

**UMATILLA COUNTY  
PLANNING COMMISSION  
HEARING**

**THURSDAY,  
June 25, 2015**

**Variance Request, #V-340-15  
Filiberto Esparza;**

**Land Use Decision, #LUD-175-14  
Casey Severe**

PLANNING COMMISSION HEARING

JUNE 25, 2015

TABLE OF CONTENTS

Agenda.....page 1

Public Notice.....page 3

Memo from Tamra for Esparza application.....page 5

Preliminary Findings/Esparza.....page 6

Aerial Photo.....page 9

DEQ Comment Letter.....page 10

Memo from Code Enforcement.....page 20

Memo from Tamra for Severe application.....page 21

Preliminary Findings/Severe.....page 27

Aerial Photo.....page 37

Maps and Owner List.....page 38

Letter and Photos from Casey Severe.....page 42

# Umatilla County

Department of Land Use Planning

---



## AGENDA

**Umatilla County Planning Commission**

**Public Hearing**

**Thursday, June 25, 2015, 6:30 p.m.**

**Justice Center Media Room**

**Pendleton, OR**

### **Members of Planning Commission**

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

### **Members of Planning Staff**

Tamra Mabbott, Planning Director  
Carol Johnson, Senior Planner  
Robert Waldher, Senior Planner

### **1. Call to Order**

### **2. Approval of Minutes:**

Approval of minutes from April 23, 2015 Planning Commission hearing.

### **3. New Hearing:**

REQUEST FOR A PUBLIC HEARING FOR VARIANCE #V-340-15, Filiberto Esparaza, Applicant/Property Owner: The applicant requests approval of a variance to the side yard setback requirements for the existing 15' X 50' patio cover. Approval of the variance would allow the existing patio cover to remain approximately 6 feet from the north property line instead of the required 20-feet in the Rural Residential (RR-2) Zone. A notice of preliminary decision was mailed to surrounding property owners on April 14, 2015. A request for a Public Hearing was filed on May 4, 2015.

The property is located on the west side of Kik Road, approximately 1900 feet north of West Punkin Center Road, north of the City of Hermiston. Standards of approval for the Variance are found in the Umatilla County Development Code Section 152.627.

### **4. New Hearing:**

LAND USE DECISION REQUEST #LUD-175-14, Casey Severe, Applicant/Property Owner: The applicant requests approval to construct a Non-Farm Dwelling on a 1.25 acre parcel zoned Exclusive Farm Use. The property is located to the south and east of Adams Road. Access to the parcel is Helix Highway, adjacent to the ODOT rock quarry and north of State Highway 11. Standards for approval are found in Umatilla County Development Code Section 152.059 (8).

**5. Status of Appeals or Board actions.**

**Next Scheduled Meeting:**

Thursday, July 23, 2015, 6:30 p.m., Justice Center Media Room, Pendleton, OR.

# Umatilla County

Department of Land Use Planning



## NOTICE OF PUBLIC HEARING UMATILLA COUNTY PLANNING COMMISSION

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

YOU ARE HEREBY NOTIFIED as the applicant, adjacent property owner or affected governmental agency of a Public Hearing to be held before the Umatilla County Planning Commission on **Thursday, June 25, 2015 at 6:30 p.m.** in Justice Center Media Room, 4700 NW Pioneer Place, Pendleton, OR.

### REQUEST FOR A PUBLIC HEARING FOR VARIANCE #V-340-15.

Filiberto Esparaza, Applicant/Property Owner: The applicant requests approval of a variance to the side yard setback requirements for the existing 15' X 50' patio cover. Approval of the variance would allow the existing patio cover to remain approximately 6 feet from the north property line instead of the required 20-feet in the Rural Residential (RR-2) Zone. A notice of preliminary decision was mailed to surrounding property owners on April 14, 2015. A request for a Public Hearing was filed on May 4, 2015.

The property is located on the west side of Kik Road, approximately 1900 feet north of West Punkin Center Road, north of the City of Hermstion. Standards of approval for the Variance are found in the Umatilla County Development Code Section 152.627.

LAND USE DECISION REQUEST #LUD-175-14, Casey Severe, Applicant/Property Owner: The applicant requests approval to construct a Non-Farm Dwelling on a 1.25 acre parcel zoned Exclusive Farm Use. The property is located to the south and east of Adams Road. Access to the parcel is Helix Highway, adjacent to the ODOT rock quarry and north of State Highway 11. Standards for approval are found in Umatilla County Development Code Section 152.059 (8).

For further information concerning the above request, please contact Tamra Mabbott at the Umatilla County Planning Department, 216 SE 4<sup>th</sup> Street, Courthouse, Pendleton, Oregon 97801; telephone 541-278-6246; email [tamra.mabbott@umatillacounty.net](mailto:tamra.mabbott@umatillacounty.net)

Opportunity to voice support or opposition to the above proposal, or to ask questions, will be provided. Failure to raise an issue in a hearing, either in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to that issue, precludes

appeal to the Land Use Board of Appeals based on that issue. Copies of applications, documents and evidence pertaining to the hearing listed above, and all relevant criteria are available for inspection at no cost and will be duplicated at printing cost. A copy of the staff report will be available for inspection or duplicated at least seven days before the hearing. Hearings shall be governed by Section 152.772 of the Umatilla County Land Development Code.

DATED THIS 13th day of June 2015  
UMATILLA COUNTY DEPARTMENT OF LAND USE PLANNING

# Umatilla County

Department of Land Use Planning

---



DIRECTOR  
TAMRA MABBOTT

June 14, 2015

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

MEMO

TO: Planning Commission

CODE  
ENFORCEMENT

FROM: Tamra Mabbott

SOLID WASTE  
COMMITTEE

RE: Esparza Variance Application and Request for a Hearing

SMOKE  
MANAGEMENT

GIS AND  
MAPPING

RURAL  
ADDRESSING

LIAISON, NATURAL  
RESOURCES &  
ENVIRONMENT

Mr. Esparza constructed a 15 feet by 50 feet patio cover on the north side of his manufactured home. No zoning or building permits were obtained prior to construction. Code Enforcement Officers noticed the new development when they were inspecting the property for another code violation (operation of a trucking, trucking repair & maintenance business) in a residential zone.

After Mr. Esparza was notified that he was required to obtain a Zoning Permit for any structure 10 feet by 12 feet or larger, he met with staff to discuss a Zoning Permit. It was noted by staff that the structure was only six feet from the property line and therefore did not meet the 20 foot minimum setback requirement.

Mr. Esparza then submitted a Variance Application. Preliminary Findings to approve the Esparza Variance application were mailed to adjoining property owners in April, 2015. The preliminary findings written by staff, Shane Finck, included Findings in support of the Variance.

During the public comment period, comments were submitted that revealed numerous circumstances and related issues that question the need for a Variance. The neighbors have asked the county to not approve the Variance. Please see attached comments and request for a public hearing.

The property owner, Mr. Esparza, has a history of Code violations on this property. Please see attached memo from Gina Miller, Code Enforcement Coordinator.

The attached Findings have not been modified. They are the same as was mailed to adjoining property owners. Staff will modify the Findings to reflect the interpretation and decision of the Planning Commission.

**UMATILLA COUNTY PLANNING DEPARTMENT  
PRELIMINARY FINDINGS AND CONCLUSIONS  
ESPARAZA VARIANCE REQUEST, #V-340-15  
MAP #5N 28 34C, TAX LOT # 100, Account #124862**

- 1. APPLICANT:** Filiberto Esparza, 80540 Kik Road., Hermiston, Oregon 97838
- 2. OWNER:** Same as above.
- 3. LOCATION:** The subject property is located on the east side of Kik Road, approximately 1900 feet north of West Punkin Center Road, north of the City of Hermiston.
- 4. REQUEST:** The applicant has constructed patio cover on the north side of his manufactured home that is approximately 15 feet wide by 50 foot long, running the length of the manufactured home. Mr. Esparza has indicated that the purpose of the patio cover is to make his back yard more private for family gatherings. The patio cover was constructed to within approximately six (6) feet of his north property line. The setback requirement in a Rural Residential 2 acre minimum zone, in accordance with the Umatilla County Development Code (UCDC) 152.134 (B), is 20 feet from a lot line. Therefore, Mr. Esparza is requesting a variance to the setback from the lot line along the north property line. Approval of the variance would allow the existing patio cover to remain approximately 6 feet from the north property line instead of the required 20-feet.
- 5. SITUS ADDRESS:** The situs address is: 80540 Kik Road, Hermiston, Oregon 97838.
- 6. ACREAGE:** Tax Lot #100 = 1.98 acres.
- 7. COMP PLAN:** Rural Residential Plan Designation
- 8. ZONING:** Rural Residential (RR-2), 2-acre parcel minimum
- 9. ACCESS:** The property has access via Kik Road, a graveled county road.
- 10. EASEMENTS:** The property is subject to a Right of Way Easement granted to Umatilla Electric Cooperative.
- 11. LAND USE:** The property is zoned for rural residential development and used for residential use.
- 12. ADJACENT USE:** Properties to the north, south, and west are similarly zoned RR-2 and used for residential purposes. Properties to the east are zoned light industrial and have some residential uses and industrial uses.



- 13. LAND FORM:** Columbia Plateau
- 14. BUILDINGS:** There is one dwelling, a cow shelter, multiple storage buildings, a large shop building under construction, and a chicken coop.
- 15. UTILITIES:** The property and area are served by Umatilla Electric and Sanitary Disposal.
- 16. WATER/SEWER:** A domestic well and septic system are developed on the property.
- 17. FIRE SERVICE:** The property is within the Hermiston Rural Fire District.
- 18. IRRIGATION:** The property is located in the Hermiston Irrigation District.
- 19. NOTICES SENT:** Property owners and agencies notified, April 14, 2015
- 20. CLOSING DATE:** Comments are due 5:00 PM May 5, 2015
- 21. AGENCIES:** County Assessor, City of Hermiston, Hermiston Rural Fire District, Hermiston Irrigation District, Umatilla Electric Cooperative, Oregon State Building Codes.
- 22. COMMENTS:** Comments are pending.
- 23. STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR VARIANCES, Section 152.627, Circumstances for Granting a Variance,** contains the criteria of approval for reviewing a variance. The standards of approval are underlined, the responses and findings are provided in standard text.

**§ 152.627 CIRCUMSTANCES FOR GRANTING A VARIANCE.**

A variance may be granted under *some or all* of the following circumstances:

(A) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of this chapter have had no control; The applicant has indicated that the narrow width of his lot contributed to limiting the suitable locations for the placement of his manufactured home at the current location on the north side of his property. The patio cover is attached to the north facing side of manufactured home. The south side of the manufactured home has a covered porch, a small yard area, and a driveway to access the west side of the property.

The Planning Department finds that the applicant's parcel is a long and narrow lot that is 100 feet wide by 644 feet deep. With the 20 foot side yard setback requirement, the applicant only has 60 feet from the north and south property lines in which to site a home, yard, and driveway. The narrow size of the parcel limited the available locations to site a manufactured home that would allow the construction of the patio cover and would not

infringe on the 20 foot setbacks.

(B) The variance is necessary for the preservation of a property right of the applicant substantially the same as possessed by the owner of other property in the same zone or vicinity; The applicant has indicated that due to the narrow size of his parcel and development on the property, the only suitable location for the patio cover was the north side of his manufactured home. If the lot were as wide as neighboring properties are, the manufactured home could have been sited in a manner that would have allowed sufficient area for the patio cover without impacting setback requirements.

(C) The variance would not be materially detrimental to the purposes of this chapter, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any county plan or policy. The location of the patio cover would not be materially detrimental to policies or standards. The patio cover would not limit or be detrimental to allowed uses on neighboring properties, or conflict with objectives of county plans or policies.

(D) The variance requested is the minimum variance which would alleviate the hardship. The patio cover was constructed on the north side of the manufactured home and is within approximately six (6) feet of the north property line. Therefore, a minimum variance relief of 14 feet is requested.

**DECISION: BASED UPON THE ABOVE FINDINGS THE WILSON VARIANCE REQUEST, #V-340-15, COULD BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

Precedent Conditions: The following precedent conditions must be fulfilled prior to final approval of this request:

No Precedent Conditions.

Subsequent Conditions: The following subsequent conditions must be fulfilled following tentative approval of the Variance by Umatilla County Planning:

1. Obtain a Zoning Permit from the Umatilla County Planning Department. Include a detailed site plan identifying the location of existing structures on the property, including the patio cover, location of the septic and well, any easements on the property, etc.
2. Obtain appropriate permits from State Building Codes Agency.

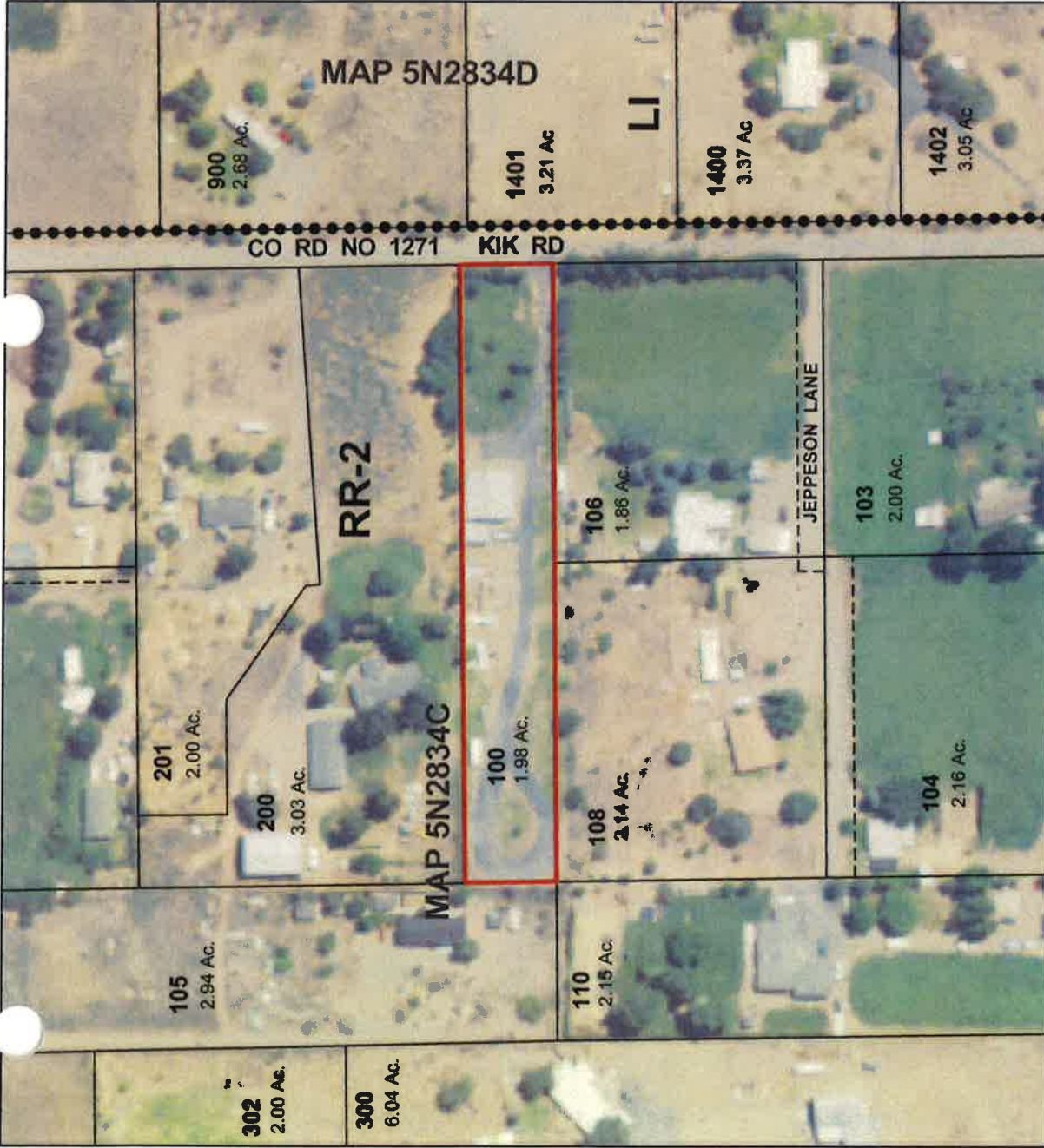
UMATILLA COUNTY PLANNING DEPARTMENT

\_\_\_\_\_  
Tamra J. Mabbott, *Planning Director*

Dated \_\_\_\_ day of \_\_\_\_\_, 2015

**PROPERTY OWNERS WITHIN 400' NOTICE AREA OF SUBJECT PARCEL**

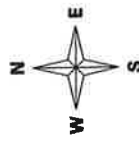
MAP & TAX LOT	OWNER
5N2834C000100	ESPARZA FILBERTO
5N2834C000105	CROSS JODY T & KYONGHUI C
5N2834C000106	SHELLY LINDA & JEPPESON L W ETAL
5N2834C000108	ELDER TERRY O & KATHRYN M
5N2834C000110	SHAFFER TED J & BARBARA
5N2834C000200	CROSS JODY T & KYONGHUI C
5N2834C000201	WARD CHRISTOPHER L & KATRINA M
5N2834C000300	COCHELL WILLIAM L & COCHELL IDA M
5N2834C000302	MELVILLE DAVID K JR & AMANDA R
5N2834D000900	FORDICE CLINTON J & BECKY D
5N2834D001400	T & T 1 LLC
5N2834D001401	KREBS DALE A



2014 AERIAL PHOTO

VARIANCE REQUEST #V-340-15  
 FILBERTO ESPARZA, APPLICANT/OWNER  
 MAP 5N2834C, TAX LOT 100

SUBJECT PARCEL



DATE: 4/13/15

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. Not intended for legal use. Created by Julie Alford, Umatilla County Planning Department.

RECEIVED

APR 22 2015

UMATILLA COUNTY  
PLANNING DEPARTMENT

**PUBLIC NOTICE --- April 14, 2015**  
**VARIANCE REQUEST #V-340-15**  
**Comments and information due by 5 May 2015**

---

21 April 2015

I do not agree with some content of the variance and request that the variance not be approved.

The owner of this property continues to blatantly ignore County, State of Oregon, Federal and Hermiston Irrigation District rules. The county is sending the wrong message to folks like this, just build it and if I get caught pay the fines and ask for a variance to correct the issue. The message should be clear from the county, fines and removal of all illegal construction, before attempting any future building. Illegal construction within setbacks devalues my property and I am sure the county is not going to reduce my taxes if a variance is issued

The owner states he is building the patio cover for privacy, a patio cover does not add privacy to a property, only shades from the sun and weather. I guess it could provide privacy once a variance is issue and time passes and the patio is enclosed/framed and 3-4 bedrooms are added at a later date or a Trucking/Shipping office. How about my privacy on the other side of the fence, I followed all setback requirements with all my construction and didn't create issues.

The county and owner state that the lot is narrow and they are unable to place the mobile home without entering the set back area... This poor planning in the placement of the Mobile Home, this should not provide just cause to enter the setback area with any construction... The end of the Mobile Home could have been placed 20 feet from the north property boundary and the 48 foot length of the Mobile Home thus leaving 32 feet for road or passage around the south end of Mobile home. There were plenty of other options to place the Mobile Home and Patio cover. The patio cover was place without building a permit or State or Oregon inspections this is a violation of county and state rules.

The owner did obtain a DEQ permit and in the permit the owner state his property is 133.91 feet wide, the variance indicates 100 feet, someone has the wrong information, is it the owner/state/county. The DEQ permit is in violation of guideline requirement with sheds and livestock over the drain field... More Violations... See Attached DEQ permit... I believe the county should have the same drawings in its record when the DEQ clearance was issued by the county before the permit was issued by the state.

Now the owner continues at times to violate the county rules regarding the number of livestock on his property anything more the two's a violation according the rules. 5-10 cows at times are too many...

The variance speaks of large shop construction. This shop construction has been shutdown at least 6 times by State building inspectors for building without permits. The previous landowner built a small shop first

without permits then with a permit from the county and state, but never had final inspections and no electrical permits. Then the previous owner attempted to add additional square footage to the west side of the structure (approx 420 sq ft) the State of Oregon shut this project down for lack of permits. Now the new owner attempts to use the additional sq footage and increase the height of the structure by some 10 feet by end welding pipes on existing pipes to allow large trucks to enter the shop. This construction was shut down by the State or Oregon some 3 times for failure to obtain permits. The owner has built an additional structure attached to the west end of the illegal structure for a well house. Now that the steel vertical support have been poured in concrete there is no means to inspect them for continued construction there is no PE (Professional Engineer) in his right mind would sign-off on any continued cobbled construction such has this. Things like this continue to devalue the property around it. I don't want it blown on to my house in the next major Hermiston wind storm.

The other issue of the large shop (truck shop) appears to be for his trucking business, this is also a violation of business located on RR2 properties... Currently refer trucks are parked at times with their refrigerator units run all night making noise my house, the bedroom is location on the south end of my house and sleeping in a once quiet neighborhood is no longer a normal condition.

On the west end of the Mobile Home there is a building much greater than 10'x12' in size this building, this is just not an existing building. It was moved to the property by the previous owner and moved again by the current owner without permits from the county or state and wired with electrical without permits in 2014. This building was on tax lot 105 when this property was in foreclosure and owned by the bank. Look at previous satellite images from 2000 to date. Bottom line the building was stolen from the bank and the bank was clueless and the county would not act on citizens compliant and the previous own sold stolen property.

Other issues with the Hermiston Irrigations District and the excessive water usage with 30 plus sprinkler heads running all the time. This is thief of water rights from other user of the Z-line irrigation system.

Conclusion: It is totally obvious the owner has purchased a property that is too small for his needs and a property that has illegal construction issues from the previous own. He continues to violation the rules of county and state with illegal activity. The solution to all this is to remove all illegal construction and follow the county and state rules regarding new construction or remodeling old structures and do proper planning and research before building.

I believe this owner and previous owner need to be turned over to the county and state prosecutors for legal actions.

Jody Cross  
80542 Kik Road  
Hermiston, Oregon 97838  
541-567-1703  
Email -- comtech111@gmail.com

415536

**Certificate of Satisfactory Completion**

*Installation of this onsite wastewater treatment system has been determined to comply with the applicable requirements in Oregon Administrative Rules Chapter 340, Divisions 071 and 073 and the conditions of Permit OS413697 as follows:*

**PROPERTY INFORMATION**

Property Owner: **Mr. Filiberto Esparza**                      **Township 05N, Range 28E, Section 34 C**  
Property Location: **80540 Kik Road, Hermiston**              **Tax Lot 100**  
Facility Type: **Single Family Dwelling**                      **Umatilla County**  
**3 Bedrooms**

**SPECIFICATIONS AND REQUIREMENTS**

**System type: Standard**

Design Flow:                      **450 gals/day**                      Drain Media Total Depth:              **12 inches**  
Minimum Septic Tank Size: **1000 gals**                      Drain Media Below Pipe:              **6 inches**  
Distribution Type:              **Serial**                      Drain Media Above Pipe:              **2 inches**  
Total Trench Length:              **225 Linear feet**  
Trench Spacing:                      **8 feet\***  
Media Type:                      **EZ 1201P**  
Maximum Trench Depth:              **30 inches**  
Minimum Trench Depth:              **24 inches**

\*Minimum undisturbed soil between trenches

**ADDITIONAL CONDITIONS**

- 1 Keep all traffic and equipment off the drainfield.
- 2 The area of the initial and the identified replacement area must not be subjected to activity that is likely to adversely affect the soil or the functioning of the system. Such activities may include, but are not limited to, vehicular traffic, livestock, covering the area with asphalt or concrete, filling, cutting, or other soil modification activities.
- 3 This onsite wastewater treatment system must be connected to the facility referenced herein within 5 years of the issuance of this Certificate of Satisfactory Completion (CSC) or rules for authorization notices, alteration permits, or construction-installation permits as outlined in OAR 340-071-0160, 340-071-0205, or 340-071-0210 apply, including payment of an additional fee.
- 4 This system must operate in compliance with OAR Chapter 340, Division 071 and must not create a public health hazard or pollute public waters.
- 5 Unless otherwise required by the agent, the system installer must backfill (cover) this system within 10 days after the issuance of this Certificate of Satisfactory Completion.
- 6 In accordance with Oregon Revised Statute 454.665, this Certificate of Satisfactory Completion is issued as evidence of satisfactory completion of an onsite wastewater treatment system at the location identified above.



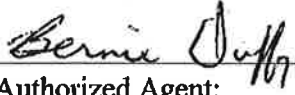
7 Issuance of this Certificate does not constitute a warranty or guarantee that this onsite wastewater treatment system will function indefinitely without failure. Conditions imposed as permit requirements continue for the life of the system.

**SYSTEM INSPECTIONS AND COMPLETION DATES**

Pre-Cover Inspection Waived by Bernie Duffy on 3/20/2014

Installer Name: Michael S. & Deannie L. Simon: dba Westfall Septic Tank & Excavation  
Certificate Issued by Operation of Law.

To be valid, this document must be signed by an "Agent" as defined in OAR 340-071-0100.

	<b>Onsite Wastewater Specialist</b>	<b>4/10/2014</b>
Authorized Agent:	Title	Date CSC Issued
<b>Bernie Duffy</b>		

Department of Environmental Quality  
Eastern Region - Pendleton Office  
800 SE Emigrant Ave, Suite 330  
Pendleton, OR 97801  
Phone: (541) 276-4063  
Fax: (541) 278-0168

## Final Inspection Request and Notice - Onsite ID: 413697

Pursuant to the requirements within ORS 454.665, OAR 340-071-0170 and OAR 340-071-0175, the system installer and/or the permittee must notify the Department of Environmental Quality (or its authorized Agent) when the construction, alteration or repair of a system for which a permit was issued is completed and prior to backfilling or covering the installation. The Department (or Agent) has 7 days to perform an inspection of the completed construction/installation following the official notice date, unless the Department (or Agent) elects to waive the inspection and authorizes the system to be backfilled. Receipt and acceptance of this completed form by the Department (or Agent) establishes the official notice date of your request for the pre-cover inspection. Faxed copies are acceptable for inspection request purposes only. Originals must be received before a Certificate of Satisfactory Completion is issued. Please complete sections 1 through 4 on the form and return it to the office that issued the permit. Forms that are determined to be incomplete will be returned.

### SECTION 1: Owner/Permittee Information:

**Name:** Mr. Filiberto Esparza  
**Property Address:** 80540 Kik Road, Hermiston  
**Township:** 05N, Range 28E, Section 34 C  
**Umatilla County Tax Lot#:** Tax Lot 100

### SECTION 2: System Component Specifications:

#### A. Tanks/Pumps

**System Type: Standard**

**Water Tight verification\***

Tanks(1)	Volume: 1000	Compartments: 1	Manufacturer: WESTFALL SEPTIC	Date: 3-19-14
Tanks(2)	Volume: —	Compartments: —	Manufacturer: —	Date: —
Pump(s)	HP: —	Model/Manuf. —	Float(s) Type(1): —	Model/Manuf. —
			Float(s) Type(2): —	Model/Manuf. —

#### B. Piping

Effluent Sewer (link to drainfield)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Diameter: 4"	ASTM#/Other: 3034	Length: 11'
Pressure Transport Pipe	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Diameter: —	ASTM#/Other: —	Length: —

#### C. Secondary Treatment Unit:

Sand Filter**	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Type: —	Container Dimensions: —
Underdrain pipe	Diameter: —		ASTM#/Other: —	Length: —
Manifold piping	Diameter: —		ASTM#/Other: —	Length: —
Internal Pump	HP: —		Model/Manufacturer: —	
Floats(1)	Type: —		Model/Manufacturer: —	
Floats(2)	Type: —		Model/Manufacturer: —	
ATT:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Model: —	
Certified Maint:	Provider Name: —			
Operation and Maint:	Contract Received?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	

#### D. Drainfield Media

Type	(Gravel, Pipe or alternative?) EZ FLOW			
Distribution Box	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		
Drop Box	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		
Distribution Pipe	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Diameter: 4"	ASTM#/Other: EZ1201P
Length:			230'	
Comment	—			

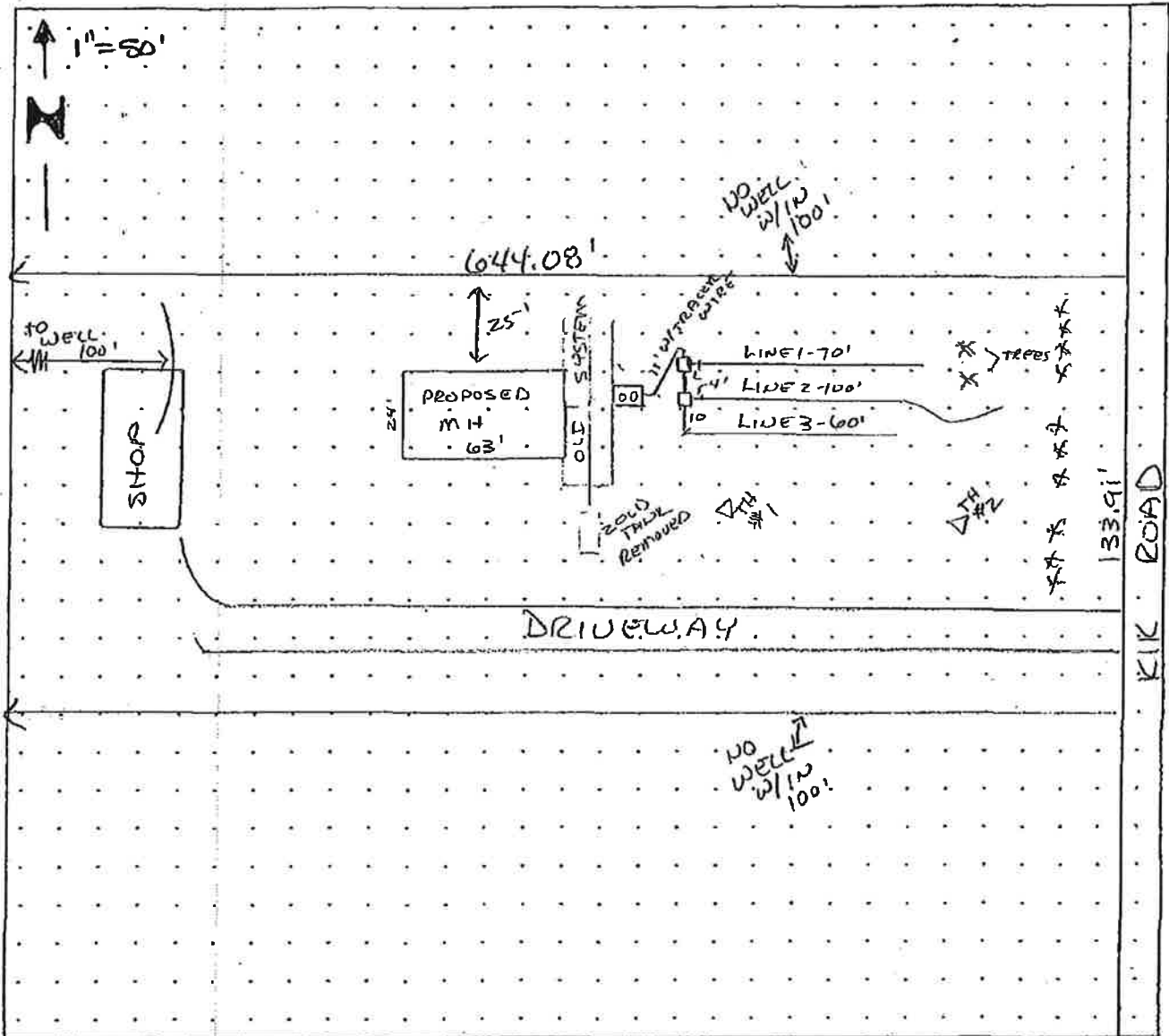
\*All Tanks(s) were tested for water-tightness after installation and passed in accordance with OAR 340-073-0025(3)  
 \*\*Attach sieve analysis for Underdrain Media and Filter Sand

**RECEIVED**



**SECTION 3 - As Built Plan**

AS-BUILT PLAN OF THE CONSTRUCTED SYSTEM. Indicate the direction of NORTH. Show locations of all wells within 200 feet of the system. Show system setback distances from property lines, structures, wells, streams, etc.



**SECTION 4 - Construction was performed by (Signature Required)**

I certify that the information provided on both pages of this document is correct and that the construction of this system was in accordance with the permit and the rules regulating the construction of onsite wastewater treatment systems (OAR Chapter 340, Divisions 71 and 73).

Owner/Permittee or Certified Installer w/Certification#: WESTFALL SEPTIC/DEANNIS SIMON Print Name: WESTFALL SEPTIC/DEANNIS SIMON

Licensed Installer: Yes  No  License#: 38381 Certification#: PI # 130

Owner/Certified Installer: Signature: [Signature] Date: 3-20-14 Phone#: 541-389-8940

**SECTION 5 - Office Use Only:**

Notice Accepted: Yes  No  Date: 4/9/14 Installer/Owner (Permittee) Notified: Yes  No  Date: 4/9/14

If No, Reason for Non Acceptance:

Comment: Waived Previous

**RECEIVED**

APR 8 2014

State of Oregon  
Dept. of Environmental Quality  
Eastern Region - PORTLAND

# WESTFALL

SEPTIC TANK & EXCAVATION

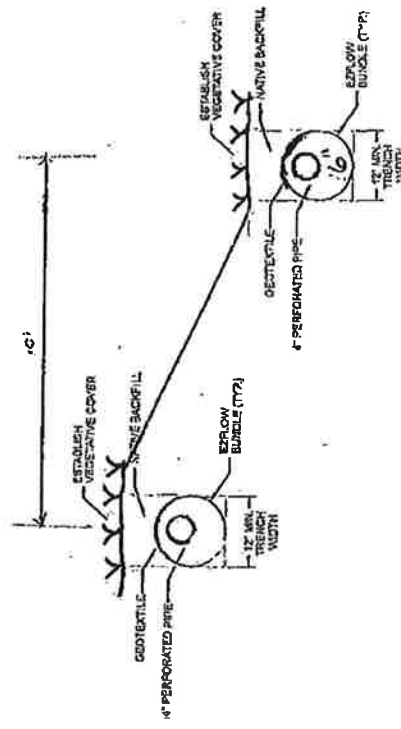
PO Box 921  
 Hermiston, OR 97838  
 (541) 567-8940  
 DEQ#38381

Elevations (in.)    ♦    +    \*    ★

Tank Outlet	27"	50"	
Drop Box Inlet	39"	53"	
Line 1 Start/End	39"/42"	59"	30"/27"
Line 2 Start/End	46"/44"	65"	29"/31"
Line 3 Start/End	54"/60"	74"	30"/24"
♦ Ground Elevation			
+ Top of Pipe Elevation			
* Trench Depth			

**Materials List**

- 1000 gallon concrete Westfall Septic tank w/ riser & lids
- 40' - 4" 3034 Pipe and fittings
- 2- Tuff-Tite Drop box(es)
- 230' EZ1200P drainfield w/ filter fabric & fittings
- Green tracer wire from tank to drainfield



Cross Section of Disposal Trenches

Filiberto Esparza  
 80540 Kik Road  
 Hermiston, OR 97838

5N 28 34C 100

RECEIVED

APR 8 2014

State of Oregon  
 Dept. of Environmental Quality  
 Eastern Region - Pendleton

Filberto Esparza

415536



415536

CERTIFICATION OF DECOMMISSIONING

Filiberto Esparza  
PROPERTY OWNER'S NAME

Westfall Septic Tank & Excavation  
APPLICANT'S NAME

LEGAL DESCRIPTION OF PROPERTY:

TOWNSHIP 05N RANGE 28E SECTION 34C TAX LOT 100

TYPE OF EXISTING FACILITY TO BE ABANDONED: (Check One)

Septic Tank  Cesspool  Seepage Pit  Other \_\_\_\_\_

I, Deannie L. Simon, hereby certify that the existing facility

(named above) was properly abandoned by having the sewage contents removed by


Westfall Septic Pumping, (a licensed sewage pumping service \*) and was then

backfilled with reject sand, bar run gravel (or the facility removed, properly disposed and the void

backfilled with soil) and the building sewer permanently capped in accordance with the

requirements of the Department of Environmental Quality rules governing on-site sewage disposal.

\*Attach a copy of the pumping receipt.

  
Signature

03/21/14  
Date

Installer / Pumper License Number #38381 Installer / #38919 PUMPER

MAIL TO:

Department of Environmental Quality  
Eastern Region - Pendleton  
700 SE Emigrant, Suite 330  
Pendleton, Oregon 97801

RECEIVED

APR 9 2014

State of Oregon  
Dept. of Environmental Quality  
Eastern Region - Pendleton

415536

**Westfall Septic Tank & Excavation**  
Locally Owned and Operated  
P.O. Box 921  
Hermiston, OR 97838  
(541) 567-8940

CUSTOMER'S ORDER NO. \_\_\_\_\_ PHONE 541.314.3713 DATE 1-27-14

NAME Filiberto Esparza

ADDRESS 80540 Kik Road

Hermiston, OR 97838

SOLO BY \_\_\_\_\_ CASH  C.O.D. \_\_\_\_\_ CHARGE \_\_\_\_\_ ON ACCT. \_\_\_\_\_ MOSE. RET'D. \_\_\_\_\_ PAID OUT \_\_\_\_\_

QTY. DESCRIPTION PRICE AMOUNT

1 Pump 1000 gallon tank 375.00

*pd*

**RECEIVED**

APR 9 2014

RECEIVED BY JB

TAX \_\_\_\_\_  
TOTAL 375.00  
State of Oregon  
Dept. of Environmental Quality  
Eastern Region - Pendleton

1116

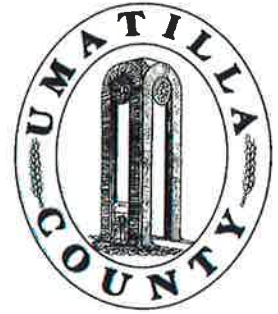
All claims and returned goods MUST be accompanied by this bill.  
To Reorder:  
800-225-6380 or nebs.com

**THANK YOU**



# Umatilla County

Department of Land Use Planning



**DIRECTOR  
TAMRA  
MABBOTT**

June 15, 2015

**LAND USE  
PLANNING,  
ZONING AND  
PERMITTING**

MEMO

**CODE  
ENFORCEMENT**

To: Planning Commission  
From: Gina Miller, Code Enforcement Coordinator  
Re: Esparza Variance Application and Request for a Hearing  
Summary of Code Violations

**SOLID WASTE  
COMMITTEE**

**SMOKE  
MANAGEMENT**

Planning Commission Members,

**GIS AND  
MAPPING**

Code Enforcement first received a complaint from a neighbor about possible unpermitted development on January 23, 2014. Officer Ted Burrows conducted a site visit and found development activity going on. A backhoe was being used to dismantle an existing structure. Officer Burrows spoke with Mr. Filiberto Esparza, and he told Officer Burrows that he was going to move the shop and bring in a manufactured home for a dwelling. Officer Burrows advised him that he needed a Zoning Permit prior to any further development going on.

**RURAL  
ADDRESSING**

**LIAISON,  
NATURAL  
RESOURCES &  
ENVIRONMENT**



At that time, the property was still owned by Rebeca Garcia, and Mr. Esparza was purchasing it on contract. On January 24, 2014, Mr. Esparza brought his application for a Zoning Permit to the Planning Department, signed by Rebeca Garcia as the land owner. I assisted Mr. Esparza at the counter with his permit application and together we developed the site plan. Due to the narrow width of the property, I advised him of all setback requirements, land use regulations and cautioned him that he must adhere to all of these things or he would be subject to code violation enforcement. During the conversation, he also mentioned that he wanted to build a truck bay on to

the shop he was remodeling. I advised him that he could not operate a trucking business from this property as it was zoned Rural Residential (RR-2). The Zoning Permit was issued on January 24, 2014. Please see attached site plan that was approved in this permit. There was no mention of a porch or patio made as part of this permit. Mr. Esparza stated that he was going to be removing two of the existing smaller sheds and placing the manufactured home in the front of the property near the center.

On May 14, 2014, Officer Burrows conducted a site visit and noted the framed out truck bays on the old existing shop. Please note that Mr. Esparza had been repeatedly warned that he could not develop a trucking business on this property as it was residentially zoned.



On July 14, 2014, we received a complaint call regarding the development happening on the subject parcel. The caller stated that Mr. Esparza had placed his manufactured home too close to the property line and that he had constructed a patio attached to the manufactured home that was less than 6 feet from the property line. Officer Burrows checked the property on July 17, 2014 and confirmed that the patio had been constructed in violation of the setback regulations and without a permit. Another building had been placed approximately 8 feet from the property line as well behind the newly constructed patio. It can be seen in the left photo.



On August 7, 2014, another complaint call was received about the subject property and Mr. Esparza allegedly operating a trucking business from his property. Officer Burrows confirmed that there were large 18-wheeler trucks being parked and repaired on the property, and also on Kik Road in front of the property. (See prior photo for truck parked in framed out truck bay.)



On August 15, 2014, Officer Burrows met with Mr. Esparza on the subject property and advised him that a trucking business was not allowed on this property because it was zoned residential. He also advised Mr. Esparza to contact the Planning Department immediately regarding the violations to setbacks on the buildings too close to the property line. On August 19, 2014 a citation to Circuit Court was issued for operating a business in a Residential Zone and for not obtaining a Zoning Permit for the new development on the property not covered in ZP 14-014 (the new shed on the property line and porch/patio addition).

On February 15, 2015, our office received a complaint about Mr. Esparza and there being too many large farm animals on the property, and concerns about their proximity to the well and septic system. I notified the Department of Environmental Quality regarding the water quality concerns. Officer Burrows conducted a site visit on February 19, 2015 and found 6 goats and 4 cows for a total of 10 large farm animals. According to Umatilla County Development Code Chapter 152.133 (A) the maximum number of large farm animals is 2 per acre. The subject parcel is 1.98 acres, so there could be a maximum number of 4 farm animals. Mr. Esparza was sent a formal Warning by Code Enforcement for the violation of the animal density standard for Rural Residential parcels on February 18, 2015. This case is currently still under investigation.

#### Summary:

Code Enforcement staff do not support approval of the variance. Mr. Esparza has demonstrated time and time again that he cannot abide by the County Code of Ordinances and despite being warned that he cannot do something, has gone right ahead and done it anyway. For example, he was repeatedly warned on January 24, 2014 that he could NOT operate a trucking business on the subject parcel. In spite of this knowledge, he was found to be operating a trucking repair and hauling business and also was found to have built on to the existing shop 2 framed out truck bays. Possessing full knowledge of the narrow width of his property and setback regulations of the residential zone RR-2, as it was explained to him on January 24, 2014, he built the patio/porch too close to property lines and encroaching on required setbacks.

UCDC Chapter 152.627 provides that a variance may be granted under exceptional or extraordinary circumstances that apply to the property, and that the variance would alleviate the hardship. Mr. Esparza was advised of the minimum setbacks and we believe he understood the regulations. He stated to Officer Burrows that he had to move the manufactured home over to the north side of the property to allow room for the large 18-wheel trucks to pass by to the shop in the rear of the property. Given that he is prohibited from operating a trucking repair/maintenance business on this property, the location of the manufactured home is no longer



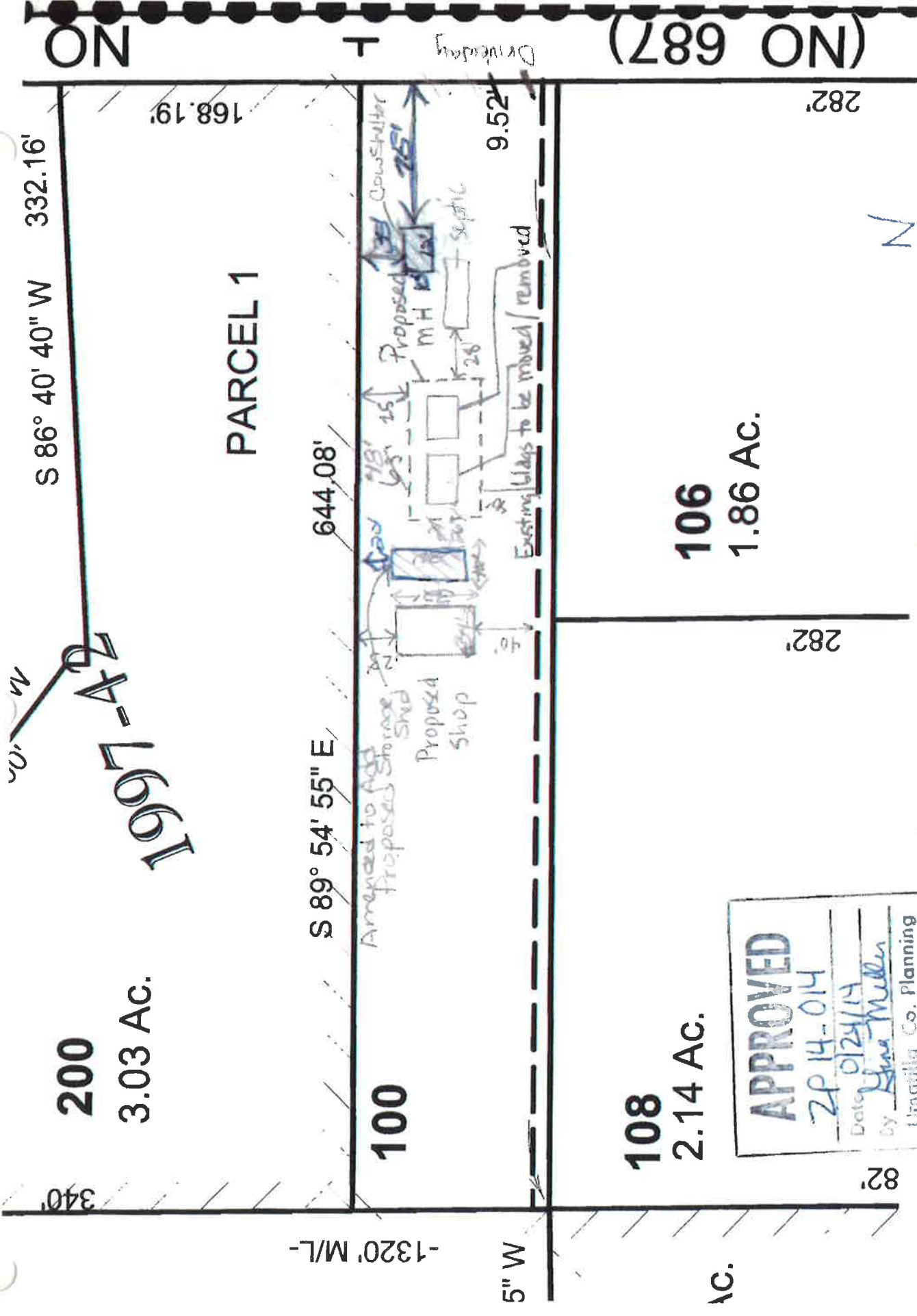
grounds to allow the variance as a remedy. For these reasons, Code Enforcement staff encourages the Planning Commission to deny the application for a variance to setbacks. Mr. Esparza deliberately violated the code and where there is sufficient area on the parcel where he can build, there does not appear to be a hardship.

Thank you,



Gina Miller  
Code Enforcement Coordinator

enc: Site plan for Zoning Permit #ZP-14-014



1997-A2

200  
3.03 AC.

PARCEL 1

100

108  
2.14 AC.

106  
1.86 AC.

**APPROVED**  
 ZP 14-014  
 Date: 01/24/14  
 by: Gina Miller  
 Uravilla Co. Planning

*Site plan amended - updated to include first manufactured home. Site address amended to reflect new manufactured home. Addition of storage shed, causer shelter.*

# Umatilla County

Department of Land Use Planning



June 16, 2015

**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**

MEMO

TO: Planning Commission

FROM: Tamra Mabbott

RE: LUD-175-14 Request for Non-Farm Dwelling by Casey Severe

Attached are preliminary findings and supplemental materials for a non-farm dwelling application filed by Casey Severe. Mr. Severe acquired the property in 2000 from the Duff Family. In 1999, county approved a "lot of record" dwelling permit for the Duff Family, and then, as allowed by ORS, the Duff's transferred the permit to Mr. Severe, along with the parcel of land. That permit was granted numerous extensions and then Mr. Severe allowed the permit to expire. Since the land has changed ownership and Mr. Severe has not owned the land since January 1, 1985, he would not qualify for a "lot of record" permit.

In the summer of 2014, Mr. Severe attended a Board of Commissioners land use hearing. The land use hearing was for a Goal 5 Aggregate Amendment on a nearby parcel of land owned by the Oregon Department of Transportation. During the hearing Mr. Severe asked how the quarry may impact his future home site. Staff informed the parties that that there was not a valid permit for a dwelling on Mr. Severe's property and offered to meet with Mr. Severe to review options for qualifying for a permit and, to evaluate how the 500 foot Goal 5 impact area may affect his property. The Board postponed the hearing to allow staff to address Mr. Severe's concern.

Staff then developed a map to show that Mr. Severe's parcel was outside of the 500 foot impact area for the significant Goal 5 aggregate. The Board approved ODOT's Goal 5 application. Mr. Severe was aware that the Goal 5 decision was apart from his obligation to file appropriate application for a dwelling on the EFU zoned parcel.

Although Mr. Severe's property is not currently managed as part of a farming operation, the parcel contains lands that are classified as farm land. His parcel does not contain lands that are "non-farm" according to that definition used in ORS 215.284. To be considered "non-farm" class land, soils must be agricultural class VII or higher. The soils on Mr. Severe's property include class II soils and class VI soils.

When landowners believe that their lands are not farmable, the Administrative Rule provides a process whereby the landowner may retain one of the pre-certified soil scientists to evaluate the soils. If the soil scientist finds the soils are "non-farm", that finding may be substituted for the SCS Soil Survey.

Mr. Severe chose not to retain a soil scientist and therefore staff cannot write a finding that confirms his application complies with the minimum standards set forth in ORS 215.284 and Umatilla County Development Code . 152.059(K)(8).

The Findings as drafted show that the application complies with most of the criteria, except two directly related to the soil classification (see page 4 of 10).

Additionally, the requisite "Impact Test" required for non-farm dwellings shows that there may be up to 20 non-farm dwellings in the 2000 acre study area that could be approved, subject to a more extensive application process. This is a somewhat unique area in that it is primarily higher quality dryland farming soil, interspersed with canyons and slopes with a poor soil classification. The preliminary findings include a preliminary conclusion that full build out would likely have an impact on surrounding farm parcels and farming practices. However, given the more subjective nature of this conclusion, staff requests the Planning Commission deliberate and make an interpretation about this specific finding.

Staff drafted two conclusions, shown on page 9 of the Preliminary Findings. One option is to find that the application does not comply with the standards and deny the application. The other option, to approve, is available if Planning Commission can affirm that the application complies with all of the standards, either at the time of the hearing or with conditions of approval.

**UMATILLA COUNTY PLANNING DEPARTMENT  
PRELIMINARY FINDINGS AND CONCLUSIONS  
LAND USE DECISION REQUEST LUD-175-14  
MAP #3N 33 23 TAX LOT 300, Account #108815**

1. APPLICANT: Casey Severe, PO Box 608, Pendleton, OR 97801
2. OWNERS: Same as applicant.
3. LOCATION: The subject property is located on the west side of State Highway 335 (Helix Highway) about ½ mile north of its intersection with State Highway 11. The property is located between Adams Road to the northwest and Highway 11 to the southeast. It is approximately five miles west of the city of Adams and 7 miles northeast of the city of Pendleton.
4. REQUEST: The request is to establish a non-farm dwelling.
5. SITUS: There is no site address.
6. ACREAGE: Tax Lot 300 is 1.25 acres. The parcel is considered a pre-existing, non-conforming lot of record. (Staff conducted some historical research to determine when this 1.25 acre parcel was created. According to available records and deeds, the 1.25 acre parcel was segregated from a larger farm parcel owned by the McCormach Family in 1948. Presumably the purpose was to construct a grain elevator, although the parcel remained in McCormach Family ownership until 1970 when the land was sold to the Duff Family. Duff Family sold the 1.25 acre parcel to Casey Severe in 2000).
7. PROP CLASS: Property Codes are assigned by the County Assessor as to the type of use present on the property. Property Code is 550, which means "Farm, Farm Zone, Vacant and is Farm Deferred."
8. TAX CODE: The Tax Code is assigned by the County Tax Office. Each Code Area has various taxing rates depending upon the services provided. The Tax Code for this parcel is 16-02.
9. PERMITS. A Conditional Use Permit for a "Lot of Record" dwelling was issued to Duff Ranch in 1999. That permit was transferred to Casey Severe and subsequently expired.
10. COMP PLAN: North/South Agriculture Plan Designation
11. ZONING: Exclusive Farm Use Zone (EFU- 160 acre minimum)
12. ACCESS: The application indicates the property has access from an easement crossing tax lot 100. An access permit for the easement has not been issued by County Public Works.

- 13. ROAD TYPE: Highway 335 is a two lane paved State Highway.
- 14. EASEMENTS: No easements on the subject property.
- 15. LAND USE: The property is vacant and is not currently farmed. Previously there was a grain elevator (McCormach Grain Elevator) on the property, which has since been removed except for the foundation.
- 16. ADJACENT USE: Surrounding properties are zoned EFU and are used for growing primarily wheat. To the immediate north is an abandoned railroad and Wildhorse Creek. To the south is a bluff which rises up to State Highway 11. The parcel to the east is owned by ODOT and has been permitted for a Goal 5 aggregate operation.
- 17. LAND FORM: Floodplain.
- 18. SOIL TYPES: The subject property contains class II and class VI soil types. High Value soils are defined in UCDC 152.003 and ORS 215 as Land Capability Class I and II.

Soil Name, Unit Number, Description	Land Capability Class	
	Dry	Irrigated
115E Walla Walla silt loam, 25-40% slopes	6e	--
39A Hermiston silt loam, 0 - 3% slopes	IIc	I

*Soil Survey of Umatilla County Area, 1989, NRCS. The suffix on the Land Capability Class designations are defined as "e" – erosion prone, "c" – climate limitations, "s" soil limitations and "w" – water (Survey, page. 172).*

- 19. BUILDINGS: The land is vacant except for the concrete slab where the grain elevator had once been located.
- 20. UTILITIES: No utilities are on the property.
- 21. WATER/SEWER: The property has no water or sewer developed. In 2000 the previous owners obtained from DEQ a site suitability to construct a septic system.
- 22. FIRE SERVICE: The property is not located within a fire district.
- 23. IRRIGATION: The property is not within an irrigation district.
- 24. FLOODPLAIN: The property is not within a Special Flood Hazard Area. The parcel is not located within a FEMA Flood Study boundary. See attached map of flood study.
- 25. NOTICES SENT: Notices of the hearing were mailed to adjoining property owners and public agencies on June 5, 2015.

26. CLOSING DATE: Planning Commission Hearing on June 25<sup>th</sup>.

27. AGENCIES: Umatilla County Assessor; Umatilla County Public Works Department; ODOT Region V Planning Division, Attention Patrick Knight; Umatilla County SWCD, CTUIR Department of Natural Resources; Umatilla Basin Watershed Council; Oregon Department of Fish & Wildlife, Pendleton; Katherine Daniels, DLCD (electronic); Jim Johnson, Department of Agriculture (electronic).

28. COMMENTS: No public or agency comments have been received to date.

**29. STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR LAND USE DECISIONS, to establish a non-farm dwelling in the EFU Zone.** The standards for approval contained in Section 152.059 (K) (VI), *Non-Farm Dwelling* are provided in underlined text as follows. The responses are indicated in standard text.

**§ 152.059 LAND USE DECISION**

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

**(K) DWELLINGS.**

The following permanent, single family dwellings may be authorized in an EFU zone. The dwellings may be conventional “stick built,” modular homes, manufactured homes or mobile homes meeting the definition of a dwelling and the standards in § 152.013(B) (5). All farm dwelling applications are subject to review and comment by the Department of Land Conservation and Development. Permits for dwellings approved under this section are valid for four years. A permit extension for an additional two years may be granted upon request.

**(8) Non-farm dwelling. A non-farm dwelling permitted in ORS 215.284 and subject to the following criteria:**

(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; A dwelling on this parcel would not appear to have a significant effect on existing farming practices.

(b) The dwelling is situated upon a lot or parcel, or a 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 tract. The parcel is comprised of two soil types,

a high value soil (39A Hermiston silt loam) and a non-high value soil (115E Walla Walla silt loam). The parcel is predominantly (51% or great) comprised of high value soils. The proposed dwelling site would be located on the flat area, on land with a class II soil Capability Classification. The parcel previously had a vertical grain elevator; remnants of which include the foundation.

- (i) A lot or parcel or portion of a lot or parcel shall 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; and, The applicant indicates that the parcel has not been put to farm use in conjunction with other parcels. However, it may be feasible to combine with an adjacent parcel(s) and utilize as part of a farming operation.

***The application does not appear to meet this criterion.***

(ii) A lot or parcel or portion of a lot or parcel is not generally unsuitable simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not generally unsuitable. A lot or parcel or portion of a lot or parcel is presumed to be suitable if it is composed predominately of Class I - VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or The parcel has two soil types, including Class VI and Class II. The portion of the property where the proposed home site would be located is shown as Class II. The class VI soils include the area along the slope. The land along the railroad and Wildhorse Creek is flat and contains Class II soils. No water rights are present on this parcel. It is possible that the subject parcel could be combined with adjacent parcels and incorporated into a farming operation. The applicant, Mr. Severe was informed county that he consulted with a certified soil scientist who indicated it was not likely the soil study would conclude the soul to be "non-farm." Mr. Severe chose not to do hire a DLCD certified soil scientist, which would be required to prove the home site was not farmable. See attached letter from Mr. Severe.

***The application does not meet this criterion.***

(iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not generally unsuitable simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not generally unsuitable. If a lot or parcel is under forest assessment, it is presumed suitable if, in Eastern Oregon it is composed



predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land; The Umatilla County finds that the parcel is zoned EFU and this criterion is not applicable.

(c) The dwelling will not materially alter the stability of the overall land use pattern of the area; The application does not provide any information about how the dwelling may or may not materially alter the overall land use pattern of the area. The County finds that lands surrounding the subject parcel is zoned EFU and are farmed and/or managed for resource value (Wildhorse Creek). See attached vicinity map.

(d) New easements, private roads or public right-of-ways, must meet at a minimum, the Option 1 design standard as depicted in the County Transportation Plan Figure 7-2A and defined in § 152.648 (D) (30 foot right of way with 16 foot travel lane). Whenever possible, new roads should not be placed upon agricultural land as defined by prior policies; The County finds that there is a 25 foot easement through tax lot 100 which may be used for legal access. An access permit may be required for access/driveway to Helix Highway.

(e) The parcel upon which a non-resource dwelling is located and being valued at true cash value for farm use under ORS 308.370 shall meet the requirements in ORS 215.236, including but not limited to:

- (i) The site shall be disqualified for farm deferral; and
  - (ii) The tax penalty shall be paid prior to Preliminary approval;
- The parcel is not on Farm Use Special Assessment.

(f) If the non-farm dwelling site is being created by a land division, the parcel shall comply with the access, improvement requirements, and follow the procedures for land divisions set forth in § 152.710 (D), and shall comply with the applicable dimensional standards of § 152.063;The County finds that a land division is not being requested in relation to this application. This criterion is not applicable.

(g) If the request involves the creation of a new parcel containing historic property as defined in ORS 358.480, the original parcel may be reduced below the minimum lot size standard, including an 11% standard deviation; The County finds that a new parcel is not being created. This criterion is not applicable.

(h) Sign and record a Covenant Not to Sue as provided in § 152.059 (K) (11). The County finds that the applicant is willing to sign a Convent Not to Sue as indicated on the associated land use request applications. This shall be included as a condition of approval.

(i) The dwelling will be sited on a lot or parcel created before January 1, 1993. (This date only applies to the placement of a non-farm dwelling on an existing, lawfully created lot or parcel.) The County finds that the subject parcel was created prior to January 1, 1993. This criterion is met.

(j) If a single-family dwelling is established on a lot or parcel as set forth in § 152.059 (K) (3) or (4), Lot of Record Dwelling, no additional dwelling may later be sited under the provisions of this sub-section The County finds that the applicant is not requesting a Lot of Record Dwelling. Previously, County approved a CUP for a “Lot of Record Dwelling.” However, the owner/applicant allowed the permit to expire.

(9) The dwelling will be sited on a lot or parcel created before January 1, 1993; Deed records show the parcel was established prior to 1993. The County finds that the criterion is met.

(10) If a single-family dwelling is established on a lot or parcel as set forth in § 152.059 (K) (II), Lot of Record Dwelling, no additional dwelling may later be sited under the provisions of this sub-section. There has never been a dwelling established on the property, according to county records. The County finds that the criterion does not apply.

#### **(VIII) Impact Test.**

In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new non-farm dwellings and parcels on other lots or parcels in the area similarly situated.

(1) The county shall identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural area. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area.

#### ***Study Area Description***

The study area is comprised of 2000 acres which includes the lands within an approximate one mile radius of the subject parcel. These parcels are located along Wildhorse Creek, State Highway 11 and State Highway 336. The boundary of the study area does not follow parcel boundaries and in some cases a majority of a particular parcel may fall outside of the study area. These parcels are included in the study area if any portion of the parcel is within the boundary of the study area; however, for purposes of the dwelling calculations, only the dwellings that fall within, or could potentially fall within the boundaries of the study area are included. This area is representative of where the subject property is found

due to the immediate proximity to the subject parcel, similar farm use, and zoning. The County finds that analysis for the application was completed as prescribed and that the Study Area (see attached Study Area Map) is adequate for an accurate description.

(2) Within the study area identify the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under ORS 215.263(5). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this provision.

#### ***Farm Uses in the Study Area***

The predominate farm use in the area is dry land grain crops. The study area also includes sections of steep hillsides that are not in farm crops. Soil types range from Class II to Class IV and class VI with strips of ground that are not crop farmed due to erosion and steep slopes. Zoning for all of the Study Area is EFU.

#### ***Number and Type of Existing Dwellings***

The Study Area contains 22 parcels including the subject parcel. The parcels range in size from 1.25 acres (smallest) to 860 acres (largest) in size. There are four dwellings located within the boundary of the Study Area. There is no existing non-farm or lot of record dwellings within the Study Area.

#### ***Development Trends since 1993***

Within the study area, one permit, for a Lot of Record dwelling, has been issued since 1993. That was the Lot of Record Dwelling permit for Duff Ranches, the previous landowner of the subject parcel. That permit was not acted upon and expired.

#### ***Potential Number of Dwellings***

##### *Non-Farm Dwellings*

Under specific standards a non-farm dwelling may be approved on an existing parcel; or, a maximum of two non-farm dwellings may be approved and partitioned from a large farm parcel, where the large parcel (after the two small non-farm parcels are divided) will remain at 160 acres or larger. A parcel or a portion of a parcel is presumed to be unsuitable for farming if the soil Class is VII - VIII or, if previously developed in a way that the parcel is unsuitable for farming. After review of the large parcels and the soil values on those parcels three and possibly four of the existing dwellings could meet standards to be converted to a non-farm dwelling. Based on the parcels in the study area that contain class VII soils, it may be possible for up to nine (9) non-farm dwellings could be created.

##### *Lot of Record Dwellings*

Property owners could possibly qualify for a lot of record dwelling on their property if they, or a family member, have continually owned the property since prior to January 1, 1985; and no other dwellings existed on the parcel or tract of land as of November 4, 1993. In addition to long term family ownership the parcel or tract must be composed predominately of non-high value farm soils.

With the best information available from the County Assessor and Records Office, staff reviewed parcels in the Study Area to determine the number of parcels that may have the potential to meet the criteria for a Lot of Record Dwelling. Excluded were parcels 160 acres and larger, since those could presumably qualify for a "farm dwelling" permit. There are six (6) parcels that have been in a family ownership continuously since prior to January 1, 1985 that may qualify for a Lot of Record dwelling permit.

(3) Determine whether approval of the proposed non-farm/lot of record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area;

#### ***Determination***

The study area includes some areas of EFU land that are not currently used for farming; this creates some potential for development of nonfarm dwellings. However, the reason most of these areas are not used for farming is due to steep slopes. Steep slope areas also make the development of home sites difficult and expensive. No non-farm dwellings have been built in the study area. As described above, solely based on class VII soils, there is a potential for nine (9) additional non-farm dwelling approvals. It is not clear how likely that may be given the steep slope of the class VII soil lands. The number of possible Lot of Record dwellings is six (6).

In summary, approval of the applicant's request to establish one (1) non-farm dwelling on the subject property, along with four (4) existing dwellings in the Study Area, plus the potential for six (6) Lot of Record dwellings and nine (9) non-farm dwellings, the total could be 20 dwellings within the 2000 acre area. The overall density of 20 total dwellings would be one dwelling per 100 acres. The minimum lot size for a farm dwelling is 160 acres. Based on this, if all parcels were permitted to construct a dwelling based on one of the dwelling criteria, the density would be much higher than in other dryland farming areas.

Therefore, it is reasonable to assume that build out of dwellings in the study would have an impact on surrounding farm operations. The County finds that the proposed non-farm dwelling, together with maximum build out of dwellings on other parcels within the study area, could materially alter the stability of the land use pattern in the area.

***Planning Commission will need to conclude whether the application can comply with this***

*standard.*

**OPTION 1. PLANNING COMMISSION DECISION:**

Planning Commission finds, based on the findings as presented, that this land use decision to establish a non-farm dwelling DOES NOT COMPLY with the standards of the Umatilla County Development Code. The application is hereby denied.

**OPTION 2. PLANNING COMMISSION DECISION:**

Planning Commission finds, BASED ON FINDINGS AS AMENDED, that this land use decision to establish a non-farm dwelling may comply with the standards of the Umatilla County Development Code, subject to the following conditions of approval.

**THE FOLLOWING CONDITIONS OF APPROVAL MAY BE CONSIDERED IF  
PLANNING COMMISSION FINDS THE APPLICATION COMPLIES WITH THE  
APPLICABLE STANDARDS IN THE COUNTY DEVELOPMENT CODE AND  
OREGON REVISED STATUTES**

Precedent Conditions: Precedent conditions must be completed prior to Preliminary approval and the issuance of a Zoning Permit.

1. Submit a soil survey from a DLCD Certified Soil Scientist, that the home site will be located on a portion of the parcel that is “not farmable.”
2. Sign and record a Covenant Not to Sue Agreement. The Agreement will be provided by the County Planning Department.
3. Obtain an Access Permit from State Highway for the easement to the home site.
4. Pay Public Notice costs.

Subsequent Conditions: The following subsequent conditions must be fulfilled following Preliminary approval.

5. Obtain a Zoning Permit from the Umatilla County Planning Department to place the home on the property with an approved site plan showing setbacks, existing structures, driveways, utilities, etc.
6. Obtain all other State permits necessary for development.
7. Authorization to place the home on this property is valid for four years with a possible two year extension. Within that period of time the home must be constructed with a final inspection being completed by the State Building Codes and a Certificate of Occupancy being granted.

UMATILLA COUNTY PLANNING COMMISSION

---

Randy Randall, Chair  
Umatilla County Planning Commission

---

Date



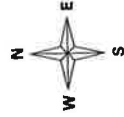
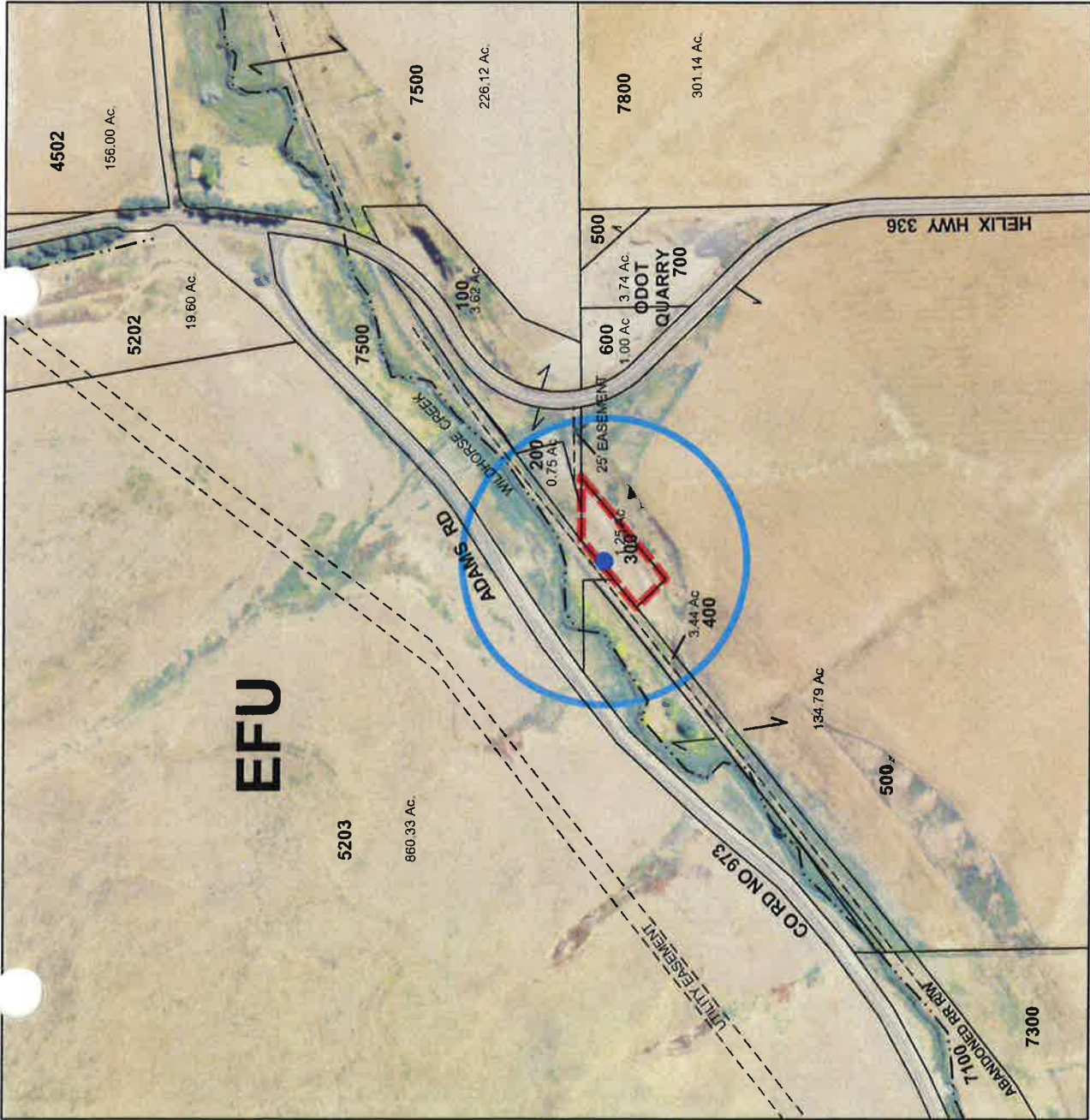
PROPERTY OWNERS WITHIN 750'  
NOTICE AREA OF SUBJECT PARCEL

MAP 3N333

- 4502 SPRATLING LAND LLC
- 5202 PUGH JESSE & AMANDA
- 5203 MAC-5 INC
- 7100 MCCORMMACH MORRIS O 3/4 ET AL 1/4
- 7300 ROSSELLE ROBERT D & TERRI L
- 7500 PAYNE S J & V & STEELE J D (TRS)
- 7800 BAFUS FREDA M
- LHT FARMING CO (AGT)

MAP 3N3323

- 200 SEVERE CASEY L
- 300 SEVERE CASEY L
- 400 UNION PACIFIC RAILROAD CO
- 500 PAYNE S J & V & STEELE J D (TRS)
- 600 STATE OF OREGON, ODOT
- 700 STATE OF OREGON, ODOT
- 100 STATE OF OREGON, ODOT

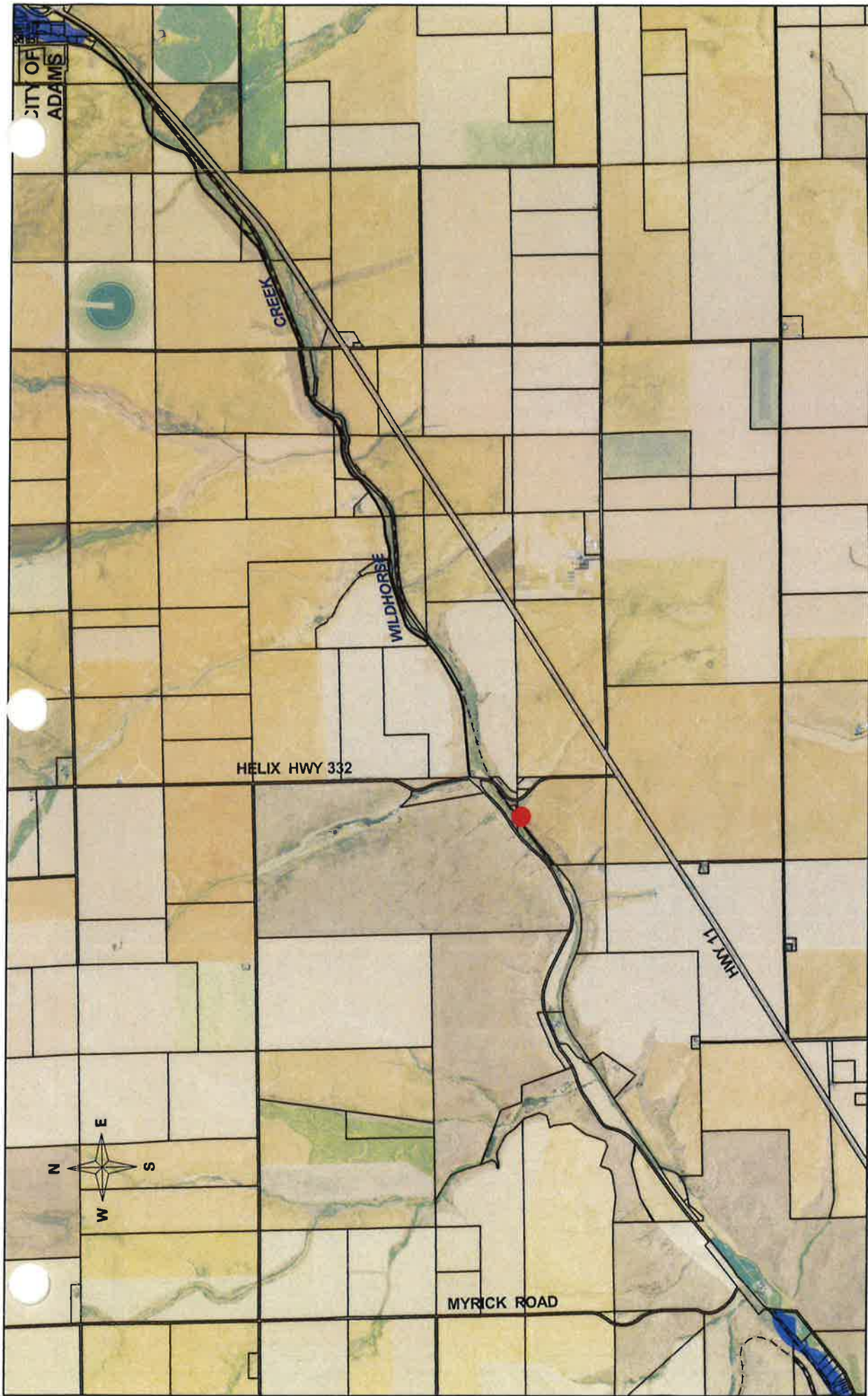


LAND USE DECISION #LUD-175-14. NON-FARM DWELLING APPLICATION  
CASEY SEVERE, APPLICANT/OWNER  
MAP 3N3323, TAX LOT 300

-  SUBJECT PARCEL
-  PROPOSED DWELLING
-  500 FT BUFFER

DATE: 5/28/15

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.



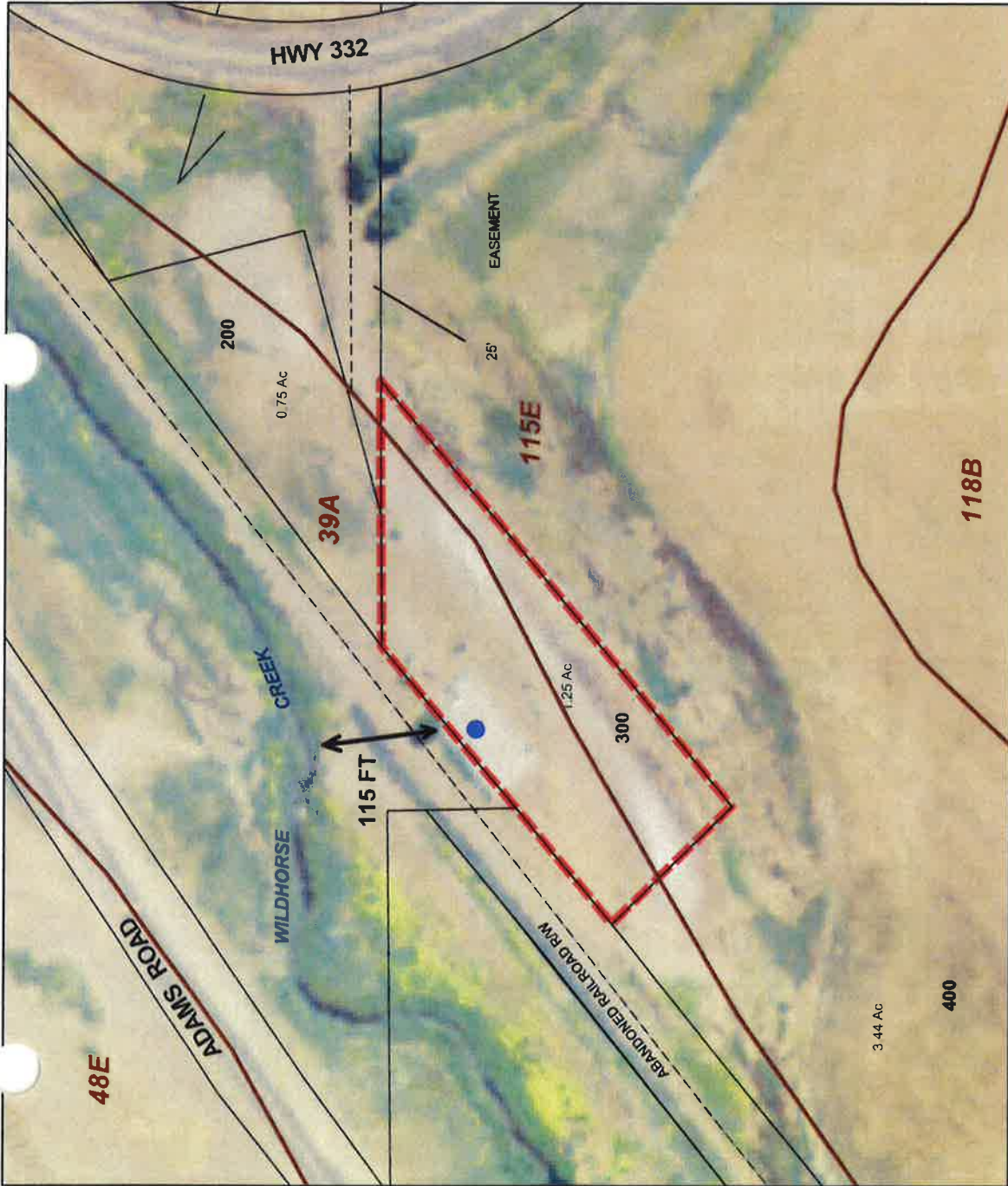
LAND USE DECISION #LUD-175-14, NON-FARM DWELLING APPLICATION  
 CASEY SEVERE, APPLICANT/TOWNER  
 MAP 3N3323, TAX LOT 300

● Casey Severe Property  
 ■ Extent of FEMA Flood Study



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. Not intended for legal use. Created by J.Afford, Umatilla County Planning Department, 6/15/15

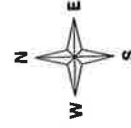




LAND USE DECISION #LUD-175-14. NON-FARM DWELLING APPLICATION  
 CASEY SEVERE, APPLICANT/OWNER  
 MAP 3N3323, TAX LOT 300

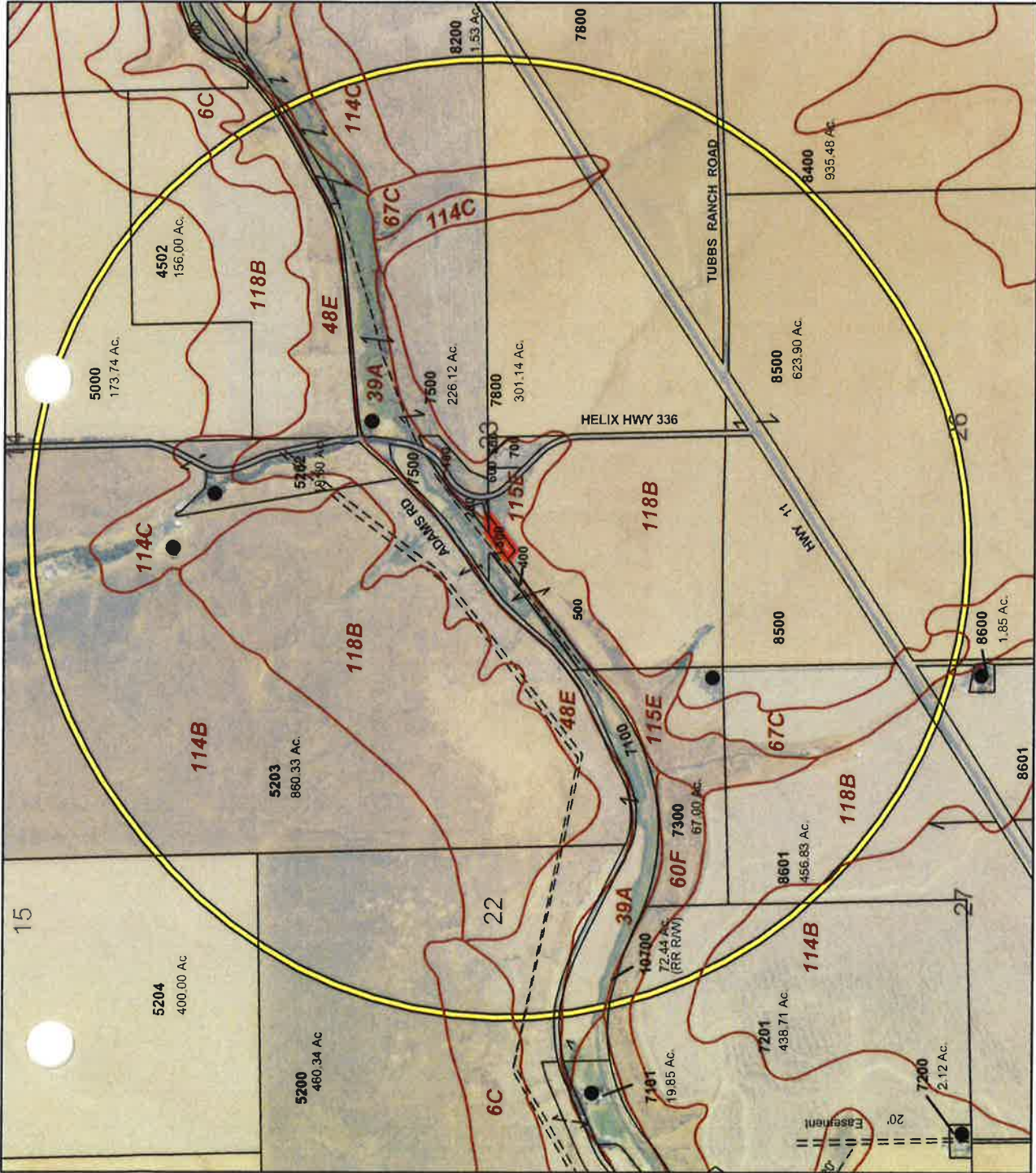
-  SUBJECT PARCEL
-  PROPOSED DWELLING SITE
-  Soil Type Boundary
-  Soil ID

2014 AERIAL PHOTO



DATE: 5/28/15

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\Q-T\Severe\_LUD\_175\_14.gws



2014 AERIAL PHOTO



DATE: 5/28/15

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. Not intended for legal use. Created by J. Alford, Umatilla County Planning Department.

y:\workspace\planning\vicinity maps\Q-T\Severe\UD\_175\_14\template.gws

2014 AERIAL PHOTO, #LUD-175-14 NON-FARM DWELLING APPLICATION  
 CASEY SEVERE, APPLICANT/OWNER  
 MAP 3N3323, TAX LOT 300, ACCT#108815

- Severe Property
- Existing Home Site
- Soil Type Boundary
- 2000 Acre Template Area
- Property Boundary
- 6C
- Soil Type

40



2000 ACRE TEMPLATE TEST FOR 'ON-FARM DWELLING APPLICATION  
#LUD-175-15, CASEY ÈRE, APPLICANT/OWNER

ACCT_ID	TLID	OWNER	IN_CARE_OF	AGENT	M_ADDRESS	M_CITY	ST	ZIP	AC	HSE
100131	3N33000004502	SPRATLING LAND LLC ✓			76725 HELIX HIGHWAY	PENDLETON	OR	97801-9224	156	0
100143	3N33000005000	SPRATLING LAND LLC			76725 HELIX HIGHWAY	PENDLETON	OR	97801-9224	173.74	0
108729	3N33000005200	MCCORMMACH RANCHES INC			PO BOX 8273	EUGENE	OR	97408	460.34	0
146889	3N33000005202	PUGH JESSE & AMANDA			75780 HELIX HIGHWAY	ADAMS	OR	97810	19.6	X
149971	3N33000005203	MAC-5 INC			75786 HELIX HIGHWAY	ADAMS	OR	97810	860.33	X
157423	3N33000005204	SPRATLING LAND LLC			76725 HELIX HIGHWAY	PENDLETON	OR	97801-9224	400	0
108795	3N33000007100	MCCORMMACH MORRIS O 3/4 ET AL 1/4			47486 ADAMS RD	PENDLETON	OR	97801	130	0
108799	3N33000007201	SMITH-DUFF RANCHES INC ✓	C/O DUFF J		801 N MAIN ST	PENDLETON	OR	97801	438.71	0
108803	3N33000007300	ROSSELLE ROBERT D & TERI L			47639 HIGHWAY 11	ADAMS	OR	97810-3029	67	X
100166	3N33000007500	PAYNE S J & V & STEELE J D (TRS)			24118 E LAKERIDGE DR	LIBERTY LAKE	WA	99019	13.67	X
100168	3N33000007800	BAFUS FREDA M ✓		LHT FARMING CO (AGT)	PO BOX 38	ADAMS	OR	97810	301.14	0
100175	3N33000008400	AQUINO ELISE D (TRS) 56% & AQUINO ELISE D			13535 FOREST PARK CIR	PENN VALLEY	CA	95946	310.87	0
100177	3N33000008500	BAFUS FREDA M ✓		LHT FARMING CO (AGT)	PO BOX 38	ADAMS	OR	97810	309.15	0
108837	3N33000008601	DUFF RANCHES INC ✓			46796 DUFF RD	ADAMS	OR	97810-0321	456.83	0
159772	3N33130000500	UNION PACIFIC RAILROAD CO		C/O PROPERTY TAX	1400 DOUGLAS ST #STOP 1640	OMAHA	NE	68179-1001	8.93	0
140259	3N33230000100	STATE OF OREGON		ODOT TECH CNTR PROP MGMT #42500	4040 FAIRVIEW INDUSTRIAL DR SE #MS2	SALEM	OR	97302-1142	4.77	0
108818	3N33230000200	SEVERE CASEY L			PO BOX 608	PENDLETON	OR	97801	0.75	0
108815	3N33230000300	SEVERE CASEY L			PO BOX 608	PENDLETON	OR	97801	1.25	0
159773	3N33230000400	UNION PACIFIC RAILROAD CO		C/O PROPERTY TAX	1400 DOUGLAS ST #STOP 1640	OMAHA	NE	68179-1001	3.44	0
108812	3N33230000500	PAYNE S J & V & STEELE J D (TRS) ✓			24118 E LAKERIDGE DR	LIBERTY LAKE	WA	99019	134.79	0
137007	3N33230000600	STATE OF OREGON		ODOT TECH CNTR PROP MGMT #42500	4040 FAIRVIEW INDUSTRIAL DR SE #MS2	SALEM	OR	97302-1142	1	0
140258	3N33230000700	STATE OF OREGON		ODOT TECH CNTR PROP MGMT #42500	4040 FAIRVIEW INDUSTRIAL DR SE #MS2	SALEM	OR	97302-1142	3.74	0

✓ = owned in family prior to 1985.

# Casey L. Severe

**General Contractor CCB #78700**

P.O. Box 608 Pendleton, Or. 97801 Phone 541 969 9404 caseyleons@gmail.com

April 5, 2015

To: Shane Finck,

I am submitting this letter to be included with my Non Farm Dwelling Permit application. The purpose of this letter is to inform you that I have had a lengthy and thorough conversation with DLCD Certified Soil Scientist Roger Borine concerning the type of soil that this property consist of. After a describing the type and conditions of the soil to Mr. Borine he was of the opinion that it would be unlikely he could reach a conclusion that the soil would be a classified as a Class VII soil therefore stating "I would likely be wasting my money" to employ him for this Soil Survey, therefore I will not be submitting a Soil Survey with my application. There seems to be some concern on the part of the Umatilla County Planning Dept. as to where I have proposed to locate the house. My assumption is that at the current proposed location of the house, the concern is that it will be removing farmable soil out of production, therefore I am more than willing to move the house location to the existing concrete slab. ( 48ft. x 96ft. ) This will consequently leave any farmable soil available for farming. The concrete slab is adequate in size for the size of house I would like to put on this concrete slab, and by locating it on the west end of the concrete slab I will be outside of the ODOT Rock Quarry buffer zone. I am submitting a revised site map, ( Exhibit B ) for the purpose of relocating the House Site to the existing concrete slab, (48ft. x 96ft.) at 3N3323 Tax Lot 300. Please submit this with my application for the Non-Farm Dwelling Permit.

Sincerely,  
Casey L. Severe

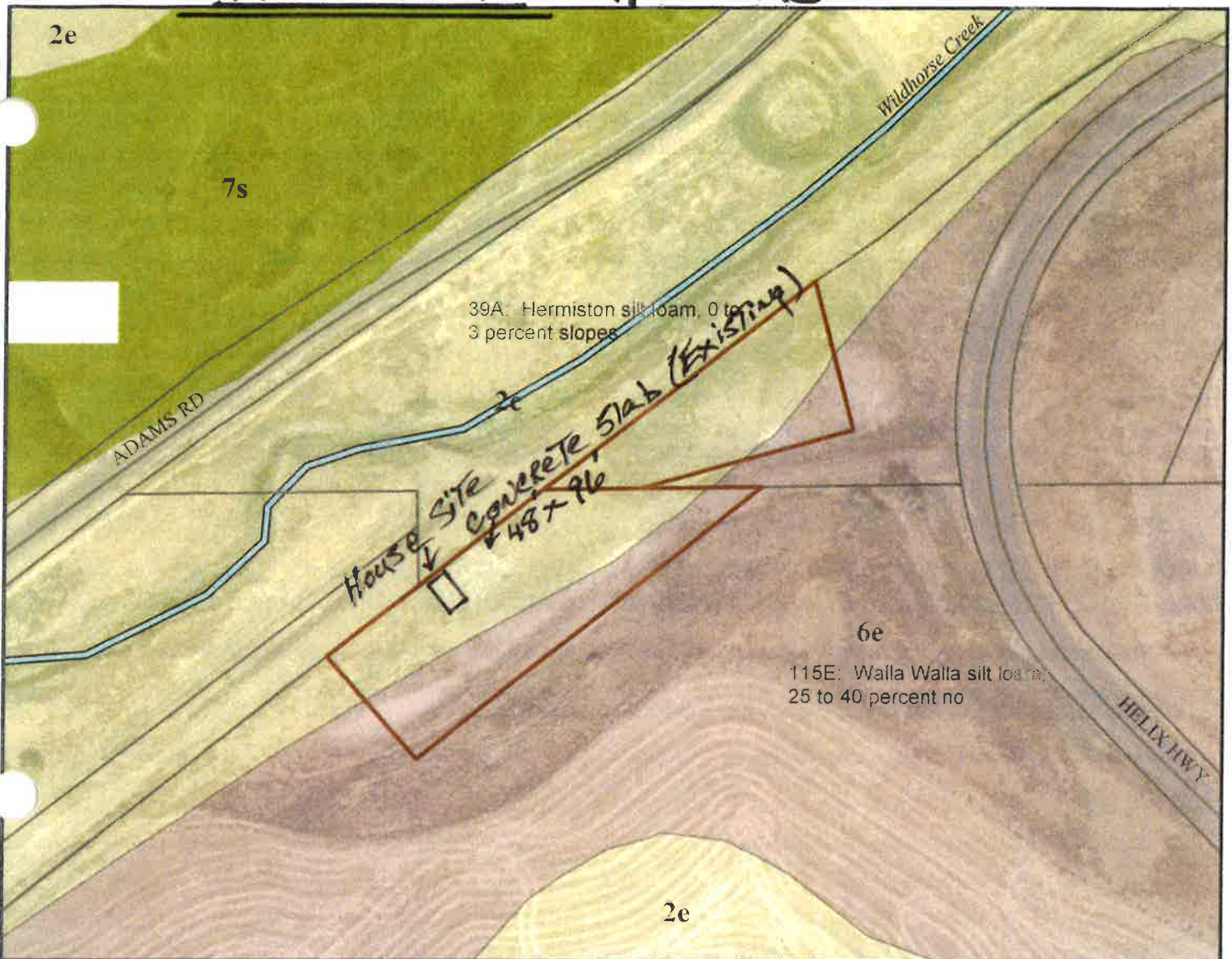


**RECEIVED**

APR 07 2015

UMATILLA COUNTY  
PLANNING DEPARTMENT

# Revision Exhibit B



**CASEY SEVERE**  
 PO Box 608  
 Pendleton, OR 97801

T3N, R33E, Section 23, TL 300,  
 Account #108815  
 1.25 acres, EFU Zone

**2013 Parcel Boundary**  
 SOILS MAP using GIS  
 data provided by NRCS

0 80 160 240 Feet

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of these data for individual or aggregate use with other data. Original data was compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notifications. GIS data used by Umatilla County is not survey grade. Coordinate and spatial locations of parcel data should be used for reference purposes only. Coordinates have an error factor of a minimum of 1 or 50 feet. Subsequently there are many error factors that contribute to the accuracy. Umatilla County uses the best available data. Over time the accuracy levels will be improved. Prepared by: Richard Jennings.

**CAPABILITY CLASSES**, the broadest groups, are designated by Roman numerals I through VIII. The numerals indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows: Class I soils have few limitations that restrict their use. Class II soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices. Class III soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both. Class IV soils have very severe limitations that reduce the choice of plants or that require very careful management, or both. Class V soils are not likely to erode but have other limitations, impractical to remove, that limit their use. Class VI soils have severe limitations that make them generally unsuitable for cultivation. Class VII soils have very severe limitations that make them unsuitable for cultivation. Class VIII soils and miscellaneous areas have limitations that nearly preclude their use for commercial crop production.

Capability subclasses are soil groups within one class. They are designated by adding a small letter, e, w, s, or c, to the class numeral, for example, IIe. The letter "e" shows that the main limitation is risk of erosion unless close-growing plant cover is maintained; "w" shows that water in or on the soil interferes with plant growth or cultivation (in some soils the wetness can be partly corrected by artificial drainage); "s" shows that the soil is limited mainly because it is shallow, droughty, or stony; and "c", used in only some parts of the United States, shows that the chief limitation is climate that is very cold or very dry. (p. 172, 1999 Umatilla County Soil Survey, NRCS)

**Legend**

- Severe Property
- Roads
- Water Courses - FEMA

**SOILS, Land Capability**

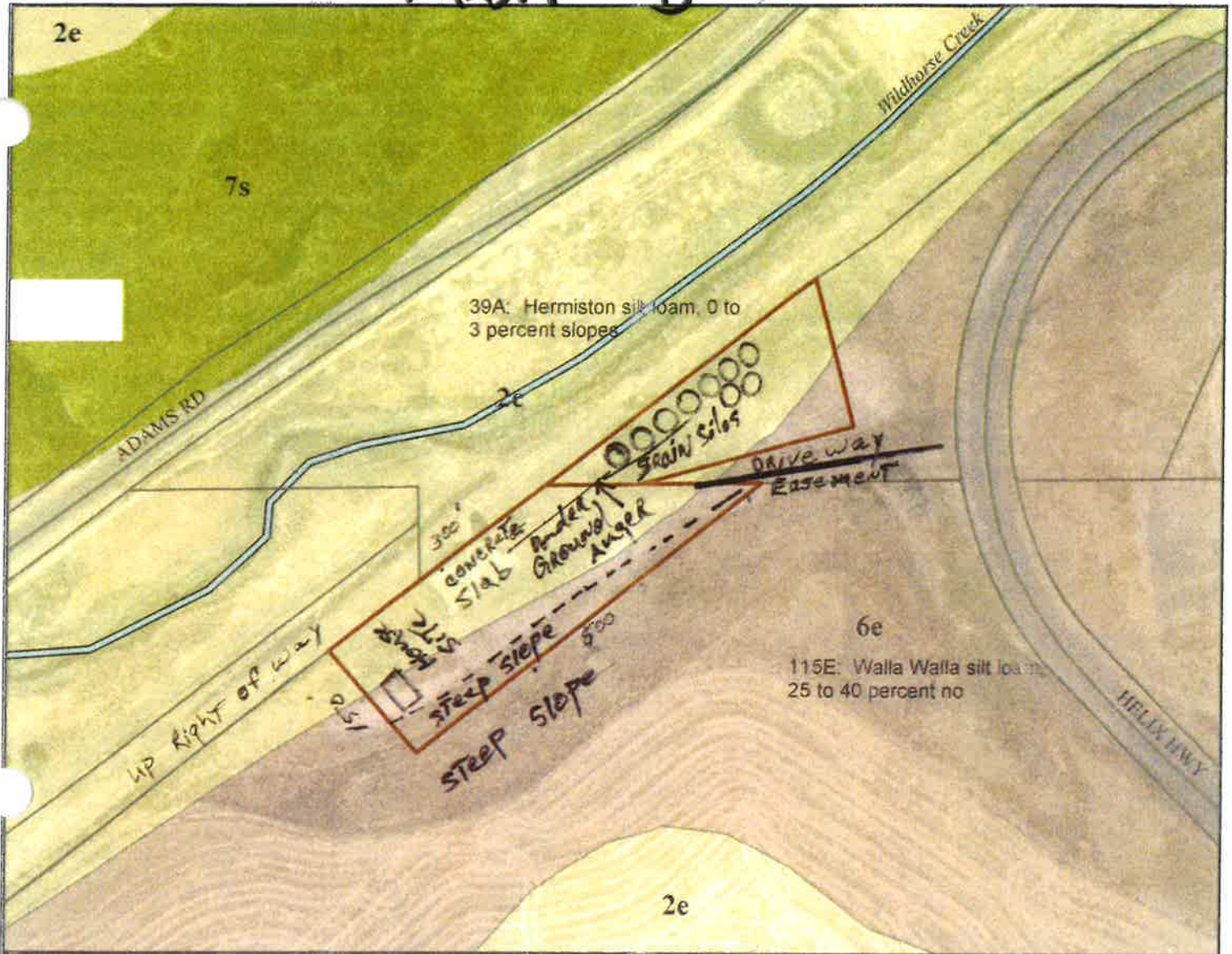
- LCC\_DRY
- 2c; 2e; 2s; 2w
- 3c; 3e; 3w
- 4c; 4e; 4s
- 5w
- 6e; 6s; 6w
- 7e; 7s; 7w
- 8



UMATILLA COUNTY  
 541-278-6249  
 www.co.umatilla.or.us  
 Map Created 2014, ij  
 Updated 10-1-14, ja



# Exhibit B



**CASEY SEVERE**  
**PO Box 608**  
**Pendleton, OR 97801**

**T3N, R33E, Section 23, TL 300,**  
**Account #108815**  
**1.25 acres, EFU Zone**

**2013 Parcel Boundary**

SOILS MAP using GIS  
 data provided by NRCS



MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of these data for individual or aggregate use with other data. Original data was compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification. GIS data used by Umatilla County is not survey grade. Coordinate and spatial locations of parcel data should be used for reference purposes only. Minutes have an error factor of a minimum of 1 or -50 foot. Subsequently there are many error factors that contribute to the inaccuracy. Umatilla County uses the best available data. Overtime the accuracy levels will be improved. Prepared by: Richard Jetrungs

CAPABILITY CLASSES, the broadest groups, are designated by Roman numerals I through VIII. The numerals indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows: Class I soils have few limitations that restrict their use. Class II soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices. Class III soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both. Class IV soils have very severe limitations that reduce the choice of plants or that require very careful management, or both. Class V soils are not likely to erode but have other limitations, impractical to remove, that limit their use. Class VI soils have severe limitations that make them generally unsuitable for cultivation. Class VII soils have very severe limitations that make them unsuitable for cultivation. Class VIII soils and miscellaneous areas have limitations that nearly preclude their use for commercial crop production.

Capability subclasses are soil groups within one class. They are designated by adding a small letter, e, w, s, or c, to the class numeral, for example, 11e. The letter "e" shows that the main limitation is risk of erosion unless close-growing plant cover is maintained; "w" shows that water in or on the soil interferes with plant growth or cultivation (in some soils the wetness can be partly corrected by artificial drainage); "s" shows that the soil is limited mainly because it is shallow, droughty, or stony; and "c", used in only some parts of the United States, shows that the chief limitation is climate that is very cold or very dry. (p. 172, 1999 Umatilla County Soil Survey, NRCS)

**Legend**

- Severe Property
- Roads
- Water Courses - FEMA

**SOILS, Land Capability**  
**LCC\_DRY**

- 2c; 2e; 2s; 2w
- 3c; 3e; 3w
- 4c; 4e; 4s

- 5w
- 6e; 6s; 6w
- 7e; 7s; 7w
- 8



UMATILLA COUNTY  
 541-278-6249  
 www.co.umatilla.or.us  
 Map Created: 2014. gj  
 Updated 10-1-14. ja

## CRITERIA OF APPROVAL

---

Casey Severe, T3N, R33E, Section 23, TL 300  
Application for a Non-Farm Dwelling

UCDC 152.059 (K) (8) -

### (8) Non-farm dwelling.

A non-farm dwelling permitted in ORS 215.284 and subject to the following criteria:

(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;

The development of this property with a home site will not force a significant change or cost of accepted farming practices on nearby lands devoted to farm use. Tax Lot 300 hereafter "subject property" is literally cut off from all adjacent or nearby farm parcels and would not impact any nearby farm parcels. The large farm parcel, Tax Lot 500 of T3N, R33E, Section 23, that lies to the south of the subject property has long been farmed with wheat and summer fallow rotations. A steep slope or bluff runs along the property boundary of Tax Lot 500 and the subject property, which prevents any meaningful interaction between these properties. The farm practices on Tax Lot 500 will not be changed or altered because of development on the subject property and thus, no increase in the costs of farming will occur with the proposed dwelling on the subject property.

The property to the north is Tax Lot 400, T3N, R33E, Section 23 and is a narrow strip of land owned by the Union Pacific Railroad and is an abandoned railroad right of way. This parcel is composed of compacted rock and gravel and is not farmed. Along the abandoned railroad right of way to the north is Wildhorse Creek and adjacent to Wildhorse Creek is Adams Road. These features all provide several barriers from the subject property to any other nearby farm parcels to the north.

And finally, the property to the east of the subject property Tax Lot 200, T3N, R33E, Section 23 is also owned by Mr. Severe and was the site of several old grain silos. The grain silos have been removed from the property, but remnants remain. An underground auger system runs from the main grain elevator site, which was located on the subject property to Tax Lot 200. The site where the silos were located has had the concrete foundations removed and the soils have been so compacted over the years with gravel and heavy truck traffic that any reclamation efforts would not be worthwhile. Tax Lot 200 is not a farm parcel.

In conclusion, the only nearby land devoted to farm practices (Tax Lot 500, T3N, R33E, Section 23) will not be significantly impacted from the placement of a dwelling on the subject property

because of the separation of the properties by the prominent geographic feature of the steep slope or bluff. The farming practices on Tax Lot 500 will continue as in the past.

Additionally, the long established access road that connects the subject property to OR Highway 335 (Havana-Helix Highway) travels across Tax Lot 100 and so no new access roads will be constructed in relation to the proposed development. There will be no farming practices interrupted, disrupted, displaced or modified because of the activities associated with access to the proposed dwelling on the subject property.

A previous application was filed on this property under Umatilla County Planning Department File #C-934-99, Duff "Lot of Record Dwelling." The Final Findings signed by then County Planning Director, Dennis Olsen, substitutes the current conclusion of no impact:

*"The proposed dwelling would not appear to interfere with accepted farming practices on surrounding lands devoted to farm uses. An existing roadway provides access to the subject property. No farm land would be taken out of production or disturbed by the establishment of the proposed dwelling" (Emphasis Added, page 5).*

This criterion is met.

(b) The dwelling is situated upon a lot or parcel, or a 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 tract.

(i) A lot or parcel or portion of a lot or parcel shall 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; and

The subject property is unsuitable for farming because of size and location. The subject property is a narrow strip of property that is 1.25 acres in size. The terrain and land form makes the parcel impracticable to farm by itself or with another property. The subject property cannot reasonably be put to farm use with any other property that is devoted to farm use. As explained in paragraph (a) above Tax Lot 500, T3N, R33E, Section 23 that lies to the south of the subject property is cut off from any farm equipment movement onto the subject property because of the steep slope that runs along the boundary between these two parcels. The slope is steep enough to even prevent the movement of livestock from one parcel to the other. The other parcels surrounding the subject property are not farm parcels and, as discussed previously, these parcels have not been nor will be used for farming purposes.

This criterion is met.



(ii) A lot or parcel or portion of a lot or parcel is not generally unsuitable simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not generally unsuitable. A lot or parcel or portion of a lot or parcel is presumed to be suitable if it is composed predominately of Class I - VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

The subject property would not prove profitable if managed in conjunction with a commercial farm or ranch operation. The subject property is narrow and is bordered on the south by a steep slope that cannot be farmed or even pastured. The property to the north is a narrow railroad right of way that has since been abandoned with compacted graveled soil. The subject property itself was the site of a large grain elevator – the Havana Grain Elevator. The grain elevator has been removed and a large concrete pad remains making the property even more limiting to farm equipment and livestock.

As mentioned, a steep slope runs along the southern boundary of the subject property. This unique geologic feature continues onto the subject property with a bench area and other uneven and rough ground. The bench area rises higher than the rest of the small property and then drops off down toward the railroad right of way and Wildhorse Creek. This type of terrain makes farming near impossible for any size of machinery. The value of pasture land is also very limited with much of the parcel being graveled over the years and devoted to building foundations.

There are no water rights assigned to this property making it difficult to raise any type of crop or even to irrigate pasture. The subject property is predominantly composed of Class VI soils, which is very limiting to produce quality forage or farm crops without water. Much of the soil has been compacted by graveled work areas now overgrown with weeds.

The County adopted the following finding in its previous land use application (#C-934-99) in relation to the parcel being generally unsuitable for farm use:

*“...The site of the proposed dwelling is located on property that has not been used for fanning and was the site of an old grain elevator. The elevator has been removed from the property for some time and the concrete slab of its foundation is all that remains. ... The remainder of the property contains a steep bluff and road. The small parcel size, its isolation by the bluff, creek and road, its poor soil qualities and the site having been previously disturbed make this property unsuitable for farming or for use as part of the applicants other farming operations. ...” (Emphasis Added, pages 3-4).*

Again, as previously determined by the County Planning Director in 1999, "the small parcel size, its isolation by the bluff, creek and road, its poor soil qualities and the site having been previously disturbed make this property unsuitable for farming." And we agree that these same conditions exist today for the subject property.

This criterion is met.

(iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not generally unsuitable simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not generally unsuitable. If a lot or parcel is under forest assessment, it is presumed suitable if, in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

This criterion is not applicable, the subject property is zoned farm use and not forest use.

(c) The dwelling will not materially alter the stability of the overall land use pattern of the area;

(i) In determining whether a proposed non-farm dwelling will alter the stability of the overall land use pattern of the area, a county shall consider the cumulative impact of non-farm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in § 152.059 (K) (10) (OAR 660-033-0130 (4)(a)(D).) If the application involves the creation of a new parcel for the non-farm dwelling, a county shall consider whether creation of the parcel will lead to creation of other non-farm parcels, to the detriment of agriculture in the area by applying the standards (impact test) set forth in § 152.059 (K) (10).

It is recognized that the County is responsible to conduct the cumulative impact test of the effect of additional non-farm dwellings in the area. A new parcel is not being proposed in this application and so the County will not need to review the local area in respect to the effect of other non-farm parcels being created.

The previous land use application (#C-934-99) makes the following finding in relation to a proposed dwelling being sited on the subject property and not materially altering the overall land use pattern of this area:

"Properties in the vicinity of the subject property are generally larger in size with few dwellings in the immediate vicinity. The overall land use pattern of the area consists of grazing along Wildhorse Creek and dry land cultivated wheat in the areas above the creek basin. The site of the proposed dwelling is located on property that has not been used for fanning and was the site of an old grain elevator. The elevator has been removed from the property for some time and the concrete slab of its foundation is all that remains. ... The remainder of the property contains a steep bluff and road. ... Since the proposed dwelling would be sited on a portion of the property which has already been disturbed and has not been in farm use, *the siting of a home would not appear to materially alter the stability of the land use pattern of the area*" (Emphasis Added, pages 3-4).

We agree with the statements and findings made by the County Planning Director in 1999. There are "few dwellings in the area" on larger parcels and "the siting of a home would not appear to materially alter the stability of the land use pattern of the area." Since 1999 the number of dwellings in this area of the County has not increased and the same conditions exist today in the ability of this area to accommodate an additional dwelling without an impact to the overall land use pattern.

(ii) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

No other conditions are known at this time that would apply to this application.

(d) New easements, private roads or public right-of-ways, must meet at a minimum, the Option 1 design standard as depicted in the County Transportation Plan Figure 7-2A and defined in § 152.648 (D) (30 foot right of way with 16 foot travel lane). Whenever possible, new roads should not be placed upon agricultural land as defined by prior policies;

The easement that provides access to the subject property will need to be improved to the standards set forth as a "P-1" County Road Standard (16 foot travel lane). Mr. Severe is willing to provide a written description of the easement and record such description if one has not already been recorded (Condition #C of File #C-934-99).

(e) The parcel upon which a non resource dwelling is located and being valued at true cash value for farm use under ORS 308.370 shall meet the requirements in ORS 215.236, including but not limited to:

(i) The site shall be disqualified for farm deferral; and

(ii) The tax penalty shall be paid prior to final approval;

The subject property is not on Farm Deferral. This criterion is not applicable.

(f) If the non-farm dwelling site is being created by a land division, the parcel shall comply with the access, improvement requirements, and follow the procedures for land divisions set forth in § 152.710 (D), and shall comply with the applicable dimensional standards of § 152.063;

The non-farm parcel is not being created. This criterion is not applicable.

(g) If the request involves the creation of a new parcel containing historic property as defined in ORS 358.480, the original parcel may be reduced below the minimum lot size standard, including an 11% standard deviation;

The non-farm parcel is not being created. This criterion is not applicable.

(h) Sign and record a Covenant Not to Sue as provided in § 152.059 (K) (11).

(i) The dwelling will be sited on a lot or parcel created before January 1, 1993. (This date only applies to the placement of a non-farm dwelling on an existing, lawfully created lot or parcel.)

Mr. Severe is willing to sign and record a Covenant Not to Sue Agreement.

(j) If a single-family dwelling is established on a lot or parcel as set forth in § 152.059 (K) (3) or (4), Lot of Record Dwelling, no additional dwelling may later be sited under the provisions of this sub-section.

The application is for a non-farm dwelling and not lot or record dwelling was ever established on the subject property. This criterion is not applicable.







wild Horse Creek

STEEP SLOPE BENCH

UP RIGHT OF WAY

← Horse

slab 48' x 96'

WOOD EX GROUND AUGER  
GRAIN SILOS →

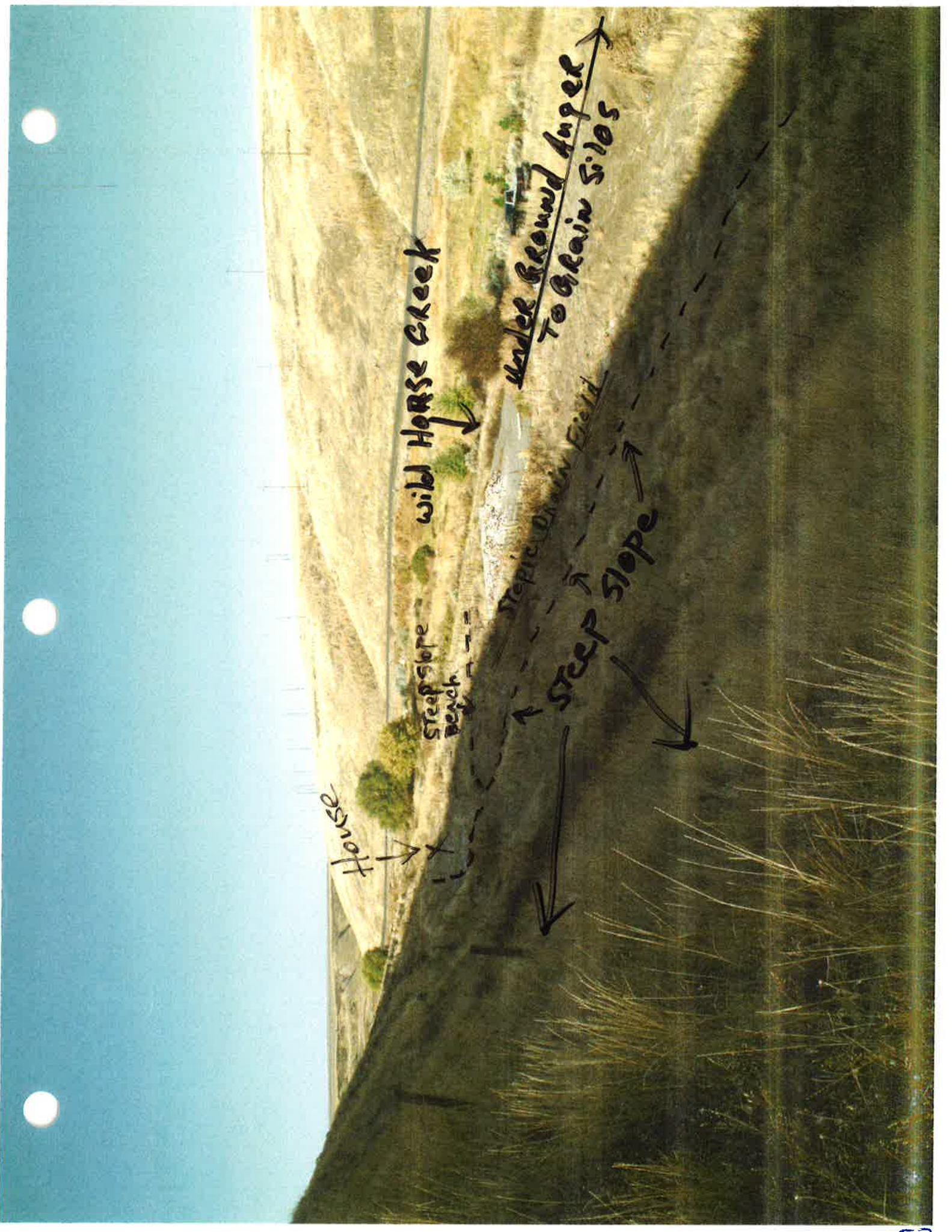
SPETIC

60' Drain Field

STEEP SLOPE

TOP OF HILL





Horse

steep slope  
bench

wild Horse Creek

Stepic Drain Field

steep slope

under Ground Angel  
To Grain Silos



S



house  
↓

UP right of way  
↓

concrete slab  
↓

wild horse creek