelling or activities associated with the dwelling allowed under this subsection will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

(d) The dwelling allowed under this subsection will not materially alter the stability of the overall land use pattern of the area.

(e) The dwelling allowed under this subsection complies with such other conditions as the governing body or its designee considers necessary.

(5) No final approval of a nonfarm use under this section shall be given unless any additional taxes imposed upon the change in use have been paid.

(6) If a single-family dwelling is established on a lot or parcel as set forth in ORS 215.705 to 215.750, no additional dwelling may later be sited under subsection (1), (2), (3), (4) or (7) of this section.

(7) In counties in eastern Oregon, as defined in ORS 321.805, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to the approval of the county governing body or its designee, in any area zoned for exclusive farm use upon a finding that:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(b) The dwelling will be sited on a lot or parcel created after January 1, 1993, as allowed under ORS 215.263 (5);

(c) The dwelling will not materially alter the stability of the overall land use pattern of the area; and

(d) The dwelling complies with such other conditions as the governing body or its designee considers necessary. [Formerly subsections (3) to (8) of 215.283; 2001 c.704 §4; 2003 c.621 §71]

FILED: August 30, 2006

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITIZENS FOR RESPONSIBILITY,
an unincorporated association,
PHILIP ZIEBERT, ADAM NOVICK,
and MAUREEN HUDSON,

Respondents,

v.

LANE COUNTY,

Petitioner.

2005-082; A132091

Judicial Review from Land Use Board of Appeals.

Argued and submitted June 6, 2006.

Stephen L. Vorhes argued the cause for petitioner. With him on the brief was Lane County Office of Legal Counsel.

Daniel J. Stotter argued the cause for respondents. With him on the brief was Bromley Newton LLP.

Before Linder, Presiding Judge, and Wollheim, Judge, and Deits, Judge pro tempore.

DEITS, J. pro tempore.

Reversed and remanded.

DEITS, J. pro tempore

Lane County seeks review of a Land Use Board of Appeals (LUBA) decision remanding the county's approval of a special use permit for a firearms training facility for further proceedings consistent with LUBA's understanding of ORS 197.770. We reverse and remand LUBA's decision.

REMANDED
LUBA'S
REMAND
OF
APPROVAL

Before addressing the merits of the county's challenge to LUBA's decision, we consider whether the county has standing to bring this review proceeding. If the county lacks standing to seek review, this court does not have jurisdiction to review LUBA's decision. As we held in *Uisey v. Coos County*, 176 Or App 524, 546-47, 32 P3d 933 (2001), *rev dismissed*, 335 Or 217 (2003), any party seeking review under ORS 197.850 of a decision by LUBA must satisfy the constitutional requirement that our decision will "have a practical effect" on the party. Accordingly, the county must demonstrate a practical effect

on its interests in order to establish standing to bring this appeal.

The county's petition for judicial review alleges that "a decision of this court will have a practical effect on the interests of petitioner by determining the meaning of the applicable law and the scope of any further county proceedings, if required." That statement, by itself, does not necessarily answer the question of standing here. The same could be said of many court decisions. As the Oregon Supreme Court recently reiterated in its decision in *MacPherson v. DAS*, 340 Or 117, 134, 130 P3d 308 (2006), governmental entities perform multiple functions; they are not solely legislative, executive, or judicial. Whether a governmental entity has standing to seek judicial review of a judicial or quasi-judicial decision will depend on the particular functions that the governmental entity is exercising in the case.

The Oregon Supreme Court considered an analogous issue in *Valley & Siletz Railroad v. Laudahl*, 296 Or 779, 681 P2d 109 (1984), in which LUBA sought review of a decision of this court. In that case, the court held that LUBA had not demonstrated the statutorily required adverse affect or aggrievement that was necessary to invoke the court's jurisdiction. The court explained:

"LUBA's role in policy development is no greater than that of any quasi-judicial body which applies the law to factual settings consistently and over a period of time in its area of specialty. Certainly, land use regulation is a matter of statewide public interest, but this alone does not render every agency involved in land use regulation, for instance a local planning commission, 'aggrieved' when it is dissatisfied with a judicial ruling. The role delegated to the agency apart from its use of quasi-judicial procedures is the controlling consideration. We find no indication in the duties delegated to LUBA that the legislature contemplated that the tribunal would assume the role of advocate. Both enforcement and primary policy making responsibility reside in the Department and the Commission. LUBA's 'statutorily defined interest or responsibility,' *Ochoco Const. v. DLCD*, [295 Or 422,] 433[, 667 P2d 499 (1983)], lies in impartial, consistent and speedy review of local land use decisions. Having no statutory interest beyond this, LUBA cannot be aggrieved by a reversal of its order on appeal."

Id. at 788.

The county's functions here involve the application and interpretation of county land use regulations relating to ORS 197.770.⁽¹⁾ The county's review of the permit application at issue here is, of course, quasi-judicial in nature. However, the county's exercise of this quasi-judicial authority is inextricably intertwined with its legislative and executive responsibilities to adopt and implement county policies and regulations that carry out the statutory directives. For example, implementation of the statutory requirements involves decisions concerning the allocation of county staff and governing body time and the expenditure of county funds, which the county is required to appropriate from limited resources, as well as other local policy decisions relating to this particular type of use.

This difference is significant because, in contrast to the circumstances in *Valley & Siletz Railroad*, where LUBA was acting solely in an adjudicative capacity, the county here was exercising both legislative and executive functions in addition to its adjudicative

function. Whether sufficient practical effects have been demonstrated to establish standing by a governmental entity to seek review of a judicial or quasi-judicial decision will depend to a great degree on the particular circumstances of a case. Based on the circumstances here, however, we conclude that the county has shown sufficient impact on its interests to establish standing to bring this review proceeding. Accordingly, we proceed to the merits.

The permit that is the subject of this appeal was sought by the property owner, the Izaak Walton League (the League). The League has operated a gun club on the property, which consists of 17 acres, since the mid-1950s. The property was once zoned AGT (Agriculture, Grazing, Timber). That zone did not expressly allow shooting ranges but allowed authorization of such uses by means of a conditional use permit. In 1975, the League obtained a conditional use permit to facilitate the expansion of the facility, apparently to include a skeet shooting range.⁽²⁾ Subsequently, the property was rezoned "F-2" which, under the provisions of the county code for that zone, allows a firearms training facility "that shall not significantly conflict with the existing uses on adjacent and nearby lands" under Lane Code (LC) 16.211(3)(c-c). Since the time of the rezoning, a number of changes have been made to the operation of the facility:

The League applied for the permit at issue here in 2003. It asked for *post hoc* approval of modifications made to the facility after 1975. In its request, the League relied on the provisions of ORS 197.770 that allow firearms training facilities in existence on September 9, 1995, to continue until such time as the facility is no longer used as a firearms training facility. The League asserted that the modifications made before the effective date of the statute would not need to be evaluated under LC 16.211(3)(c-c) to determine whether the uses "significantly conflict with the existing uses on adjacent and nearby lands."

The county planning director conducted a hearing on the permit application in April 2004. The planning director agreed with the League that, as of September 9, 1995, the facility qualified as a "firearms training facility" under ORS 197.770(2). The planning director reached that conclusion based on his determination that, before September 9, 1995, the facility provided training courses and issued certifications required by nationally recognized programs that promote shooting matches, target shooting, and safety. Consequently, the planning director evaluated only the modifications made to the facility after September 9, 1995, under LC 16.211(3)(c-c) to determine whether the facility conflicts with existing uses on adjacent and nearby lands. The planning director found that the modifications made after September 9, 1995, did not conflict with existing adjacent uses and approved the application.

Citizens For Responsibility, Novick, Ziebert, and Hudson (Citizens) appealed the planning director's decision to the county hearings officer. Citizens argued to the hearings officer that there was no evidence that the facility provided training courses and certifications after 1995. It was Citizens' position that, for that reason, the facility was no longer used as a firearms training facility after 1995 under the terms of ORS 197.770(2) and, accordingly, the facility lost the protection of that statute. Citizens asserted to the hearings officer that, therefore, all of the post-1975 modifications must be evaluated under LC 16.211(3)(c-c). In Citizens' view, the modifications could not be approved because the facility as a whole significantly conflicts with forestry and other uses on adjacent lands.

The county hearings officer agreed with the League that the facility was in existence on September 9, 1995, and, consequently, could continue to operate until such time as it was no longer used as a firearms training facility. The hearings officer concluded that the intent and the capability to provide training and certifications were sufficient indications of the use of the facility as a firearms training facility. Because of his view that the facility was in existence on September 9, 1995, the hearings officer held that only modifications or improvements made after September 9, 1995, were subject to the "significantly conflict" standard of LC 16.211(3)(c-c). The hearings officer affirmed the planning director's decision but did note that, if the facility as a whole were subject to the "significantly conflict" standard, it would not comply with the code because there was evidence of significant impacts by the facility as a whole on neighboring forestry operations and other uses.

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Citizens appealed the county's decision to LUBA. Before LUBA, Citizens asserted that, under ORS 197.770, the fact that the facility *existed* on September 9, 1995, is not enough for it to be entitled to the protection of the statute. Citizens argued before LUBA that the statute only authorizes the continued use of and improvements to a firearms training facility that *lawfully existed* on September 9, 1995. In other words, the uses and improvements must have been "authorized" and "lawful" under the regulations that existed when the improvements were first constructed and the particular use began in order for a facility to be considered to be *in existence* on September 9, 1995. Citizens argued that, because modifications made to the League facility between 1975--that is, the year that the conditional use permit was issued--and 1995 were not authorized and were unlawful, ORS 197.770 may not be used to "grandfather" the League facility. The county, on the other hand, asserted before LUBA that the statute provides protection for all uses and improvements associated with a firearms training facility in existence on September 9, 1995, regardless of whether the uses were authorized or lawful.

LUBA agreed with Citizens, concluding that "it seems unlikely that the legislature intended to protect unauthorized or unlawful facilities, or the entirety of facilities with unauthorized and unlawful expansions." *Citizens for Responsibility v. Lane County*, 51 Or LUBA ___, ___ (Apr 7, 2006) (slip op at 10). LUBA explained that "[t]he statute protects only lawful uses (including lawful nonconforming uses), and does not protect unauthorized uses that required the county's discretionary approval but did not receive such approval." *Id.* at ___ (slip op at 12-13). Accordingly, LUBA remanded the county's decision for further proceedings consistent with its reading of ORS 197.770. As we will explain in more detail, LUBA also concluded that, under its interpretation of the statute, the property was no longer being used as a firearms training facility.

LUBA'S
DECISION
REQUIRED
"LAWFUL"
FACILITIES

On review in this court, the county first assigns error to LUBA's holding that the statute protects only lawful or authorized uses in existence on September 9, 1995. The county argues to this court that the statute protects any firearms training facility in existence on September 9, 1995, that meets the statutory criteria for a firearms training facility regardless of whether the particular use was authorized or lawful. The county argues that LUBA's interpretation of ORS 197.770 is inconsistent with the text of the statute and requires the addition of language that does not appear in the statute, an act inconsistent with rules of statutory interpretation set out in ORS 174.010 and articulated in *PGE v. Bureau of Labor and Industries*, 317 Or 606, 611, 859 P2d 1143 (1993). (3)

FIRST
ISSUE

We agree with the county's understanding of the text of the statute. There is no language in ORS 197.770 that provides that the statute is intended to permit the continuation of

only those firearm training facilities established in conformity with whatever regulations existed prior to the effective date of the statute. Indeed, the statute says only that "[a]ny firearms training facility *in existence* on September 9, 1995, shall be allowed to continue operating until" it is no longer used. (Emphasis added.) Were the legislature to have intended to limit the statutory authorization as Citizens asserts and LUBA opined, the legislature easily could have added such limiting language. ORS 92.017 exemplifies such language. That statute provides that "[a] lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law." Another example is found in ORS 215.705, which controls the construction of dwellings on lots of record within farm and forest use zones. *See also Yamhill County v. Ludwick*, 294 Or 778, 790, 663 P2d 398 (1983) (unauthorized subdivision tracts not "existing legal lots of record" as that term is used in county ordinance).

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The county's understanding of the statutory language is also consistent with the apparent purpose of the statute, namely, to permit the continuation of firearms training facilities that meet the statutory definition of such a facility set out in ORS 197.770. We conclude that the county's reading of the statute is consistent with the text and apparent purpose of the statute. *See PGE*, 317 Or at 610-11.

SECOND
ISSUE

The county also assigns error to LUBA's holding regarding the county's understanding and application of the statutory provision that allows the continued use of a firearms training facility in existence on September 9, 1995, until such time as it is "no longer used as a firearms training facility." LUBA agreed with Citizens that the county hearings officer erred in his interpretation of the statutory provision that the firearms training facility may continue to operate until it is "no longer used as a firearms training facility." Citizens asserted to LUBA that, in order to determine if a firearms training facility is "no longer used," the *actual* use of the facility must be considered. In explaining its decision, LUBA acknowledged that the statute requires "a significant degree of interpretation and reasoning by analogy, given that the text and context of the statute say nothing about how to determine when a qualifying facility is 'no longer used as a firearms training facility.'" *Citizens for Responsibility*, 51 Or LUBA at ___ (slip op at 6). It reasoned, however, that ORS 197.770 treats firearms training facilities as something like nonconforming uses. LUBA explained:

"In other words, like nonconforming uses, a 'firearms training facility' may lose its qualifying status through disuse or discontinuation of qualifying activities. *See* ORS 215.130(7)(a). Significantly, the statutory language focuses on how the facility is 'used,' not on the intent of the property owner or whether the facility continues to be capable of qualifying uses. We agree with petitioners, therefore, that a determination whether a qualifying firearms training facility has lost the protection of ORS 197.770 requires evaluation of the actual use of the facility following September 9, 1995, and whether it continues to qualify as a firearms training facility. If the facility is 'no longer used as a firearms training facility,' the mere intent and capability to use it as a qualifying facility are insufficient to prevent loss of the statute's protection.

"As the hearings officer noted, ORS 197.770 does not specify how long qualifying uses at a facility may be discontinued before losing the protection of the statute. The hearings officer apparently viewed the statute as allowing indefinite discontinuation of actual use as a firearms training facility. as long

as there remains an intent and capacity to use it as a training facility. We reject that view. As explained, the statute clearly contemplates that a qualifying facility will be disqualified when it is 'no longer used as a firearms training facility.' While the statute does not specify what period of disuse disqualifies a facility, in this respect the statute is again similar to the statutes governing non-conforming uses at ORS 215.130, which do not specify the length of the period of interruption that will terminate the right to continue a non-conforming use. Instead, ORS 215.130(10)(b) leaves it up to individual counties to establish criteria to determine when a use has been interrupted or abandoned. We note that the county has adopted regulations providing that nonconforming uses are deemed interrupted or abandoned if discontinued for more than one year. LC 16.251(1)(c). Absent some other basis to apply a different period of time, we conclude that whether a qualifying facility in the county is 'no longer used as a firearms training facility' for purposes of ORS 197.770 depends on whether qualifying use of the facility has continued since 1995 with no interruption longer than one year."

Id. at ___ (slip op at 7-8) (emphasis omitted).

LUBA added that the county erred in relying on evidence that the facility had been used for training by several organizations not listed among the types set out in ORS 197.770 (2). LUBA also agreed with Citizens that evidence of such use does not support a finding that the facility continues to be used as a firearms training facility.

COURT
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W/IT
LUBA

On appeal, the county argues that LUBA erred in concluding that the property was "no longer used as a firearms training facility" under the terms of the statute. We agree with the county that LUBA erred in its understanding of ORS 197.770. First, we do not find any support in the statute for a requirement that the firearms training facility provide certificates in a particular number or within a particular time frame in order to continue to qualify as a firearms training facility. The certificate issuance provision in the statute is part of the definition of a "firearms training facility," ORS 197.770(2), and not a mandate for a particular level of facility performance. The county understood that the statutory definition was satisfied if the operator of the facility intended to provide training and issue certificates and retained the ability to do so. We believe that that understanding is consistent with the text of the statute. As long as the facility is functioning and able to conduct training and issue certificates, we believe that the statutory definition is satisfied. (4)

INTENT
AND
ABILITY

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ISSUE

Our second disagreement with LUBA's treatment of the continuation of operation issue is its importation of the one-year abandonment of use provision from the nonconforming use provisions in the county's zoning ordinance. Notably, the county did not treat the statutory authorization for a particular kind of firearm training facility as analogous to a locally declared nonconforming use. The county did not apply any of its nonconforming use regulations. Because the legislative grant required the continuation of the statutorily described uses, the local planning jurisdiction was required to permit them; thus, the legislature took the described uses out of the traditional definition of "nonconforming use." (5) ORS 197.770 does have some similarities to a nonconforming use provision. A "firearms training facility" is not listed as a permitted or conditional use in exclusive farm use zones under ORS 215.213 and ORS 215.283, and an existing facility in such a zone (or other restrictive zone) may be regarded as a nonconforming use. Also, the statute

includes a means to end the protected use, providing certain conditions are met.

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215.130

Nonetheless, the statute does not import the specific abandonment or disuse provisions from the other statutory nonconforming use provision found in ORS 215.130, and nothing in the statute requires local governments to treat the allowed firearms training use as a nonconforming use. The authorization in ORS 197.770 to continue a use coming within the definition of a firearms training facility does leave the specifics of implementation to the local government.

LOCAL
GOVERNMENT
IMPLEMENTATION

In this case, the county did not apply its nonconforming use provisions as an implementing tool. We conclude that LUBA erred in doing so. Consequently, LUBA erred in establishing a hard time line of nonuse to show an end to the statutorily protected activities. As discussed above, the hearings officer used a "reasonable person" standard, which we find to be consistent with the statute. The hearings officer explained the standard that he used as follows:

BUT
'GOAL POST'
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"I believe that several factors are paramount in a determination of whether a facility is no longer used as a firearms training facility. Primary among these factors are intent to utilize a facility for firearms training, whether the facility has retained the ability to serve in that capacity and, o[f] course, whether the facility has actually served in that capacity."

ORS
215.427(3)
CONTROLS

- COUNTY
CAN
RELY ON
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As to the first factor, the hearings officer found that the League had approved the range for hunter education courses and for use by the U.S. Marine Corps Reserve, the Emerald Empire Gun Club, and the Oregon State Defense Force. (6) Also, he noted that the record demonstrated there are several League members who have taught courses and awarded certificates and wish to do so in the future at the facility. With regard to the second factor, the hearings officer found that the League maintained and enhanced its ranges since 1995, and that they can be and are used for training and shooter education "to this day." Finally, he found that there was ample evidence that the facility had been used for firearms training during the last eight years, but there was no evidence to support a finding that certificates issued during the last several years. The hearings officer determined that a reasonable person would not conclude the facility no longer qualified as a firearms training facility merely because "training certificates have not been issued for a couple of years."

Citizens and LUBA identify nothing inherently wrong in using a "reasonable person" standard under the apparently very broad delegation to local planning jurisdictions that is evident in ORS 19.770, and we find that the standard is consistent with the statutory scheme. The hearings officer's decision provided an explanation of how he applied this standard given the facts before him. Given the lack of standards in the statute, we conclude that nothing more was required in support of the decision to grant the requested permit, assuming the facts stated are supported by substantial evidence. The county identified the standard, applied the available facts, and explained its decision.

COURT
APPROVED
OF
COUNTY'S
ACTION

Admittedly, the use of a reasonable person standard does not provide much general guidance about what the county believes would support a conclusion that a facility was no longer used as described in the statute and about the required duration of nonuse that would support denial of a request to reestablish the use. Although it would be helpful for the county to provide such guidance and, for that matter, it would be helpful for the statute to provide more definite guidance, we cannot say that articulating a standard that will provide the answer as to how each case that might come before it would be decided

is necessary for the county's decision to be upheld in this case.

As LUBA itself recognized, ORS 197.770 calls upon the county to exercise "a significant degree of interpretation and reasoning by analogy, given that the text and context of the statute say nothing about how to determine when a qualifying facility is 'no longer used as a firearms training facility.'" *Citizens for Responsibility*, 51 Or LUBA at ___ (slip op at 6). We agree, but we also conclude that the county did so with respect to the particular application before it by explaining both its interpretation and how the facts before it fit within the interpretation.

Reversed and remanded.

1. ORS 197.770 provides:

"(1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.

"(2) For purposes of this section, a 'firearms training facility' is an indoor or outdoor facility that provides training courses and issues certifications required:

"(a) For law enforcement personnel;

"(b) By the State Department of Fish and Wildlife; or

"(c) By nationally recognized programs that promote shooting matches, target shooting and safety."

Return to [previous location](#).

2. The conditional use permit required a three-year review to ensure compatibility with the neighborhood, limited the allowed uses to the recreational shooting of rifles, shotguns, and handguns, and placed a limit on development and improvements.

Return to [previous location](#).

3. In view of our holding, it is unnecessary to address the county's argument that LUBA erred in remanding the county decision for a determination of what authorized or lawful uses existed on September 9, 1995, while at the same time making findings relating to that determination.

Return to [previous location](#).

4. The hearings officer's decision included a finding that

"[t]he Eugene Practical [S]hooters Association, which is affiliated with the United States Practical Shooting Association (USPSA), has continuously held monthly target matches at the range from the mid-1980s through at least 1995. The testimony of Oscar Thomsen, Mr. Sam Pitts, Mr. Carl McGlothlin, and Mr. Monty Millican establishes that firearms training and certifications occurred through 1996 and that firearms training continued after that date at the applicant's facility."

Return to previous location.

5. In *Bergford v. Clack. Co./Trans. Serv.*, 15 Or App 362, 367, 515 P2d 1345 (1973), we articulated a definition of "nonconforming use":

"Furthermore, a nonconforming use is, by its very nature, a use which has been determined to be contrary to the zoning plan, and one which is allowed only because to eliminate it forthwith upon adoption of a zoning plan would constitute a taking without compensation. It follows that a zoning plan, by its very existence, forbids the expansion of a nonconforming use--absent a finding by the appropriate authorities that given the choice of continuing an existing nonconforming use 'as is' or allowing a proposed expansion with attendant changes in the nature of the structure, the changes will result in a situation in which the nonconforming use will be more compatible with the goals of the zoning plan than the existing nonconforming use."

(Footnotes omitted.)

Return to previous location.

6. Of those, only the Gun Club appears to come within the language of ORS 197.770(2).

Return to previous location.



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Ms. Tamra Mabbot
Planning Director
Umatilla County Department of Land Use Planning
216 S.E. 4th Street
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Re: East End Rod & Gun Club
Land Use Request #LUD-163-13
Our File No. 113-398

Dear Tamra:

As you know our firm represents H.T. Rea Farming Corp. and the Rea family. This letter responds to the letter emailed to you by counsel for the East End Rod & Gun Club, which letter was dated January 21, 2014, and was the second letter submitted on behalf of the East End Rod & Gun Club.

The analysis presented in the January 21, 2014, letter submitted by the East End Rod & Gun Club is flawed in that it misstates the meaning of *Citizens for Responsibility v. Lane County* and ignores that said case addressed an entirely different issue under ORS 197.770 than the issue here. Further, the evidence presented by the East End Rod & Gun Club showing compliance with ORS 197.770 as of September 9, 1995, is fatally deficient and compels denial of the application. Finally, the argument that expansion of the facility is permitted ignores the plain language of ORS 197.770 and the County's own ordinances and selectively focuses on administrative rules that are not dispositive. In short, the East End Rod & Gun Club cannot prevail. Accordingly, the Reas request that the Planning Commission deny the East End Rod & Gun Club's application at the January 23, 2014, hearing.

i. The East End Rod & Gun Club misstates the effect of the court case Citizens for Responsibility v. Lane County and that case does not control the situation here.

The East End Rod & Gun Club's reliance on *Citizens for Responsibility v. Lane County* ("Lane County") is fundamentally misplaced because that case dealt with a different situation than the issue here. The East End Rod & Gun Club's argument that they must only show an "intent" to conduct training and certifications under ORS 197.770 is based on a misreading and misunderstanding of the Lane County case. The question in the Lane County case was whether the gun club in that instance, by failing to engage in training and issuance of certifications under ORS 197.770 (2) after 1995, had lost the protection of the statute. That issue is entirely different than the

issue here, which is whether the East End Rod & Gun Club even meets the requirements of ORS 197.770 in the first place. Indeed, consider the operative excerpt from Lane County that describes exactly what was at issue in the appeal. The excerpt indicates that the case dealt with a different question than the one before the Planning Commission here:

On appeal, the county argues that LUBA erred in concluding that the property was “no longer used as a firearms training facility” under the terms of the statute. We agree with the county that LUBA erred in its understanding of ORS 197.770 . . . *Citizens for Responsibility v. Lane County*, 207 Or App 500, 510 (2006).

As the above excerpt demonstrates, the thrust of the Lane County case is very clear: the question in that case before the local body, and then LUBA, and then the Court of Appeals was not whether the facility qualified as a firearms training facility as of September 9, 1995, but whether post-1995 the cessation in use took away the protections of ORS 197.770. Simply put: nothing in the Lane County case stands for the proposition that initially clearing the ORS 197.770 hurdle is accomplished by mere general expressions of an intent to conduct firearms training in the future. Indeed, a careful reading of Lane County at pages 505 through 506 establishes that, at the local level, the County was focusing on the intent issue for purposes of continued use after 1995 but that for purposes of meeting the requirements of ORS 197.770 initially, evidence of actual training and certification was required. *Citizens for Responsibility v. Lane County*, 207 Or App 500, 505-506 (2000).¹ Simply put, the East End Rod & Gun Club’s argument that mere “intent” to conduct training and issue certifications at some indeterminate point in the future satisfies the initial requirements of ORS 197.770 is incorrect.

ii. When ORS 197.770 is properly applied the East End Rod & Gun Club fails to meet its burden of proof.

The East End Rod & Gun Club has so far failed to introduce substantial evidence into the record to demonstrate compliance with ORS 197.770 such that the facility can be found to be a “firearms training facility” and receive the protection of the statute. As noted above, the numerous affidavits that state an “intention” of individual members to conduct training and issue certifications are not sufficient to show that the requirements of ORS 197.770 were satisfied as of September 9, 1995, because those affidavits do not actually address the required showing under ORS 197.770. Those affidavits do not even state whether the individuals were members in 1995. This omission is glaring.

The only evidence presently in the record that actually discusses meeting the standards of ORS 197.770 as of September 9, 1995, is the initial affidavit of Andy Millar. And, there has been no evidence presented of any certification that was issued by the East End Rod & Gun Club on the VonDerAhe property at any point prior to 1995. Further, Nathan Rea’s affidavit raises a very significant question as to exactly when the East End Rod & Gun Club was using the VonDerAhe

¹ A copy of the case with the relevant portions highlighted is appended to this letter.

property. It was not used in 1999; a different site was used.

These weaknesses in the evidence are fatal. As the applicant seeking land use approval the East End Rod & Gun Club bears the burden of proof.² The applicable section of the Umatilla County Development Code ("UCDC") section 152.772 D provides that at a public hearing the burden of proof is as follows:

The burden of proof is upon the proponent. The more drastic the change or the greater the impact of the proposal in an area, the greater the burden upon the proponent. § 152.772 D

Here, there is significant evidence in the record, in the form of the testimony from the Reas and the letters in opposition from the landowners who border the East End Rod & Gun Club facility, that speak to the drastic change and large impact of the facility. Thus, under the County's own rules the East End Rod & Gun Club bears a heavy burden of proof. As it stands there is simply insufficient evidence, especially when the aerial maps showing a lack of use as of 1995 and the affidavit of Nathan Rea are considered. At best, there is a serious question as to whether the facility met the requirements as of September 9, 1995, and under the applicable burden of proof that is fatal to the application.

The East End Rod & Gun Club argues that the prior withdrawal of the 2002 application is irrelevant. That argument misses the point. The weight accorded to the competing evidence by the Planning Commission is why withdrawal of the 2002 application is relevant. Although a land use application may be withdrawn and re-filed, the withdrawal here, when ORS 197.770 existed in 2002 and presumably could have been a basis for the East End Rod & Gun Club's application, should raise a serious question. In other words it is not the mere withdrawal but the fact that 10 years later evidence is being asserted that was not asserted at an earlier time when the right to do so, and in theory the evidence, were in existence. That circumstance is what raises a question about the evidence. For the Planning Commission to ignore the unexplained difference in the 2002 and 2013 applications would be inappropriate.

Put simply: when ORS 197.770 is properly considered the East End Rod & Gun Club has not met the burden of proof to demonstrate that as of September 9, 1995, the elements of ORS 197.770 (2) were met and the application should be denied. It was not a "firearms training facility" within the meaning of ORS 197.770 and that defect is fatal to the application.

² It should be noted that the "substantial evidence in the record" language relied upon by the applicant is not the standard of review for the Planning Commission. The "substantial evidence" is the standard of review applicable when LUBA is reviewing a factual determination made at the local level. Thus, at this level, the Planning Commission is required to weigh the evidence in light of the applicable portion of the UCDC dealing with the burden of proof.

iii. The East End Rod & Gun Club cannot expand the facility.

The East End Rod & Gun Club's withdrawal of the proposed expansion—and the effort to simply obtain a determination as to whether ORS 197.770 was met as of September 9, 1995—does not entirely resolve the expansion issue as the East End Rod & Gun Club still makes the legally incorrect argument that they are permitted to expand should they desire to do so in the future. As noted in previous letters and argument before the Planning Commission, and in the below discussion, expansion is not permitted.

The East End Rod & Gun Club does not now argue that ORS 197.770 governs expansion, instead the expansion argument is based upon OAR 660-33-0120. This argument fails for two reasons. First, it ignores the legislative history of ORS 197.770, which under current Oregon law is part of the analysis in determining what ORS 197.770 means. It defies belief, and logic, to suggest that the legislature passed a law—ORS 197.770—which permitted the limited approval of firearms training facilities areas they are not otherwise permitted in—and in doing so thereafter changed every other facet of Oregon land use law by permitting the Land Conservation and Development Department to approve expansion of facilities when the legislative history to ORS 197.770 instead provides that the local governments are to oversee and handle the question of future expansion of a facility that meets the requirements of ORS 197.770.

The second reason the argument based on LCDC administrative rules fails is because the administrative rules cited by the East End Rod & Gun Club expressly provide that they are minimum standards and that, as authorized by law, a county is permitted to impose more stringent standards. The exact language of OAR 660-120 (2)(c) provides that “counties may prescribe additional limitations and requirements to meet local concerns.” OAR 660-033-0120. Thus, contrary to the argument by the East End Rod & Gun Club, Umatilla County may impose certain additional standards that apply to any expansion or alteration of the facility provided that the minimum standards in OAR 660-033-0120 and OAR 660-033-0130 are met. Here, the Planning Commission is free to apply the UCDC as appropriate, namely, the non-conforming use and conditional use sections of the UCDC.

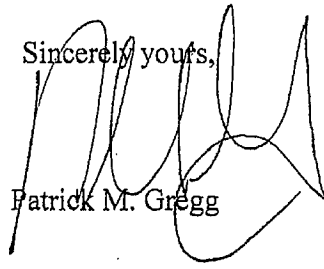
As to the question of a non-conforming use, the East End Rod & Gun Club again miscites the Lane County case. The issue of non-application of the non-conforming use arose because in the Lane County case the local decisionmakers did not apply the non-conforming use analysis but LUBA did. Citizens for Responsibility v. Lane County, 207 Or App 500, 510-511. Nowhere in that case was a blanket rule announced by the Court of Appeals that the non-conforming use analysis could not apply. In fact the court said “[t]he authorization in ORS 197.770 to continue a use coming within the definition of a firearms training facility does leave the specifics of implementation to the local government.” *Id.* at 511. Thus, Umatilla County is not forbidden from applying its non-conforming use rules, nor any other rules in the UCDC.

iv. The East End Rod & Gun Club's application should be denied.

The East End Rod & Gun Club has only submitted a single affidavit—which has been controverted by Nathan Rea's affidavit—showing compliance with ORS 197.770. Further, no certificate evidencing any course actually occurring at the existing facility prior to September 9, 1995, has been introduced into the record. The East End Rod & Gun Club has simply failed to meet its burden of proof under UCDC. To the extent that the expansion question is examined the Planning Commission can, and should, apply the non-conforming use analysis contained in the UCDC and analyzed in the earlier letters submitted on behalf of the Reas.

For the above reasons and those previously offered the Reas respectfully request that the East End Rod & Gun Club's application be denied.

Sincerely yours,



Patrick M. Gregg

207 Or.App. 500
Court of Appeals of Oregon

CITIZENS FOR RESPONSIBILITY, an unincorporated association,
Philip Ziebert, Adam Novick, and Maureen Hudson, Respondents,
v.
LANE COUNTY, Petitioner.

2005-082; A132091. | Argued and Submitted June 6, 2006. | Decided Aug. 30, 2006.

Synopsis

Background: County sought judicial review of decision of Land Use Board of Appeals (LUBA) remanding county's approval of special use permit for continued operation of gun club as a "firearms training facility".

Holdings: The Court of Appeals, Deits, J., pro tempore, held that:

- [1] county had standing to seek judicial review of LUBA decision;
- [2] gun club's "existence" as training facility on effective date of governing statute was not contingent upon conformance with existing regulations;
- [3] operator did not have to show that it conducted actual training by groups identified in statute;
- [4] LUBA erred in importing nonconforming use one-year abandonment period to find abandonment as firearms training facility; and
- [5] reasonable person standard was appropriate standard in determining whether gun club was "in use" as qualified training facility.

Reversed and remanded.

West Headnotes (7)

- [1] **Zoning and Planning** ⇌ Right of Review; Standing
Any party seeking review of a decision by Land Use Board of Appeals (LUBA) must satisfy the constitutional requirement that Court of Appeals' decision will have a practical effect on the party. West's Or.Rev. Stat. Ann. § 197.850.
- [2] **Municipal Corporations** ⇌ Rights of action
Whether a governmental entity has standing to seek judicial review of a judicial or quasi-judicial decision will depend on the particular functions, legislative, executive, or judicial, that the governmental entity is exercising in the case.

[3] **Zoning and Planning** ⇌ Permits, certificates, and approvals

County had standing to seek judicial review of Land Use Board of Appeals (LUBA) decision remanding county's approval of special use permit for firearms training facility, given that decision impacted county's legislative and executive responsibilities regarding policies and regulations to carry out statutory directives regarding firearm training facilities. West's Or.Rev. Stat. Ann. § 197.770.

[4] **Zoning and Planning** ⇌ Particular prior or nonconforming uses

Gun club's "existence" on effective date of firearms training facility statute, required for continuing protection of activities under the statute, was not contingent on conformity with whatever regulations existed prior to the statute's effective date, and thus, gun club seeking special use permit to continue operation merely had to show that it was operating as a training facility on effective date of statute and continued to do so to fall within protections of the statute. West's Or.Rev. Stat. Ann. § 197.770.

1 Cases that cite this headnote

[5] **Zoning and Planning** ⇌ Particular prior or nonconforming uses

Statute governing firearms training facilities did not require determination that operator of gun club seeking county special use permit as "firearms training facility" was "actually" used as training facility for certification by groups or individuals specifically identified in the statute to avoid losing protection of statute as a facility no longer in use, only that the operator of the gun club intended to provide training and issue certificates and retained the ability to do so. West's Or.Rev. Stat. Ann. § 197.770.

1 Cases that cite this headnote

[6] **Zoning and Planning** ⇌ Particular prior or nonconforming uses

Land Use Board of Appeals (LUBA), in reviewing county's approval of special use permit for continued operation of firearms training facility, erred in importing one-year abandonment of use provision from nonconforming use provisions in county's zoning ordinance in determining whether operator of gun club was no longer a "firearms training facility" subject to protections of governing statute for failure to provide actual training and issue certificates by groups or individuals identified in the statute, given that county did not apply nonconforming use regulations to firearms training facilities, and statute did not require county to treat firearms training facilities as nonconforming use. West's Or.Rev. Stat. Ann. § 197.770.

1 Cases that cite this headnote

[7] **Zoning and Planning** ⇌ Particular prior or nonconforming uses

"Reasonable person" standard was appropriate in determining whether gun club seeking special use permit remained "in use" and subject to protections of firearms training facility statute, given that statute lacked standards in making "in use" determination, and reasonable person standard was consistent with statutory scheme protecting activities of training facilities. West's Or.Rev. Stat. Ann. § 197.770.

Attorneys and Law Firms

**487 Stephen L. Vorhes, Eugene, argued the cause for petitioner. With him on the brief was Lane County Office of Legal Counsel.

Daniel J. Stotter, Eugene, argued the cause for respondents. With him on the brief was Bromley Newton LLP.

Before LINDER, Presiding Judge, and WOLLHEIM, Judge, and DEITS, Judge pro tempore.

Opinion

DEITS, J. pro tempore.

*502 Lane County seeks review of a Land Use Board of Appeals (LUBA) decision remanding the county's approval of a special use permit for a firearms training facility for further proceedings consistent with LUBA's understanding of ORS 197.770. We reverse and remand LUBA's decision.

[1] Before addressing the merits of the county's challenge to LUBA's decision, we consider whether the county has standing to bring this review proceeding. If the county lacks standing to seek review, this court does not have jurisdiction to review LUBA's decision. As we held in *Utsey v. Coos County*, 176 Or.App. 524, 546-47, 32 P.3d 933 (2001), *rev dismissed*, 335 Or. 217, 65 P.3d 1109 (2003), any party seeking review under ORS 197.850 of a decision by LUBA must satisfy the constitutional requirement that our decision will "have a practical effect" on the party. Accordingly, the county must demonstrate a practical effect on its interests in order to establish standing to bring this appeal.

[2] The county's petition for judicial review alleges that "a decision of this court will have a practical effect on the interests of petitioner by determining the meaning of the applicable law and the scope of any further county proceedings, if required." That statement, by itself, does not necessarily answer the question of standing here. The same could be said of many court decisions. As the Oregon Supreme Court recently reiterated in its decision in *MacPherson v. DAS*, 340 Or. 117, 134, 130 P.3d 308 (2006), governmental entities perform multiple functions; they are not solely legislative, executive, or judicial. Whether a governmental entity has standing to seek judicial review of a judicial or quasi-judicial decision will depend on the particular functions that the governmental entity is exercising in the case.

The Oregon Supreme Court considered an analogous issue in *Valley & Siletz Railroad v. Laudahl*, 296 Or. 779, 681 P.2d 109 (1984), in which LUBA sought review of a decision of this court. In that case, the court held that LUBA had not demonstrated the statutorily required adverse affect or aggrievement that was necessary to invoke the court's jurisdiction. The court explained:

*503 "LUBA's role in policy development is no greater than that of any quasi-judicial body which applies the law to factual settings consistently and over a period of time in its area of specialty. Certainly, land use regulation is a matter of statewide public interest, but this alone does not render every agency involved in land use regulation, for instance a local planning commission, 'aggrieved' when it is dissatisfied with a judicial ruling. The role delegated to the agency apart from its use of quasi-judicial procedures is the controlling consideration. We find no indication in the duties delegated **488 to LUBA that the legislature contemplated that the tribunal would assume the role of advocate. Both enforcement and primary policy making responsibility reside in the Department and the Commission. LUBA's 'statutorily defined interest or responsibility,' *Ochoco Const. v. DLCD*, [295 Or. 422,] 433[, 667 P.2d 499 (1983)], lies in impartial, consistent and speedy review of local land use decisions. Having no statutory interest beyond this, LUBA cannot be aggrieved by a reversal of its order on appeal."

Id. at 788, 681 P.2d 109.

[3] The county's functions here involve the application and interpretation of county land use regulations relating to ORS 197.770.¹ The county's review of the permit application at issue here is, of course, quasi-judicial in nature. However, the

county's exercise of this quasi-judicial authority is inextricably intertwined with its legislative and executive responsibilities to adopt and implement county policies and regulations that carry out the statutory directives. For example, implementation of the statutory requirements involves decisions concerning the allocation of county staff and *504 governing body time and the expenditure of county funds, which the county is required to appropriate from limited resources, as well as other local policy decisions relating to this particular type of use.

1 ORS 197.770 provides:

"(1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.

"(2) For purposes of this section, a 'firearms training facility' is an indoor or outdoor facility that provides training courses and issues certifications required:

"(a) For law enforcement personnel;

"(b) By the State Department of Fish and Wildlife; or

"(c) By nationally recognized programs that promote shooting matches, target shooting and safety."

This difference is significant because, in contrast to the circumstances in *Valley & Siletz Railroad*, where LUBA was acting solely in an adjudicative capacity, the county here was exercising both legislative and executive functions in addition to its adjudicative function. Whether sufficient practical effects have been demonstrated to establish standing by a governmental entity to seek review of a judicial or quasi-judicial decision will depend to a great degree on the particular circumstances of a case. Based on the circumstances here, however, we conclude that the county has shown sufficient impact on its interests to establish standing to bring this review proceeding. Accordingly, we proceed to the merits.

The permit that is the subject of this appeal was sought by the property owner, the Izaak Walton League (the League). The League has operated a gun club on the property, which consists of 17 acres, since the mid-1950s. The property was once zoned AGT (Agriculture, Grazing, Timber). That zone did not expressly allow shooting ranges but allowed authorization of such uses by means of a conditional use permit. In 1975, the League obtained a conditional use permit to facilitate the expansion of the facility, apparently to include a skeet shooting range.² Subsequently, the property was rezoned "F-2," which, under the provisions of the county code for that zone, allows a firearms training facility "that shall not significantly conflict with the existing uses on adjacent and nearby lands" under Lane Code (LC) 16.211(3)(c-c). Since the time of the rezoning, a number of changes have been made to the operation of the facility.

2 The conditional use permit required a three-year review to ensure compatibility with the neighborhood, limited the allowed uses to the recreational shooting of rifles, shotguns, and handguns, and placed a limit on development and improvements.

The League applied for the permit at issue here in 2003. It asked for *post hoc* approval of modifications made to the facility after 1975. In its request, the League relied on the *505 provisions of ORS 197.770 that allow firearms training facilities in existence on September 9, 1995, to continue until such time as the facility is no longer used as a firearms training facility. The League asserted that the modifications made before the effective date of the statute would not need **489 to be evaluated under LC 16.211(3)(c-c) to determine whether the uses "significantly conflict with the existing uses on adjacent and nearby lands."

The county planning director conducted a hearing on the permit application in April 2004. The planning director agreed with the League that, as of September 9, 1995, the facility qualified as a "firearms training facility" under ORS 197.770(2). The planning director reached that conclusion based on his determination that, before September 9, 1995, the facility provided training courses and issued certifications required by nationally recognized programs that promote shooting matches, target shooting, and safety. Consequently, the planning director evaluated only the modifications made to the facility after September 9, 1995, under LC 16.211(3)(c-c) to determine whether the facility conflicts with existing uses on adjacent and nearby lands. The planning director found that the modifications made after September 9, 1995, did not conflict with existing adjacent uses and approved the application.

Citizens For Responsibility, Novick, Ziebert, and Hudson (Citizens) appealed the planning director's decision to the county hearings officer. Citizens argued to the hearings officer that there was no evidence that the facility provided training courses and certifications after 1995. It was Citizens' position that, for that reason, the facility was no longer used as a firearms training facility after 1995 under the terms of ORS 197.770(2) and, accordingly, the facility lost the protection of that statute. Citizens asserted to the hearings officer that, therefore, all of the post-1975 modifications must be evaluated under LC 16.211(3)(c-c). In Citizens' view, the modifications could not be approved because the facility as a whole significantly conflicts with forestry and other uses on adjacent lands.

The county hearings officer agreed with the League that the facility was in existence on September 9, 1995, and, *506 consequently, could continue to operate until such time as it was no longer used as a firearms training facility. The hearings officer concluded that the intent and the capability to provide training and certifications were sufficient indications of the use of the facility as a firearms training facility. Because of his view that the facility was in existence on September 9, 1995, the hearings officer held that only modifications or improvements made after September 9, 1995, were subject to the "significantly conflict" standard of LC 16.211(3)(c-c). The hearings officer affirmed the planning director's decision but did note that, if the facility as a whole were subject to the "significantly conflict" standard, it would not comply with the code because there was evidence of significant impacts by the facility as a whole on neighboring forestry operations and other uses.

Citizens appealed the county's decision to LUBA. Before LUBA, Citizens asserted that, under ORS 197.770, the fact that the facility *existed* on September 9, 1995, is not enough for it to be entitled to the protection of the statute. Citizens argued before LUBA that the statute only authorizes the continued use of and improvements to a firearms training facility that *lawfully existed* on September 9, 1995. In other words, the uses and improvements must have been "authorized" and "lawful" under the regulations that existed when the improvements were first constructed and the particular use began in order for a facility to be considered to be *in existence* on September 9, 1995. Citizens argued that, because modifications made to the League facility between 1975—that is, the year that the conditional use permit was issued—and 1995 were not authorized and were unlawful, ORS 197.770 may not be used to "grandfather" the League facility. The county, on the other hand, asserted before LUBA that the statute provides protection for all uses and improvements associated with a firearms training facility in existence on September 9, 1995, regardless of whether the uses were authorized or lawful.

LUBA agreed with Citizens, concluding that "it seems unlikely that the legislature intended to protect unauthorized or unlawful facilities, or the entirety of facilities with unauthorized and unlawful expansions." *507 *Citizens for Responsibility v. Lane County*, 51 Or. LUBA 588, — (Apr. 7, 2006) (slip op at 10). LUBA explained that "[t]he statute protects only lawful uses (including lawful **490 nonconforming uses), and does not protect unauthorized uses that required the county's discretionary approval but did not receive such approval." *Id.* at — (slip op at 12–13). Accordingly, LUBA remanded the county's decision for further proceedings consistent with its reading of ORS 197.770. As we will explain in more detail, LUBA also concluded that, under its interpretation of the statute, the property was no longer being used as a firearms training facility.

On review in this court, the county first assigns error to LUBA's holding that the statute protects only lawful or authorized uses in existence on September 9, 1995. The county argues to this court that the statute protects any firearms training facility in existence on September 9, 1995, that meets the statutory criteria for a firearms training facility regardless of whether the particular use was authorized or lawful. The county argues that LUBA's interpretation of ORS 197.770 is inconsistent with the text of the statute and requires the addition of language that does not appear in the statute, an act inconsistent with rules of statutory interpretation set out in ORS 174.010 and articulated in *PGE v. Bureau of Labor and Industries*, 317 Or. 606, 611, 859 P.2d 1143 (1993).³

³ In view of our holding, it is unnecessary to address the county's argument that LUBA erred in remanding the county decision for a determination of what authorized or lawful uses existed on September 9, 1995, while at the same time making findings relating to that determination.

[4] We agree with the county's understanding of the text of the statute. There is no language in ORS 197.770 that provides that the statute is intended to permit the continuation of only those firearm training facilities established in conformity with

whatever regulations existed prior to the effective date of the statute. Indeed, the statute says only that “[a]ny firearms training facility *in existence* on September 9, 1995, shall be allowed to continue operating until” it is no longer used. (Emphasis added.) Were the legislature to have intended to limit the statutory authorization as Citizens asserts and LUBA opined, the legislature easily could have added such limiting language. ORS 92.017 exemplifies such *508 language. That statute provides that “[a] lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law.” Another example is found in ORS 215.705, which controls the construction of dwellings on lots of record within farm and forest use zones. *See also Yamhill County v. Ludwick*, 294 Or. 778, 790, 663 P.2d 398 (1983) (unauthorized subdivision tracts not “existing legal lots of record” as that term is used in county ordinance).

The county's understanding of the statutory language is also consistent with the apparent purpose of the statute, namely, to permit the continuation of firearms training facilities that meet the statutory definition of such a facility set out in ORS 197.770. We conclude that the county's reading of the statute is consistent with the text and apparent purpose of the statute. *See PGE*, 317 Or. at 610–11, 859 P.2d 1143.

The county also assigns error to LUBA's holding regarding the county's understanding and application of the statutory provision that allows the continued use of a firearms training facility in existence on September 9, 1995, until such time as it is “no longer used as a firearms training facility.” LUBA agreed with Citizens that the county hearings officer erred in his interpretation of the statutory provision that the firearms training facility may continue to operate until it is “no longer used as a firearms training facility.” Citizens asserted to LUBA that, in order to determine if a firearms training facility is “no longer used,” the *actual* use of the facility must be considered. In explaining its decision, LUBA acknowledged that the statute requires “a significant degree of interpretation and reasoning by analogy, given that the text and context of the statute say nothing about how to determine when a qualifying facility is ‘no longer used as a firearms training facility.’ ” *Citizens for Responsibility*, 51 Or LUBA at — (slip op at 6). It reasoned, however, that ORS 197.770 treats firearms training facilities as something like nonconforming uses. LUBA explained:

“In other words, like nonconforming uses, a ‘firearms training facility’ may lose its qualifying status through disuse or discontinuation **491 of qualifying activities. *See* ORS 215.130(7)(a). Significantly, the statutory language focuses *509 on how the facility is ‘used,’ not on the intent of the property owner or whether the facility continues to be capable of qualifying uses. We agree with petitioners, therefore, that a determination whether a qualifying firearms training facility has lost the protection of ORS 197.770 requires evaluation of the actual use of the facility following September 9, 1995, and whether it continues to qualify as a firearms training facility. If the facility is ‘no longer used as a firearms training facility,’ the mere intent and capability to use it as a qualifying facility are insufficient to prevent loss of the statute's protection.

“As the hearings officer noted, ORS 197.770 does not specify how long qualifying uses at a facility may be discontinued before losing the protection of the statute. The hearings officer apparently viewed the statute as allowing indefinite discontinuation of actual use as a firearms training facility, as long as there remains an intent and capacity to use it as a training facility. We reject that view. As explained, the statute clearly contemplates that a qualifying facility will be disqualified when it is ‘no longer used as a firearms training facility.’ While the statute does not specify what period of disuse disqualifies a facility, in this respect the statute is again similar to the statutes governing non-conforming uses at ORS 215.130, which do not specify the length of the period of interruption that will terminate the right to continue a non-conforming use. Instead, ORS 215.130(10)(b) leaves it up to individual counties to establish criteria to determine when a use has been interrupted or abandoned. We note that the county has adopted regulations providing that nonconforming uses are deemed interrupted or abandoned if discontinued for more than one year. LC 16.251(1)(c). Absent some other basis to apply a different period of time, we conclude that whether a qualifying facility in the county is ‘no longer used as a firearms training facility’ for purposes of ORS 197.770 depends on whether qualifying use of the facility has continued since 1995 with no interruption longer than one year.”

Id. at — (slip op at 7–8) (emphasis omitted).

LUBA added that the county erred in relying on evidence that the facility had been used for training by several organizations not listed among the types set out in ORS 197.770(2). LUBA also agreed with Citizens that evidence of *510 such use does not support a finding that the facility continues to be used as a firearms training facility.

[5] On appeal, the county argues that LUBA erred in concluding that the property was “no longer used as a firearms training facility” under the terms of the statute. We agree with the county that LUBA erred in its understanding of ORS 197.770. First, we do not find any support in the statute for a requirement that the firearms training facility provide certificates in a particular number or within a particular time frame in order to continue to qualify as a firearms training facility. The certificate issuance provision in the statute is part of the definition of a “firearms training facility,” ORS 197.770(2), and not a mandate for a particular level of facility performance. The county understood that the statutory definition was satisfied if the operator of the facility intended to provide training and issue certificates and retained the ability to do so. We believe that that understanding is consistent with the text of the statute. As long as the facility is functioning and *able* to conduct training and issue certificates, we believe that the statutory definition is satisfied.⁴

⁴ The hearings officer's decision included a finding that

“[t]he Eugene Practical [S]hooters Association, which is affiliated with the United States Practical Shooting Association (USPSA), has continuously held monthly target matches at the range from the mid-1980s through at least 1995. The testimony of Oscar Thomsen, Mr. Sam Pitts, Mr. Carl McGlothlin, and Mr. Monty Millican establishes that firearms training and certifications occurred through 1996 and that firearms training continued after that date at the applicant's facility.”

**492 [6] Our second disagreement with LUBA's treatment of the continuation of operation issue is its importation of the one-year abandonment of use provision from the nonconforming use provisions in the county's zoning ordinance. Notably, the county did not treat the statutory authorization for a particular kind of firearm training facility as analogous to a locally declared nonconforming use. The county did not apply any of its nonconforming use regulations. Because the legislative grant required the continuation of the statutorily described uses, the local planning jurisdiction was required to permit them; thus, the legislature took the described uses *511 out of the traditional definition of “nonconforming use.”⁵ ORS 197.770 does have some similarities to a nonconforming use provision. A “firearms training facility” is not listed as a permitted or conditional use in exclusive farm use zones under ORS 215.213 and ORS 215.283, and an existing facility in such a zone (or other restrictive zone) may be regarded as a nonconforming use. Also, the statute includes a means to end the protected use, providing certain conditions are met. Nonetheless, the statute does not import the specific abandonment or disuse provisions from the other statutory nonconforming use provision found in ORS 215.130, and nothing in the statute requires local governments to treat the allowed firearms training use as a nonconforming use. The authorization in ORS 197.770 to continue a use coming within the definition of a firearms training facility does leave the specifics of implementation to the local government.

⁵ In *Bergford v. Clack. Co./Trans. Serv.*, 15 Or.App. 362, 367, 515 P.2d 1345 (1973), we articulated a definition of “nonconforming use”:

“Furthermore, a nonconforming use is, by its very nature, a use which has been determined to be contrary to the zoning plan, and one which is allowed only because to eliminate it forthwith upon adoption of a zoning plan would constitute a taking without compensation. It follows that a zoning plan, by its very existence, forbids the expansion of a nonconforming use—absent a finding by the appropriate authorities that given the choice of continuing an existing nonconforming use ‘as is’ or allowing a proposed expansion with attendant changes in the nature of the structure, the changes will result in a situation in which the nonconforming use will be more compatible with the goals of the zoning plan than the existing nonconforming use.”

(Footnotes omitted.)

[7] In this case, the county did not apply its nonconforming use provisions as an implementing tool. We conclude that LUBA erred in doing so. Consequently, LUBA erred in establishing a hard time line of nonuse to show an end to the statutorily protected activities. As discussed above, the hearings officer used a “reasonable person” standard, which we find to be consistent with the statute. The hearings officer explained the standard that he used as follows:

"I believe that several factors are paramount in a determination of whether a facility is no longer used as a firearms training facility. Primary among these factors are intent to utilize a facility for firearms training, whether the facility has retained the ability to serve in that capacity and, of course, whether the facility has actually served in that capacity."

As to the first factor, the hearings officer found that the League had approved the range for hunter education courses and for use by the U.S. Marine Corps Reserve, the Emerald Empire Gun Club, and the Oregon State Defense Force.⁶ Also, he noted that the record demonstrated there are several League members who have taught courses and awarded certificates and wish to do so in the future at the facility. With regard to the second factor, the hearings officer found that the League maintained and enhanced its ranges since 1995, and that they can be and are used for training and shooter education "to this day." Finally, he found that there was ample evidence that the facility had been used for firearms training during the last eight years, but there was no evidence to support a finding that certificates issued during the last several years. The hearings officer determined that a reasonable person would not conclude the facility no longer qualified as a firearms training facility merely because "training certificates have not been issued for a couple of years."

⁶ Of those, only the Gun Club appears to come within the language of ORS 197.770(2).

Citizens and LUBA identify nothing inherently wrong in using a "reasonable person" standard under the apparently very broad delegation to local planning jurisdictions that is evident in ORS 19.770, and we find that the standard is consistent with the statutory scheme. The hearings officer's decision provided an explanation of how he applied this standard given the facts before him. Given the lack of standards in the statute, we conclude that nothing more was required in support of the decision to grant the requested permit, assuming the facts stated are supported by substantial evidence. The county identified the standard, applied the available facts, and explained its decision.

Admittedly, the use of a reasonable person standard does not provide much general guidance about what the county believes would support a conclusion that a facility was no longer used as described in the statute and about the required duration of nonuse that would support denial of a request to reestablish the use. Although it would be helpful for the county to provide such guidance and, for that matter, it would be helpful for the statute to provide more definite guidance, we cannot say that articulating a standard that will provide the answer as to how each case that might come before it would be decided is necessary for the county's decision to be upheld in this case.

As LUBA itself recognized, ORS 197.770 calls upon the county to exercise "a significant degree of interpretation and reasoning by analogy, given that the text and context of the statute say nothing about how to determine when a qualifying facility is 'no longer used as a firearms training facility.'" *Citizens for Responsibility*, 51 Or LUBA at — (slip op at 6). We agree, but we also conclude that the county did so with respect to the particular application before it by explaining both its interpretation and how the facts before it fit within the interpretation.

Reversed and remanded.

Parallel Citations

142 P.3d 486

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AFFIDAVIT OF NATHAN REA

STATE OF OREGON)
) ss.
County of Umatilla)

I, Nathan Rea, being duly sworn on oath, do hereby depose and say:

1. I make this affidavit in opposition to the East End Rod & Gun Club's application, #LUD-163-13.

2. I was born in Walla Walla, Washington and raised at my parent's house on Spofford Road, outside of Milton-Freewater, Oregon. Having grown up playing and working on the irrigated farm in our backyard, which is adjacent to the north of the VonDerAhe property along Milton Cemetery Road, I was very attuned to what was going on in the neighborhood and with our surrounding landowners. After spending eight years, from 2005 to 2013, serving the public in Washington, D.C., I returned the Walla Walla Valley with my family to join the family farming operation and make a living off of the land in the country and on the farm.

3. During the spring of 1999 I attended a hunter safety class in Milton-Freewater. According to the Oregon Department of Fish and Wildlife, the lead instructor for my class was Andy Millar assisted by instructor Paul Pettry. The location of the hunter safety class for which I attended was in a building at the intersection of NE 5th Ave and Highway 11 in Milton-Freewater, Oregon just north of the Safeway. That building no longer exists.

4. As part of this class, I attended the class's shooting range and field day, which was held at a location to the north west of Milton-Freewater near Umapine, Oregon. The field day was attended by the class's students and various instructors and student parents. The field day was to allow students the opportunity to practice hunter safety skills required for certification. At this site near Umapine, students like me were, among other things, able to shoot shotguns using a

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small two-level sporting clays trailer. I can clearly remember this black trailer and its ability to fling sporting clay birds and "rabbits" as it was a highlight of my hunter safety course experience. The field day was not held on the VonDerAhe property.

5. Sometime after I had received my hunter safety certification on April 27, 1999 – a date which I confirmed with the Oregon Department of Fish and Wildlife – I noticed the presence of what appeared to be the identical sporting clays trailer sitting on the VonDerAhe property near the VonDerAhe house. I found this odd given I had never seen it on the property before, nor had I seen any such sporting clay or target practice activity on the property for which I was aware.

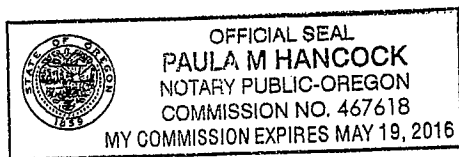
6. I can attest to the fact that the hunter safety range and field day led by lead instructor Andy Millar in the spring of 1999 was not held on the VonDerAhe property. My Oregon hunter safety certification card numbered 912819 was signed by Paul Pettry, one of Andy's instructors that assisted with the class.

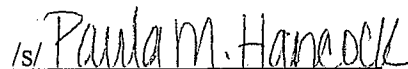
7. I believe this information is important and necessary for the Umatilla County Land Use Planning Commission to consider as it has been purported by the gun club proponents and in affidavits that Andy Millar conducted hunter safety range and field days at the present location on the VonDerAhe property beginning in April, 1993.

Dated this 23rd day of
January 2014


Nathan Rea

SUBSCRIBED AND SWORN TO before me on Jan. 23, 2014.




Notary Public for Oregon
My commission expires: May 19, 2016