

**BEFORE THE BOARD OF COMMISSIONERS
FOR MORROW COUNTY, OREGON**

AN ORDINANCE AMENDING THE MORROW)
COUNTY COMPREHENSIVE PLAN TO (1))
CHANGE THE PLAN AND ZONE MAP) ORDINANCE NO. ORD-2025-02
DESIGNATIONS OF A 1298-ACRE PARCEL FROM)
AGRICULTURAL AND SPACE AGE INDUSTRIAL)
TO INDUSTRIAL AND FROM EXCLUSIVE FARM)
USE AND SPACE AGE INDUSTRIAL TO GENERAL)
INDUSTRIAL, RESPECTIVELY (2) ADOPT A)
LIMITED USE OVERLAY ZONE TO LIMIT USE TO)
A DATA CENTER AND FARM USES, (3) CHANGE)
THE COMPREHENSIVE PLAN AND ZONE)
DESIGNATION OF A 1,623 ACRE PARCEL FROM)
SPACE AGE INDUSTRIAL TO AGRICULTURE
AND FROM SPACE AGE INDUSTRIAL TO
EXCLUSIVE FARM USE RESPECTIVELY AND (4)
ADOPT EXCEPTIONS TO STATEWIDE PLANNING
GOALS 3, 11 & 14 TO ALLOW THE
ESTABLISHMENT AND OPERATION OF A DATA
CENTER USE - COUNTY FILE NUMBERS ACM-
155-25, AZM-156-25, ACM-157-25 AND AZM-158-25

WHEREAS, ORS 203.035 authorizes Morrow County's duly elected Board of Commissioners to exercise authority within the County over matters of County concern; and

WHEREAS, Morrow County exercises exclusive land use planning and permitting authority over all unincorporated areas within its boundaries pursuant to ORS Chapters 197 and 215 and the County's Comprehensive Land Use Plan and implementing regulations, as amended and acknowledged by the Land Conservation & Development Commission on January 30, 1986;

WHEREAS, Threemile Canyon Farms, LLC as applicant and the property owner submitted an application on January 28, 2025 to Morrow County seeking approval of a comprehensive plan amendment and zone change with corresponding exceptions to Statewide Planning Goals 3, 11 and 14 to construct and operate an exascale data center campus on ~1,298 acres currently zoned Exclusive Farm Use and Space Age Industrial (the "Application") and more particularly described as Parcel 2 of Partition Plat No. 2023-3, also described as TL 100, Twp 3 North, Range 24 East, Sections 28 & 29 (the "Property"). Said application also seeks approval for a concurrent comprehensive plan and zone map change from Space Age Industrial to Agricultural and Space Age Industrial to EFU, respectively, for a 1,623 acre parcel generally described as the southern half of Morrow County Tax Map 04N, 24 East, Section 36 and 03N, 24 East, Sections 01 and 02.

WHEREAS, Morrow County deemed the Application complete on or about February 26, 2025; and

WHEREAS a revised Application was submitted on March 12, 2025 following the initial completeness review and thereafter was deemed complete by the County Planning Department; and

WHEREAS, at the April 29, 2025 hearing, the Planning Commission accepted public testimony on the proposal, closed the record, deliberated and voted to recommend approval to the Board of Commissioners with specified conditions of approval; and

WHEREAS, based upon the entire record compiled through the Planning Commission proceeding, including the Planning Commission's favorable recommendation, the Morrow County Board of Commissioners convened a duly noticed public hearing on June 18, 2025, at which time it accepted all manner of public testimony on the proposal, closed public testimony and deliberated.

NOW THEREFORE, based on the foregoing recitals, which are incorporated herein by this reference, the Morrow County Board of Commissioners Ordains as follows:

Section 1. Decision and Conditions. The Application by Three Mile Canyon Farms is approved as proposed, subject to the satisfactory completion of the following conditions of approval. These conditions are binding upon the applicant:

1. Prior to any data center development, developer shall prepare and submit an application to Morrow County for Site Plan Review subject to the submittal requirements, standards, approval criteria and procedure set out in MCZO 5.020.A through H.
 - a. As part of the Site Plan Review application, developer shall retain a Traffic Engineer to provide a project-specific Traffic Impact Analysis (TIA) consistent with the requirements of MCZO 4.035. That work shall include coordination with staff of Morrow County and the Oregon Department of Transportation (ODOT) on the necessary scope of the analysis; assessment of operational and safety impacts of the proposed development on affected intersections, including the Interstate 84-Tower Road interchange, other Tower Road intersections, and any secondary/emergency access routes and facilities; and providing recommendations for mitigation actions at locations where performance is projected to fall below established standards due to traffic generated by the proposed development.
2. Prior to construction, developer shall provide notice to Threemile Canyon Farms, the area farming operator, of its construction traffic schedule and coordinate with Threemile Canyon Farms to minimize any potential impacts to farm traffic during harvest.
3. Developer shall obtain all necessary local, state and federal permits and approvals for the data center campus construction and operation prior to commencement of the proposed use or certificate of occupancy being granted. If applicable, such permits shall include, but are not limited to: (A) review and approval of a Water Pollution Control Facilities (WPFC) permit issued by the Oregon Department of Environmental

Quality and (b) Pollutant Discharge Elimination System (NPDES) 1200-C Permit issued by the Oregon Department of Environmental Quality.

4. Delivery of adequate electricity and water from third-party providers shall be provided substantially as described in this record, prior to commencement of the proposed use or certificate of occupancy being granted.

Section 2. Incorporation of Findings. In support of the decision, the Board of Commissioners adopts as its own and incorporates herein by this reference the Findings of Fact and Conclusions of Law attached hereto as Exhibit A.


Section 3. The Record. The record in this matter consists of all of the application materials and supplemental exhibits provided by the applicant, all public and agency comments, the County's notices to the public, media outlets and DLCD related to the application, public hearings and decisions, staff reports and the applicant's revisions thereto. The record also includes audio recordings of all public hearings before the Planning Commission and the Board of Commissioners and other over-sized exhibits submitted into the record together with oral and written testimony submittal to the Planning Commission and Board of Commissioners during such public hearings.

Section 4. Effective Date. This Ordinance is a statutory land use decision and shall be effective upon expiration of the 21-day appeal period following the date on which the notice of the final decision sought to be reviewed is mailed or otherwise submitted to parties entitled to such notice.

ADOPTED and read for the first time by title only on June 18, 2025. Read for the second time by title only and finally adopted on July 16, 2025.

**BOARD OF COMMISSIONERS FOR
MORROW COUNTY, OREGON**


David Sykes, Chair


Jeff Wenholz, Commissioner


August (Gus) Peterson, Commissioner

Approved as to Form:


Justin Nelson, County Counsel
OSB # 074460

Morrow County Board of Commissioners

Findings of Fact and Conclusions of Law

Applicant: Threemile Canyon Farms, LLC

Application: ACM-155-25, AZM-156-25, ACM-157-25 and AZM-158-25

REQUEST: To amend the Comprehensive Plan designation from Agricultural (967 acres +/-) and Space Age Industrial (SAI, 331 acres +/-) to Industrial, and to amend the County Zoning Map designation from Exclusive Farm Use (EFU, 967 acres +/-) and Space Age Industrial (SAI, 331 acres +/-) to General Industrial (MG) for a contiguous 1,298-acre area located west of the Boardman Airport (“the Site”); to adopt a Limited Use Overlay (LU Overlay) Zone to restrict urban use of the Site to data centers and related ancillary improvements and associated infrastructure facilities, as well as farm uses allowed in the EFU zone; and to adopt exceptions to Statewide Planning Goals 3, 11 and 14 to allow data center use at the Site.

The proposal also includes a concurrent request to amend the Comprehensive Plan and Zoning Map to change the Plan and zoning designation of an approximately 1,623-acre area located about 4 miles southwest of Boardman immediately west of the Naval Weapon Systems Training Facility Boardman (“the Downzone Area”), from Space Age Industrial (SAI) to Agricultural and from Space Age Industrial (SAI) to Exclusive Farm Use (EFU), respectively. The Downzone Area is currently improved with center-pivot irrigation and actively farmed (except for small patches of unfarmed land between pivot-irrigated fields). Although there is no criterion (MCZO, OAR, ORS) requiring a corresponding downzone to Exclusive Farm Use zoning as a condition of the proposed upzone approval, this concurrent request, to eliminate the potential for non-agricultural uses in the downzone area is sufficient to ensure no net loss of agricultural productivity as a result of the proposed upzone approval.

APPLICANT/OWNER:

Threemile Canyon Farms
75906 Threemile Road
Boardman, OR 97818

“SITE” PROPERTY:

Portion of Tax Lot 110 of Assessor’s Map 4N 23E and
Portion of Tax Lot 121 of Assessor’s Map 4N 24E.
1,298 acres total

“SITE” LOCATION:

Property is located west of the Boardman Airport, bounded on the east by the east edge of the PGE Rail Spur easement that extends south to the Carty Generating Facility, on the north by Interstate 84, and on the west and southwest by the eastern top-of-bank of Sixmile Canyon.

- “DOWNZONE” PROPERTY:** Generally, corresponds to the southern half of Morrow County Tax Map 04N 24E Section 36, together with Tax Map 03N 24E Sections 01 and 02 to the south and southwest of it, respectively.
Approximately 1,623 acres total
- “DOWNZONE” LOCATION:** Polygon area east of Tower Road, about 3 miles southeast of Interstate 84 Exit 159, and 3-4 miles south of Boardman, abutting the west boundary of the Naval Weapons Systems Training Facility.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE SITE:

A. Site Description and Surrounding Land Use:

As described in the application at pages 3-6 and Exhibits 2, 5, 6, the 1,298-acre Site is an irregular-shaped area of vacant, non-irrigated, undeveloped land located south of Interstate 84 and east of Sixmile Canyon. The Site is part of a large holding owned by Threemile and is undeveloped. Historically and currently, the Site does not support cultivated agricultural use but is used for grazing. As described in detail in the Upzone Soils Report at Exhibit 10A, the Site has shallow soil depth to bedrock, rock outcroppings, mounds, lack of irrigation, and other characteristics that make cultivated farming operations infeasible. It has also not been developed with any Space Age Industrial uses. However, the site is adjacent to the Boardman Airport and other industrial uses and is near existing utilities and transportation infrastructure.

A Portland General Electric rail spur that extends south to the PGE Carty Generating Facility runs in a 150-foot-wide easement within the Site along its eastern boundary, and there is an existing electric transmission line that runs through the southern part of the Site on a northeast-southwesterly alignment.

To the east of the Site is land in the Airport Light Industrial (ALI) Zone, and land in the ALI zone surrounds the Boardman Airport. Within these areas, a motor speedway has previously been approved, and a photovoltaic solar energy generation project is currently under construction. In 2024, a data center was permitted in the far southwest corner of the ALI-zoned land (on the north side of Boardman Airport Lane and the east side of the Carty Generating Station rail spur).

Abutting the Site to the southeast, and south and west across Sixmile Creek Canyon, are additional EFU-zoned lands that are predominantly in irrigated farm use. Other surrounding land is in the Exclusive Farm Use (EFU) zone.

To the north of Interstate 84, which forms the Site’s north boundary, the land area between I-84 and the south bank of the Columbia River is in the General Industrial (MG) zone. Those properties, most of which have riverbank frontage, are not currently developed for industrial use.

Applicant's Soils Report indicates the Site is underlain by shallow basalt flows and contains a complex of rock outcrops, subtle mounds, and concave intermound areas, which severely limit the Site's potential for crop production. The Soils Report concludes that the Site does not contain soils that are considered "high value farmland" and has little potential for crop production. The NRCS soil classification shows the predominate soil classifications are class IVe and Ve. The Site is within the Lower Umatilla Basin Groundwater Management Area (LUBGWMA), which was established by DEQ in 1990 because of high levels of nitrate in the groundwater. Future development of the Site will be required to comply with DEQ regulations, including treatment for on-site septic and industrial wastewater systems, to ensure the development does not impact drinking water safety.

B. Relevant Procedural History

On January 27, 2025, Threemile Canyon Farms submitted a Morrow County Land Use Application Form; application materials, including supporting reports; and a \$7,500.00 application fee. The Morrow County Planning Department identified several outstanding items during its completeness review. In turn, the Applicant submitted revised and additional application materials on March 12, 2025 addressing items identified in the County's completeness determination, as well as issues raised in a Transportation Planning Rule Analysis memo prepared by Todd Mobley, PE on behalf of Morrow County. For record purposes, the March 12, 2025 submission was a complete application package for the upzone and downzone requests and served as a complete replacement for the initial submittal.

On April 9, 2025, the Morrow County Planning Department provided notice to adjoining landowners, public agencies, interested parties entitled to such notice that a public hearing for the application would be held on April 20, 2025 at 6:00PM at the Morrow County Government Center in Irrigon, Oregon. The staff report and preliminary findings of fact were made available on April 21, 2025.

At the Planning Commission hearing on April 29, 2025, Planning Staff described the Application and recommended Conditions of Approval and Applicant representatives, and its consultants summarized the application. Following these presentations and two public comments, the Planning Commission requested a revision to expand and shift the boundaries of the Downzone Area (**ACM-157-25** and **AZM-158-25**), principally to exclude a 680-acre habitat conservation easement area that was part in the original downzone area. Threemile confirmed acceptance of this modification, and Planning Staff generated a map exhibit to illustrate the new Downzone Area boundary, which was added to the Planning Commission record. With this revision to the Downzone Area, the Planning Commission closed the record, deliberated, and voted to recommend approval of this application with conditions, and as modified to include the exhibit depicting the revised Downzone Area.

Applicant submitted revised and additional application materials to the Board of Commissioners on May 27, 2025 to reflect the revised Downzone Area boundaries. Per the request of Planning Staff on June 4, 2025, the Applicant incorporated the revised exhibits into its previously submitted application to provide the Board with a complete revised application package that fully implements the Planning Commission's recommendation. All other aspects of the

application remain unaltered from the version reviewed by the Planning Commission. The Board of Commissioners held a public hearing on June 18, 2025 in Irrigon, Oregon.

C. Summary of Proposed Rezone for the Site

This application proposes to rezone SAI and EFU land to permit data centers supported by ancillary improvements and associated infrastructure facilities. The application addresses “Reasons” exceptions to Goal 3 (Agricultural Lands); Goal 11 for water (Public Facilities and Services); and Goal 14 (Urbanization) for the entire Site. In addition to state laws and regulations, the application also addresses applicable Morrow County Comprehensive Plan policies, implementing code criteria relating to Plan and Zone Map amendments, and the statutory and MCZO requirement to enact a Limited Use Overlay, which will limit future development of the Site to data center and farm uses consistent with the exceptions analysis. The Applicant has also provided technical reports and analyses to support the proposed amendments, including a Transportation Analysis, an Economic Impact Analysis, a Soils Report, a Natural Resources Assessment, and an Alternative Areas Analysis.

The Site proposal consists of the following specific amendment requests:

1. Amend the Zoning Map by redesignating the easterly 331 acres of the 1,298-acre Site from its current Space Age Industrial (SAI) zoning to General Industrial (MG), as depicted in Figure II-3.
2. Amend the Comprehensive Plan and Zoning Map by redesignating the remaining westerly 967 acres of the 1,298-acre Site from its current Exclusive Farm Use (EFU) zoning to MG and Comprehensive Plan designation from Agriculture to Industrial, as depicted in Figure II-3.
3. Adopt a Limited Use (LU) Overlay Zone applicable to the Site, with the following provisions:
 - a. Allowed land uses are limited to: Data center, including related ancillary improvements and associated infrastructure facilities, and uses and activities allowed by the EFU zone regulations (i.e., Section 3.010 of the Morrow County Zoning Ordinance and its subsections).
 - b. All development and use shall comply with standards of the Airport Safety and Compatibility (ASC) Overlay Zone (i.e., Section 3.092 of the Morrow County Zoning Ordinance and its subsections), and applicable standards of other aviation-related regulatory agencies including the Federal Aviation Administration.
4. Adopt findings of compliance with standards for “Reasons” exceptions to Goals 3, 11, and 14 as presented in this report, to support the above zoning actions.

Exascale Data Center Use. As described in the application materials at pages 8-16 and Exhibit 18, this proposal responds to a recent increase in demand for development of large campus sites for high-capacity data processing facilities, known as Exascale Data Center Campuses. EDCCs are large-scale facilities designed to handle extremely high computational workloads, often associated with advanced technologies such as generative artificial intelligence (AI). The site characteristics necessary for an EDCC include contiguous developable land area of 1,000 acres, proximity to existing high-capacity electric power transmission lines, and access to

essential utilities and transportation infrastructure. An EDCC offers significant efficiencies, as compared with siting smaller data center facilities on multiple dispersed sites, for example by isolating possible off-site impacts to just one area, minimizing the required extension of new power transmission lines across multiple locations, and decreasing traffic by enabling technical support staff to perform maintenance, repairs, upgrades and other services entirely within the site.

With respect to Morrow County and its neighboring counties, the economic analysis identified demand for 3,000 acres of land for EDCC use in the coming 10-year period. If approved, this proposal will partially meet this demand by allowing EDCC development on a uniquely situated site adjacent to similar industrial and other compatible uses (including another forthcoming data center). According to the application materials, the Site meets the unique siting needs for EDCC development due to its size, topography, and proximity to high-capacity electric power transmission lines, among other siting criteria. And because urban water and roads are either already available to the Boardman Airport or will be constructed to serve a forthcoming data center development to the east, only short extensions will be necessary to reach and serve the Site. Further, the Site is not located within a floodplain or other natural hazard area,¹ and its development and use will not cause adverse environmental impacts to water availability, wetlands, habitat areas, or sensitive species. While preparing the submittal, the Applicant indicated they prepared an initial cultural resources assessment, received feedback from the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), and are working to update the assessment to identify and address potential cultural resource issues. CTUIR Cultural Resources Protection Program will be notified of this application and will have the opportunity to provide testimony regarding any issues of concern.

Power. The Applicant has provided a Service Provider Letter from Pacific Power. Applicants' Exhibit 17B. The letter states, "Pacific Power's plan is to serve the property from the south using transmission lines being permitted for a separate project and is not planning to add transmission lines in the vicinity of the Project at this time." The proposed transmission line was permitted in 2024 (see Application No. LUD-N-70-24).

Water. Future data center campus development at the Site will require potable water for employees and industrial water for processing and cooling, as well as emergency fire suppression capacity. The Applicant has provided a service provider letter from the Port of Morrow declaring that "the Port of Morrow will be able to timely and efficiently supply up to 1,300 gallons per minute to meet peak demand, not to exceed 35 million gallons of water annually, sufficient to support the potential development of data centers on the Property. Additionally, the Port of Morrow can and will supply approximately 3,000 gallons per minute of fire flow to sustain public health and safety requirements for data center campus development on the Property." Applicants' Exhibit 17A.

¹ As to this particular Site, the Morrow County Comprehensive Plan does not require compliance with the Community Wildfire Protection Plan. However, prior to any development on the Site, MZCO 5.020 (site plan review) will apply, and this provision provides that "development in hazard areas identified in the Morrow County Comprehensive Plan, Natural Hazard Mitigation Plan, or Community Wildfire Protection Plan shall comply with all applicable requirements."

Wastewater. The large size of the Site provides sufficient area for a proposed data center campus to incorporate one or more septic drain field areas for sanitary waste, as well as one or more on-site evaporation ponds or similar facilities for the management of water used by cooling systems as well as surface drainage. Such on-site systems could operate permanently, but future extension of sewer to the Site is not precluded (subject to compliance with all applicable state and local regulations). As noted above, prior to any data center campus construction, proposed approval condition 3 will require the future developer(s) to provide a specific design and comply with Oregon DEQ water quality permitting requirements for septic and surface water management systems. See Application at page 27.

Transportation and Access. Applicants' Exhibits 9 and 9A provide a Transportation Planning Rule (TPR) analysis and supplemental technical analysis responding to additional issues raised by staff. Those analyses conclude that (a) the proposed land use designation and zone changes will produce lower "reasonable worst-case" vehicle trip generation than potential uses allowed by right under the current zoning; (b) the Port of Morrow has already constructed Boardman Airport Lane with a 32-foot paved width, shoulders and other characteristics consistent with the Morrow County Transportation System Plan (TSP) design section for a Rural Arterial II, west from Tower Road to the east property boundary of the Site, which provides sufficient capacity to accommodate future traffic from a potential data center development on the Site; and (c) the anticipated vehicle trips from the proposed land use designation changes and future data center campus development will not result in any impacts that "significantly affect a transportation facility" within the meaning of Oregon Administrative Rules (OAR) 660-012-0060(1), familiarly known as the "Transportation Planning Rule."

Existing improved transportation facilities – more particularly Boardman Airport Lane and Tower Road – will provide access to the Site. See Exhibit 17C. Regarding impacts of future development on roads and intersections, including emergency or secondary access, proposed Condition of Approval #1a will require future developer(s) to include as part of the Site Plan Review application a project-specific Traffic Impact Analysis, which ensures that Morrow County will have the opportunity to impose conditions of approval during Site Plan Review approval, prior to development, at which time mitigation measures can properly align with impacts from an actual development proposal. The TIA will be required to identify street network deficiencies that may arise and recommend mitigation actions where necessary to assure that the road network will provide acceptable operating capacities, safety characteristics, and emergency access to and from the Site. It is appropriate to perform that level of detailed traffic analysis as part of the Site Plan Review process because several aspects of the analysis will depend on specific characteristics of the proposed development and use, such as staffing levels, shift scheduling, hours of operation, site planning, access locations, and other factors.

Future Site Plan Review. Approval of this legislative application will not result in approval of a development plan; the request is limited to making a change in Morrow County's land use designations, including a change in its Comprehensive Plan Map and Zoning Map designations, including adding a Limited Use Overlay Zone on the Site. The request has been submitted by the property owner, not by a developer. The requested zoning changes are a first step prior to submittal of plans by a future developer(s) for a data center campus proposal(s), which will be the subject of separate Site Plan Review application(s) that the future developer(s) will be required to submit for Morrow County review and approval of specific proposed development.

For instance, the preliminary site plan provided by the Applicant at Exhibit 4 illustrates the general conceptual feasibility of one possible layout for exascale data center campus development, but future Site Plan Review application materials are expected to differ when an actual developer undertakes further design development at the detailed level. The Site Plan Review process will resolve the numerous detail issues that will arise in the specific site development process – such as specific locations for vehicular access, including any required alternate emergency access, routing of water service (service to buildings as well as landscape irrigation and fire suppression), septic or sanitary sewer systems and facilities, stormwater management facilities and discharge locations, the phasing and time frame for full development, and so forth.

D. Compliance with Criteria for Goal Exceptions

The Applicant proposes to develop an urban-scale industrial use on undeveloped rural agricultural land that may require public services for water supply. In such circumstances, when urban-scale development and public services or facilities are proposed to be located on rural agricultural land, an applicant must demonstrate compliance with the applicable standards for goal exceptions in both OAR 660-004 and OAR 660-014. In particular, the application addresses “Reasons” exceptions to Goal 3 (preserving agricultural land for farm use); Goal 11 (prohibiting extension of urban water to serve industrial uses on rural lands); and Goal 14 (directing urban uses to be located inside urban growth boundaries) for the entire Site.²

As explained below, OAR 660, Division 4 standards and criteria are met for the requested exceptions to Goal 3. With respect to Goals 11 and 14, OAR 660-014-0040(2) supplies the criteria for a reasons exception involving new urban development on undeveloped rural lands See *VinCEP v. Yamhill Cnty.*, 215 Or App 414, 422-23, 171 P3d 368, 372 (2007). Finally, the Applicant addresses compliance with OAR 550-012-0060 (“Transportation Planning Rule”).

1. OAR 660, Division 4 (Reasons Exception for Goal 3)

660-004-0018 – Planning and Zoning for Exception Areas

(4) “Reasons” Exceptions:

- (a) When a local government takes an exception under the “Reasons” section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.***

Response: Morrow County’s Limited Use Overlay Zone (LU) will be applied to the Site to limit the uses of the Site which require a Goal 11 or Goal 14 exception to only those that are justified

² Although the SAI-zoned portion of the Site may not require new goal exceptions to accommodate new or additional allowed industrial uses on a qualifying site (see ORS 197.713), the lack of clear interpretative guidance or case law on the issue requires the Applicant to treat the entire Site as whole and seeks goal exceptions for both the EFU and SAI zoned portions.

in the exception (i.e., data centers and associated infrastructure) and farm uses (which do not require an exception), as set forth in MCZO 3.110. See also Application at pages 17-18. This criterion is met.

660-004-0020 – Goal 2, Part II(c), Exception Requirements

- (1) *If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.***

Response: The application explains the reasons which justify the proposed goal exceptions in the following responses.³ The text of the comprehensive plan will be amended to incorporate the justification for the proposed exceptions to Goals 3, 11, and 14. This criterion is met.

- (2) *The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:***

- (a) *“Reasons justify why the state policy embodied in the applicable goals should not apply.” The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;***

Response: OAR 660-004-0020(2)(a) provides the first of four standards applicable to the Applicant’s Goal 3 exception request. With respect to “reasons” justifying why the applicable policies in Goal 3 should not apply to the Site, OAR 660-004-0022 does not provide an exclusive list of reasons.⁴ Here, Applicant’s materials establish that reasons justify the allowance of Exascale Data Center Campus development on this Site, which are based on a recent emergence of high demand for exascale data center development and unique siting characteristics for such EDCCs, as described in more detail at Application at pages 8-16 and Exhibit 8. According to the Economic Impacts Analysis, development of an Exascale Data Center Campus at the proposed exceptions Site would meet a recent increased demand for EDCC development in the region and

³ Note that the criteria in OAR 660-004-0022(1) are not applicable to the establishment of new urban development on undeveloped rural lands and the application, instead, is subject to OAR 660-014-0040 for purposes of an exception to Goals 11 and 14. And OAR 660-004-0020 applies for purpose of an exception to Goal 3.

⁴ *1000 Friends of Oregon v. Jackson County*, 292 Or App 173, 183-184 (2018) (citing *State v. Kurtz*, 350 Or 65, 75 (2011) to find that, within the context of OAR 660-004-0022, 660-011-0060, and 660-014-0040, “statutory terms such as ‘including’ and ‘including but not limited to,” when they precede a list of statutory examples, convey an intent that an accompanying list of examples be read in a nonexclusive sense”).

benefit Morrow County's economy (including generating significant ongoing property tax revenue streams to the local school district and other agencies).

According to the Application and Exhibit 8, the Site also meets the essential siting characteristics for EDCC development, including:

1. Proximity to and ability to extend existing, high-capacity electrical transmission lines (Pacific Power).
2. Proximity to existing and/or forthcoming water infrastructure near Boardman Airport (Port of Morrow).
3. Proximity to existing and/or forthcoming long-haul fiber-optic routes (multiple major internet service providers).
4. Proximity to an interstate highway (I-84).

In addition to having access to all essential support facilities, Applicant notes that the Site is isolated by natural and physical barriers (Sixmile Canyon, BPA transmission lines, PGE rail spur extending south to the Carty Generating Station), reducing potential for external impacts on residences or other sensitive land uses.

The proposed use of the Site for EDCC development would cause minimal or no loss of cultivated farmland. As described in greater detail in the attached Soils Report, Exhibit 10, the Site is underlain by shallow basalt flows and contains a complex of rock outcrops, subtle mounds, and concave intermound areas, which severely limit the Site's potential for crop production. The Soils Report supports the conclusion that the Site does not contain soils that are considered "high value farmland" and has little potential for crop production. Based on these factors, the property owner has not and does not intend to use the Site for productive agricultural uses.

The amount of land proposed for the use is 1,298 acres, which represents only a small part (about 1.5%) of the Applicant's combined land holdings in Morrow County, over 40,000 acres of which are irrigated and under active farm use. Approximately 967 acres of the Site are zoned EFU; the remaining 331 acres are zoned SAI and are therefore already available for some types of industrial development other than data centers. This criterion is met.

(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be

accommodated in other areas. Under this test the following questions shall be addressed:

- (i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?*
 - (ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?*
 - (iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?*
 - (iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?*
- (C) The “alternative areas” standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.*

Response: Applicant’s Exhibit 7 provides a detailed inventory, maps, and analysis of potential alternative sites within a study area containing the northern portions of Gilliam, Morrow and Umatilla County, located within approximately 10 miles of electric power transmission line corridors (an essential siting characteristic for exascale data center locations), including the cities located within that area (Arlington, Boardman, Ione, Irrigon, Umatilla, Hermiston, Stanfield and Echo). Summarizing the results of that analysis, the Applicant concludes that:

- Existing exception areas that would not require a new goal exception to reasonably accommodate exascale data center campus development are not found within the study area.⁵ Such essential site criteria include minimum developable land area of 1,000 acres,

⁵ An applicant may identify essential siting criteria to narrow the field of alternatives. *VinCEP v. Yamhill County*, 55 Or LUBA 433 (2007), *affirmed in part, reversed and remanded in part*, 215 Or App 414, 171 P3d 368 (2007). Alternative sites that do not meet the proposal’s essential site criteria can be eliminated. *See, e.g., Devin Oil Co. Inc. v. Morrow County*, 62 Or LUBA 247, *affirmed* 241 Or App 351, 250 P3d 38 (2010), *rev. den.*, 350 Or 408, 256 P3d 121 (2011). In addition, the rule specifies that “economic factors

shape and horizontal dimensions suitable for siting clusters of rectangular data center buildings typical in this region, within 10 miles of existing high-capacity electric power transmission lines, and absence of regulatory hazard areas (e.g., floodplain or landslide areas).

Areas requiring a new exception were excluded. OAR 660-004-0018(4)(a) states that when an exception is taken to a statewide planning goal for a particular reason to meet a specific need, the uses allowed must be limited to uses that were justified in the exception. In other words, adding a new use to prior exception land that was not identified for the current proposed use requires a new goal exception. Because data centers are generally a newer type of development that began in the 2010s, many of the prior exception lands, which were adopted long before 2010, would not have contemplated "data centers" as a permitted use, nor would the reasons that supported those exceptions have covered such a use. Therefore, "data centers" would necessarily be considered a new permitted use and require a new goal exception.

This is the case for the SAI zone in Morrow County which was subject to a reasons exception specifically for aircraft or space vehicle testing and/or development at the request of Boeing in 1987. It is also the case for the block of 3,800 acres of MG land south of the Site which was subject to a reasons exception for "antennae test range uses."⁶ Similarly, in unincorporated Gilliam County, there are no zones that currently permit data centers. Therefore, these areas were excluded because the process for establishing data centers as a permitted use is uncertain and would likely involve a new goal exception, significant delays, legal challenges, and increased costs, thereby undermining any argument that these sites could "reasonably accommodate" data center use.

Industrial portions of the Umatilla Army Chemical Depot were excluded because these lands are the subject of litigation in the Circuit Court of the County of Umatilla (Case No. 24CV31777), which introduces significant legal uncertainty, the outcome of which is uncertain in substance and timing. Thus, this Site cannot "reasonably accommodate" data center development, while it remains the subject of active litigation which seeks to prohibit sale of industrial property.

North of the Site, on the opposite (north) side of Interstate 84, there are multiple parcels of land in the Morrow County General Industrial (MG) zone. This area is referred to as Area MC-1 in Applicant's Alternative Areas Analysis. The ownership pattern consists of several large parcels owned by the Port of Morrow, separated by intervening large parcels owned by the Applicant, Threemile Canyon Farms, LLC. Threemile Canyon Farms has provided a letter indicating that its properties within this sub-area are not available for purchase or lease, for any purpose. See Appendix C in the Alternatives Analysis (Exhibit 7). Because it is not possible to assemble a contiguous parcel with

may be considered" in evaluating whether alternative sites are ones that could reasonably accommodate a particular use. OAR 660-004-0020(2)(b).

⁶ Ordinance No. MC-C-4-86,

<https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/16596/mc-c-4-86.pdf>.

sufficient area for an exascale data center campus (1,000 acres or more) without including some of the Threemile Canyon Farms parcels, the MC-1 Area cannot reasonably accommodate exascale data center campus use.

- No resource land that is already irrevocably committed to nonresource uses was identified within the study area that was sufficiently proximate to existing power supply infrastructure, so the proposed use cannot be reasonably accommodated on such land. See Application at page 22 and related technical evidence in Exhibit 7.
- No reasonable alternative areas are available within UGB areas. The study area included eight UGB areas: City of Arlington, City of Boardman, City of Ione, City of Irrigon, City of Umatilla, City of Hermiston, City of Stanfield, and City of Echo. After identifying zones in these jurisdictions that allow for data center uses, land was then evaluated to identify sites that met all of the essential siting characteristics for EDCCs. The analysis concludes that no reasonable alternatives areas are available within UGBs because of constraints such as existing development, entitled development, insufficient contiguous development area, or distance from existing high-capacity transmission lines.
- The proposed use cannot reasonably be accommodated without the provision of the listed public facilities and services. Based on generally industry standards, EDCC's require proximity to existing high-capacity electrical transmission lines (<10 miles); water supply of approximately 1,000 gallons/day per developable acre of land to cool equipment; sewage disposal facilities for employee restrooms; industrial wastewater disposal facilities to discharge industrial wastewater generated from non-contact cooling processes; and proximity to interstate highways and public roads for employees and service providers.

Regarding sewage disposal, it is anticipated that on-site septic facilities will be relied on. The septic system would be subject to review and approval of Water Pollution Control Facilities (WPCF) permits issued by the Oregon Department of Environmental Quality pursuant to ORS 468B.050. WPCF permits issued by ODEQ have limits and conditions that are intended to be protective of ground and surface waters, as well as the environment and public health including potential nitrate treatment requirements. The Site is within the Lower Umatilla Basin Groundwater Management Area, designated by DEQ in 1990 because of high levels of nitrate in the groundwater. Compliance with DEQ regulations, including treating wastewater for nitrate removal, ensures the proposal will not have negative impacts on groundwater quality.

Regarding industrial wastewater disposal, it is estimated that approximately 15,000,000 gallons of industrial wastewater (IWW) will be generated from each data center's non-contact cooling process annually, which would be treated onsite via conveyance in subsurface pipes to on-site-lined IWW evaporation ponds, sized and located to store and fully evaporate the non-contact cooling water, until such time infrastructure for treatment and disposal of IWW is extended to the Site by the Port of Morrow. The cooling process uses water that does not come into direct contact with electronic components to manage the heat generated by servers and other electronic equipment.

There would be no anticipated discharges from the IWW ponds on the Site, and the ponds would be subject to a 2501 Water Pollution Control Facility General Permit issued by the Oregon Department of Environmental Quality.

- Areas within the study area that cannot satisfy essential siting characteristics for exascale data center campus cannot reasonably accommodate the proposed use. These include sites with excess slope; inadequate size and configuration; development constraints like floodways, landslide areas, wetlands, and protected habitat; lack of proximity to high-capacity electric distribution lines; insufficient water supply, sewage disposal, industrial wastewater disposal, and access to public roads and proximity to an interstate highway.

See also Application at pages 19-24, and related technical evidence in Applicant's Exhibit 7. These criteria are met.

- (c) ***“The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.” The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;***

Response: The “ESEE standard only require[s] the county to complete a detailed ESEE evaluation of specific alternative sites if the sites were ‘described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding.’”⁷ A local government may choose the preferred alternative as long as the environmental, social, economic and energy consequences are not “significantly more adverse”

⁷ 1000 Friends v. Morrow County, 81 Or LUBA 508 (quoting OAR 660-004-0020(2)(c)).

than would typically result from using other resource lands for the proposed use. A local government is not required to choose the alternative that is “least disruptive to resource land.”⁸

Applicant’s proposed goal exceptions Site is appropriate for Exascale Data Center Campus development and would result in significantly fewer adverse environmental, social, economic, and energy (ESEE) impacts compared with other areas requiring new exceptions.⁹ A comparison of these impacts is described below. When comparing impacts to alternative areas, it is important to consider the ESEE benefits of placing data centers on a single large site as opposed to multiple dispersed sites, i.e., an Exascale Data Center Campus is a more efficient use of land, is more efficient to construct, provides opportunities for operational efficiencies due to the associated economies of scale, and isolates possible negative off-site impacts to just one area. The Site benefits from close proximity to existing high-capacity electrical transmission lines (e.g., there are existing transmission lines to the south of the property near the Carty Reservoir and planned lines to the Site’s eastern boundary), as well as water supply and existing transportation facilities near the Boardman Airport and an approved data center development to the east, which means impacts associated with extending services to the Site would be minimal in comparison to other areas.

- Environmental impacts associated with the development of the Site for data center use are not significant because the Site contains no inventoried Goal 5 resources or natural resource protection overlay zones. Data center development may require wetland removal/fill permit and mitigation; however, the state policies and regulatory processes applicable to this development ensure that possible adverse impacts will be minimized. Similarly, state and/or federal permits will be required for air quality for diesel backup generators, and erosion and stormwater control associated with site preparation and construction.
- Economic impacts of the proposed amendments are positive in comparison to other potential locations because the Site has minimal potential for agricultural productivity. By contrast, other land in the vicinity is generally irrigated and actively in use for crop or dairy production.
- Social impacts associated with Exascale Data Center Campus development, such as visual impacts, noise, and traffic, are generally greater the closer an EDCC is to population centers and residential uses. Because the Site is situated more than five miles from population centers and isolated from any potentially incompatible uses (such as residences), no adverse social impacts are anticipated.
- Energy impacts associated with Exascale Data Center Campus development on the Site are less significant than the impacts of the same development on other land requiring new exceptions. The amount of energy required is the same regardless of location; however, the proposed exceptions Site is proximate to existing transmission

⁸ *1000 Friends of Oregon v. Yamhill County*, 52 Or LUBA 418 (2006).

⁹ Other areas within the bounds of the Alternative Areas Analysis requiring new exceptions generally fall into two categories: (1) Irrigated agricultural land; (2) Industrial land in zoning districts that do not allow data center uses.

lines to the south, near the Carty reservoir, and adjoining planned lines immediately to the east. Close proximity to such lines is an essential siting requirement. Alternative areas that would require the development of new transmission lines would have significantly greater impacts. Additionally, as the Site is adjacent to Interstate 84 (I-84) and near the interchange at Tower Road, energy needs associated with transportation to and from the Site are lower than sites requiring greater travel distances from an I-84 interchange.

For the above reasons, the proposed goal exceptions Site is appropriate for Exascale Data Center Campus development and would result in significantly fewer adverse environmental, social, economic, and energy (ESEE) impacts compared with other areas requiring new exceptions.¹⁰ See also Application at pages 25-27 with technical evidence in Applicant's Exhibits 7, 8, 10A and 10B, 11, 12, 14, 15 and 16. This criterion is met.

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Response: Data center use will be compatible with adjacent uses through compliance with applicable requirements governing airports, water, and air, as well as the natural and physical features bounding the Site. The Site is not proximate to many adjacent uses given natural buffers separating the Site via a canyon to the west and south, a rail spur to the east, and a highway to the north. The airport runway to the east of the rail spur is not within 5,000 feet of the Site. And the other abutting adjacent uses are a vineyard and another data center also to the east of the rail spur, agricultural fields to the west and south of the canyon, and vacant industrial lands to the north of I-84. None of these are particularly sensitive to any of the potential impacts generated by an EDCC, and any potential impacts associated with EDCC development will be addressed through compliance with applicable regulatory standards relating to air emissions, lighting and glare, water, and airport compatibility, as described more fully in the Application at pages 27-28, with technical evidence in Applicant's Exhibits 7, 11, 12, 13, 15 and 16. The farm operator adjacent to the Site is the Applicant for this proposal; the Applicant has identified the Site as a part of its large ownership that (a) is not suitable for commercial farming operations, which it conducts on most of its lands, and (b) can support data center operations without adversely affecting agricultural productivity or operations on surrounding properties, including its own holdings.

2. OAR 660-014-0040 (Reasons Exception for Goals 11 and 14)

¹⁰ Other areas within the bounds of the Alternative Areas Analysis requiring new exceptions generally fall into two categories: (1) Irrigated agricultural land; (2) Industrial land in zoning districts that do not allow data center uses.

Applicant seeks an exception to Goal 14 to allow for urban industrial development on the Site, and an exception to Goal 11 for extension of urban levels of water to the Site. With respect to Goal 14, OAR 660-014-0040(2) supplies the criteria for a reasons exception, not OAR 660-004-0022. The Applicant cites to *VinCEP v. Yamhill Cnty.*, 215 Or App 414, 422-23, 171 P 3d 368, 372 (2007) for this interpretation. Although the analysis under Division 14 must be done separately, there is obvious overlap with criteria in Division 4, and it is understood that an applicant may rely on the same proof and findings to the extent they address criteria in both Divisions.

A Goal 11 exception to establish or extend public facilities to serve proposed development is evaluated under the criteria in Division 4, and in particular OAR 660-004-0020(2)(b)-(d), and, as appropriate, OAR 660-014-0040 for purposes of siting urban development on undeveloped rural lands. See *Friends of Marion County v. Marion County*, 59 Or LUBA 323 (2009) (“there is no need to articulate a different reason to justify the exception to Goal 11 that is used to justify the Goal 14 exception or, stated differently, the reasons sufficient to justify the Goal 14 exception are also sufficient to justify the Goal 11 exception for purposes of OAR 660-004-0022”); *Doherty v. Morrow County*, 44 Or LUBA 141 (2003) (“OAR 660-014-0040(2) and (3) effectively become the relevant criteria for a statewide planning goal exception to Goal 14, and to Goals 11 and 3 if such additional exceptions are necessary, to allow urban uses and urban public facilities on rural agricultural lands”); *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001) (if “the proposed exception is intended to allow urban development, then OAR 660-004-0022(1) directs the county to OAR 660-014-0040”). “If reasons are identified under OAR 660-014-0040(2) that justify exceptions to Goal 14, and Goals 3 and 11 as well, then there is no need to provide additional reasons to justify reasons exceptions to Goals 3 and 11 under OAR 660-004-0022(1) or (2).” *Doherty*, 44 Or LUBA at 177. Here, the “proposed use” served by the facilities is data centers, which is an urban industrial use. Therefore, OAR 660-014-0040 provides the relevant criteria.

As explained below, the reasons that justify the requested exception to Goal 14 suffices to demonstrate a need for an exception to Goal 11 for extension of urban-scale water.

660-014-0040 – Establishment of New Urban Development on Undeveloped Rural Lands

(1) As used in this rule, “undeveloped rural land” includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.

Response: The Site is split-zoned EFU and SAI, and it is located outside of any UGB. Therefore, the SAI-zoned area already allows urban uses, and only the EFU-zoned portion of the Site falls within the definition of “undeveloped rural land.” However, out of abundance of caution and pursuant to direction at the pre-application conference, the Applicant addresses Goal 14 criteria for the entire Site.

(2) A county can justify an exception to Goal 14 to allow the establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

Response: OAR 660-014-0040(2) provides an example of a reason that is sufficient to justify urban development on rural land, but it does not limit the basis for a reasons exception to those listed in the statute. According to LUBA's ruling in *Schaefer v. Marion County*, LUBA No. 2020-108 (2022), "OAR 660-014-0040(2) expressly provides a non-exclusive basis for a reasons exception."

Reasons justifying exceptions from policies in Goal 3 are detailed in the response to OAR 660-004-0020(2)(a) and those reasons also support exceptions to Goals 11 and 14. The response identifies the essential siting criteria for developing an Exascale Data Center Campus, which include but are not limited to characteristics such as close proximity to existing high-capacity electrical transmission lines; access to adequate water supply, wastewater disposal capacity, telecommunications and fiber-optic routes; and adequate site size and configuration to accommodate multiple 200,000+ SF buildings and associated vehicle access, circulation, and parking. The applicant evaluated other possible alternative areas to determine whether it could reasonably accommodate these needs, identifying no reasonable alternative areas within a large study area surrounding the Site.

Further, a portion of the Site is already zoned for more dense industrial uses (i.e., space age-related research and development facilities). The Limited Use Overlay will restrict the potential uses of the Site to data centers and related infrastructure, which involve a relatively small number of employees, thus eliminating the potential that the proposal will increase density.

Finally, the Site is proximate to existing urban water systems serving the Boardman Airport and adjacent lands zoned ALI, which will minimize the need to extend significant water infrastructure to the Site. At the time of this application, a construction project is underway to install a water service line along the full length of Boardman Airport Lane west of Tower Road, which is intended to serve an adjacent approved data center facility to the east of the Site. The Site will rely on that water infrastructure and require only a short extension across the rail spur to connect. So Goal 11's intent to prevent the proliferation of urban uses in rural areas caused by the availability of urban-level services extended beyond UGBs is largely not implicated due to the fact that the Limited Use Overlay restricts industrial uses to data centers, and the Boardman Airport area (which will include the development for a recently approved data center campus) directly to the east already allows for extension of urban-scale services.

The application materials set forth multiple reasons why this Site is suitable for this scale of urban development and provide the County with substantial evidence to support the justifications necessary for the requested goal exceptions to Goals 11 and 14.

See also Application at pages 32 with technical evidence in Exhibits 7 and 8. This criterion is met.

(3) To approve an exception under section (2) of this rule, a county must also show:

(a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

Response: As discussed above, Applicant's Alternative Areas Analysis Exhibit 7 demonstrates that the proposed exascale data center campus development cannot be reasonably accommodated within an existing UGB.

Applicant also notes that an exascale data center cannot be reasonably accommodated through the expansion of an existing urban growth boundary due to several factors. First, the unique infrastructure requirements of an exascale data center, such as proximity to high-capacity electrical transmission lines, are not typically available within or near existing UGBs. These large-scale data center facilities require a substantial and uninterruptible power supply, which necessitates direct access to high-capacity transmission lines. Expanding a UGB to include areas with such infrastructure would be impractical and costly.

Second, the scale of land required for an exascale data center campus, generally requiring 1,000 acres or more, is not readily available within or adjacent to existing UGBs. Land areas closer to urban areas are generally characterized by higher land values and fragmented ownership, making it challenging and economically infeasible to assemble large, flat, vacant contiguous parcels of land for such development.

Third, the environmental and social impacts of situating an exascale data center near urban areas pose significant challenges. These facilities can generate noise and emissions from backup diesel generators which could adversely affect nearby residential communities. The facilities also often are sited with industrial wastewater cooling ponds, electrical substations and other energy facilities, security fencing and other infrastructure, which may generate impacts typically associated with uses outside of UGBs.

A related factor is that siting exascale data centers within or on the perimeter of existing urbanized areas poses a complicating challenge for planning future growth of efficient, compact communities. Exascale Data Center Campus development involves a very high amount of capital infrastructure investment, and so can be expected to persist for a long service life; for planning purposes, they should be considered irrevocably committed to such use. As cities plan to meet land needs associated with population growth and resulting needs for housing, employment, institutional and open space lands, the large size of EDC campus sites within or on the edges of existing urban areas would compel cities to "leapfrog" over them in order to accommodate growth. For example, each side of a square 1,000-acre area would be 1.25 miles long, interrupting a contiguous expansion pattern for other urban uses in both dimensions. The resulting development pattern would accelerate sprawl by substantially increasing the distances between older parts of the community and newer

development areas forced to locate on the opposite side of an intervening EDC campus. Such a development pattern would be very detrimental from the standpoint of trying to create compact and efficient urban communities, by increasing distances for commuting and other circulation, as well as for construction and maintenance of utility services.

By contrast, siting an exascale data center away from a UGB, and in particular at the Site, enables it to be proximate to necessary large-scale utility infrastructure, to minimize any potential impacts on urban communities, and generally to present a more viable and efficient location to meet a documented demand for this large-scale industrial use. The 1,298-acre Site located west of the Boardman Airport is adjacent to the east bank of Sixmile Creek, which is a logical boundary for the proposed Site. Service from existing high-capacity electric power transmission lines can be made available to the Site and, because urban-level water and transportation services are available to the Airport area, including an adjacent forthcoming data center campus at the western terminus of the improved Boardman Airport Lane, only short extensions are necessary to reach and serve the Site.

Significantly, in the context of meeting land needs that operate at a regional scale, for any of the cities in the area to justify expanding its UGB for exascale data center campus development, the Goal 9 process would require an Economic Opportunities Analysis (EOA) justifying a UGB expansion of 1,000+ acres for a single land use to meet that city's population growth forecast and associated land needs. Such a land area being brought into a UGB expressly for EDCC use would need to be made ineligible for other industrial uses. And a consolidated site of sufficient size, along with the other required site characteristics, would have to be identified contiguous to the existing UGB. Absent an identified user, such a large-acreage site could remain in the UGB indefinitely as surplus industrial land. For these reasons, the established UGB expansion process requires a level of certainty that makes it less supportable under these specific implementing regulations addressing UGB expansions as an alternative to reliance upon the Goal 2 exception process to accommodate compliance with all of the EDCC siting criteria required for exascale data center campus development.

So, particularly in the context of this proposal, the "reasons exception" process is preferable to the UGB expansion process for several reasons:

- (1) The necessary designation change is a voluntary proposal submitted by the owner of the property as the applicant.
- (2) The proposed designation change (MG with Limited Use Overlay) only allows for the specific urban use – data center – that is the basis for the "reasons" exception.
- (3) The proposed designation change contributes significantly to the need to allocate land on a regional basis, responding to a documented recent dramatic increase in land demand for a novel industrial activity.
- (4) The proposal will continue to allow EFU uses on the property unless and until data center development becomes economically feasible. Even if such use ultimately is

not realized, the protections inherent in the land use approval process will require a new exception before any other urban use or development can occur.

See also Application at pages 32-34, with technical evidence in Exhibit 7, incorporated by reference herein. This criterion is met.

(b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

- (A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and***
- (B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.***

Response: The proposed Site includes 1,298 acres, which is appropriate and necessary for the development of an exascale data center campus, based on the size of comparable examples cited in the Applicant's Economic Impact Analysis at Exhibit 8. The size of the Site is necessary to accommodate multiple large buildings, power substations, supporting infrastructure, and landscape features, ensuring construction and operational efficiency and minimizing off-site impacts. The Site is not limited by air, water, energy or land resources. The Applicant has obtained service provider letters indicating the availability of necessary power and water. The Site's proximity to existing high-capacity transmission lines and other infrastructure to the east near the Boardman Airport and an approved data center development minimizes the need for extensive new infrastructure, thereby reducing potential adverse effects on surrounding resources.

See also Application at page 34 with technical evidence in Exhibits 8 and 17A, B and C, incorporated by reference herein. This criterion is met.

(c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

- (A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and***
- (B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.***

Response: The Applicant has obtained service provider letters for power and water. These letters indicate that the necessary services are available for an Exascale Data Center

Campus. In addition, the data center development is anticipated to rely upon on-site services for sanitary sewer and industrial wastewater disposal. Further, the provision of services will be addressed in detail during the County's Site Plan Review approval, prior to any development of the Site.

The applicant has examined possible adverse impacts on surrounding resource lands under the response to OAR 660-004-0020(2)(d). The proposed exceptions Site is adjacent to a large-scale commercial agriculture operation to the west and south, but potential adverse impacts will be mitigated by the natural and physical features bounding the Site, and compliance with state regulations related to air quality and wastewater disposal. Notably, the operator of that farm is the Applicant for this proposal, which further indicates the farm operator is not concerned with its ability to manage and operate the farm.

See also Application at pages 34-35 with technical evidence in Exhibits 8 and 17A and B, incorporated by reference herein. This criterion is met.

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

Response: The appropriate level of public facilities and services needed for an Exascale Data Center Campus is defined in the introductory sections of the Findings above, the applicant's narrative report and responses to OAR 660-004-0020. These include power and water supply, vehicular access, and telecommunication facilities including fiber-optic internet service. These services exist in the vicinity and Applicant has obtained service provider letters from the Port of Morrow and Pacific Power to demonstrate these providers are able to provide the required service levels, which ensures their provision in a timely and efficient manner.

In addition, any developer or end user will be required to demonstrate adequate provision of facilities as part of Site Plan Review. In particular, the Morrow County Zoning Ordinance will require the end user to demonstrate that "electrical services ... are adequate for the proposed use" prior to receiving site plan approval under MCZO 5.020.E.4. Further, any end user will need to demonstrate that "water is or will be available to the site at a quantity and quality adequate for the proposed use" prior to receiving site plan approval under MCZO 5.020.E.2. Pursuant to robust site plan review criteria relating to water, "[n]ew developments that rely on a non-exempt groundwater source must (1) provide an estimated annual water usage, and (2) identify the necessary OWRD authorizations required to serve the estimated water need. All other developments that do not rely on groundwater as a source of water may satisfy this review criteria by submitting a letter, notice, or memorandum of understanding from the service provider evidencing a commitment to serve the site, which shall indicate the source of water (e.g., surface water, existing water right, etc.) and a targeted delivery for water to the site." MCZO 5.020.E.2.

Applicant anticipates that exascale data center campus development at the Site will rely upon on-site industrial septic and industrial wastewater evaporation ponds. Evaluation of the precise mechanism for disposal and treatment of wastewater will also be a requirement of Site Plan Review, pursuant to MCZO 5.020.E.3, which requires that demonstration that "[a]dequate sewage disposal and wastewater management can be provided for the proposed use as

determined by the service provider or by demonstrating compliance with applicable review authority standards, as set forth below. For new developments that will rely on third-party service providers for sewer and/or wastewater disposal, the applicant may satisfy this criterion by submitting a letter, notice, or memorandum of understanding from the service provider evidencing a commitment to serve the site. For new developments that will rely on on-site septic and/or industrial wastewater and/or non-contact cooling water disposal and/or treatment, the applicant may satisfy this criterion by identifying the necessary ODEQ permits, as required by the state regulations, to be obtained prior to commencement of the proposed use or certificate of occupancy being granted.”

See also Application at pages 35-36, with technical evidence in Exhibits 17A, 17B, and 17C, incorporated by reference herein. This criterion is met.

(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.

Response: This proposal involves the establishment of new urban development on undeveloped rural land. The reasons that are used to justify the necessary goal exceptions will be adopted into the Morrow County Comprehensive Plan. Substantial evidence in the record supports findings of consistency with existing Comprehensive Plan and MCZO policies. No expansion of the nearby Boardman UGB is being proposed. This criterion is met.

(4) Counties are not required to justify an exception to Goal 14 in order to authorize industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, in exception areas that were planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 (Industrial development on industrial lands outside urban growth boundaries) and 197.714 (Cooperation of county and city concerning industrial development).

Response: The Site includes 331 acres of land in the SAI zone, which was implemented prior to January 1, 2004 and allows for industrial use of that portion of the Site. Based upon a lack of clarity regarding whether ORS 197.713 allows for the subsequent addition of new industrial uses in such areas without a new exception, Applicant has requested new exceptions because the SAI zone is limited to uses addressed in the earlier exception, which do not include data center development. This criterion is met.

3. OAR 660-012-0060 (Transportation Planning Rule)

660-012-0060 – Plan and Land Use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section

(3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

Response: Applicant has provided a Transportation Planning Rule (TPR) analysis report at Exhibit 9 and a Supplemental Traffic Memo at Exhibit 9A by David Evans and Associates (DEA). The report and memo address Statewide Planning Goal 12 and compliance with the Transportation Planning Rule (TPR). Summarizing from those technical documents:

- The proposed zone change is projected to generate fewer trips than allowable under the existing zoning for the subject Site. As a result, the proposed zone change does not constitute a “significant effect” on the local transportation system.
- The proposal will not significantly affect any transportation facility by either: (1) changing any TSP roadway functional classification or roadway configuration; (2) changing the standards that implement the functional classification system; or (3) degrading the performance of an existing or planned facility beyond the projected performance of such facilities at the end of the planning period identified in the adopted TSP.
- Boardman Airport Lane is not identified in the County’s currently adopted 2012 TSP and, thus, carries no classification, but the Port of Morrow has already constructed it consistent with the applicable design section in the TSP for a Rural Arterial II roadway. With adoption of the proposed rezoning, projected vehicle trip volumes are consistent

with the capacity of Boardman Airport Lane's existing built condition.

- Although the report indicates that one ramp terminal and two intersections are anticipated to fail in year 2044 under current EFU/SAI zoning. See Table 10 in Exhibit 9, the analysis also demonstrates that only two of those three projected failures will occur under the proposed rezoning, and that the two intersection failures will be less severe and will occur later in the planning period under the proposed zoning than under the current zoning. The report further observes that the projected intersection failures can be easily mitigated with traffic signalization when future traffic volumes reach a level that warrants it.
- Morrow County will have opportunities to impose conditions of approval in required Site Plan Review procedures prior to development occurring under the proposed zoning change, with mitigation measures correctly aligned with the impacts of the actual development proposal(s).

See also Applicant's Narrative Report at pages 29-30 with technical evidence in Applicant's Exhibits 9, 9A and 17C as incorporated herein. These criteria are met.

(5) The presence of a transportation facility or improvement shall not be a basis for an exception to allow residential, commercial, institutional or industrial development on rural lands under this division or OAR 660-004-0022 (Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)) and 660-004-0028 (Exception Requirements for Land Irrevocably Committed to Other Uses).

Response: This provision is not applicable because the Applicant has provided substantial evidence in the record of reasons to support the requested Goal exceptions, independent of the fact that the existing Boardman Airport Lane, located on exception land in the ALI Zone, has already been improved west from Tower Road to the east edge of the rail spur that extends south to the Carty Generating Station.

660-012-0065 – Transportation Improvements on Rural Lands

(1) This rule identifies transportation facilities, services and improvements which may be permitted on rural lands consistent with Goals 3, 4, 11, and 14 without a goal exception.

Response: Existing improved transportation facilities – more particularly Boardman Airport Lane and Tower Road – will provide access to the Site. Both those facilities are within approved/acknowledged urban exception lands. Following approval of the proposed Comprehensive Plan Map/Zoning designation change, the short extension of Boardman Airport Lane to serve the Site (i.e., crossing the Carty Generating Station railroad spur) will also be within the Goal exception area and this will be urban land. Therefore, the proposal does not involve future transportation improvements on rural lands, and OAR 660-012-0065 is not applicable.

See also Applicant's Narrative Report at pages 30-31 with technical evidence in Exhibits 9, 9A and 17C, as referenced and incorporated herein.

660-012-0070 – Exceptions for Transportation Improvements on Rural Land

(1) Transportation facilities and improvements which do not meet the requirements of OAR 660-012-0065 (Transportation Improvements on Rural Lands) require an exception to be sited on rural lands.

(a) A local government approving a proposed exception shall adopt as part of its comprehensive plan findings of fact and a statement of reasons that demonstrate that the standards in this rule have been met. A local government denying a proposed exception shall adopt findings of fact and a statement of reasons explaining why the standards in this rule have not been met. However, findings and reasons denying a proposed exception need not be incorporated into the local comprehensive plan.

(b) The facts and reasons relied upon to approve or deny a proposed exception shall be supported by substantial evidence in the record of the local exceptions proceeding.

Response: As in the response to OAR 660-012-0065 above, existing improved transportation facilities in approved/acknowledged exception areas – more particularly Boardman Airport Lane and Tower Road – will provide access to the Site. Following approval of the proposed Comprehensive Plan Map/Zoning designation change, the short 50-foot extension of Boardman Airport Lane necessary to serve the Site i.e., crossing the Carty Generating Station railroad spur will also be within the Goal exception area and thus will be converted from rural to urban land upon approval. It is well established that OAR 660-012-0070 does not require an exception for future transportation improvements when, for example, the land is converted to urban land due to inclusion in an urban growth boundary, which also will be the case upon approval of exceptions to Goals 11 and 14 and the concurrent application of urban zoning in this instance. *Deumling, et al v. City of Salem*, 76 OR LUBA 99 (2017); *1000 Friends, et al. v. Curry County*, 301 Or 447, 498-501 (1986). Therefore, the proposal does not involve transportation improvements on rural lands, and OAR 660-012-0070 is not applicable.

See also Applicant's Narrative Report at page 31 with technical evidence in Applicant's Exhibits 9, 9A and 17C, as incorporated by reference herein.

E. Compliance with Statewide Planning Goals

Morrow County adopts these findings to show that the request complies with applicable Statewide Planning Goals. This application includes an exception to three Statewide Planning Goals: 3, 11 and 14.

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

Response: Generally, Goal 1 is satisfied when a county complies with public notice and hearing requirements in the Oregon Statutes and in the local Comprehensive Plan and Land Use Code. The County's Zoning Ordinance is consistent with State law with regard to notification requirements. Pursuant to Section 9 of Morrow County Zoning Ordinance at least one public hearing before the Planning Commission and Board of Commissioners is required. Legal notice in a newspaper of general circulation is required. The County has met these requirements and notified DLCD 35 days prior to the first evidentiary hearing.

2. Goal 2 (General Land Use): To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Response: Findings provided to implementing regulations in OAR 660-004 and OAR 660-014-0040 demonstrate that the proposed zoning redesignation package complies with "reasons" exception criteria. In addition to demonstrating that the proposed Site to be rezoned to allow data center use is superior and preferable to alternative potential areas within a sizable vicinity, the request incorporates a request to downzone approximately 1,623 acres of SAI land to EFU, to ensure no net loss of productive agricultural land will occur. The proposal therefore maintains consistency with policies in the comprehensive plan.

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

Response: Applicant requests a Goal 3 exception. Goal 3 requires Morrow County to protect agricultural lands for farm uses through appropriate zoning. With respect to the Site, Applicant's submittal materials include detailed responses to "reasons" exception standards in OAR 660-004 and supporting evidence, which demonstrate that the proposed zoning redesignation package complies with Goal 3.

The request proposes conversion of approximately 1,623 acres from SAI to EFU, ensuring that no net loss of productive agricultural land will occur. The Applicant has provided geotechnical/soils analysis documentation demonstrating that the Downzone Area contains superior soil conditions and is actively farmed and irrigated. In particular, the Downzone Area contains Class IVe soils and is far more suitable for the proposed Agriculture/EFU designation than the EFU-zoned soils at the Site, because the Site has many agricultural limitations (e.g., shallow soils, mounds, lack of irrigation), would require substantial financial and time investment to achieve a cultivation condition, and even if such condition were achieved, would still be inferior to the agricultural condition of the downzone study area. As noted in the Downzone Area Soils Report at Applicant's Exhibit 10B, given these limitations the land proposed for upzoning (the Site) is not likely to become cultivation land, while the approximately 1,623 acres proposed for downzoning are likely to remain in high-value crop production due to favorable soil conditions and associated improvement (irrigation, land leveling, access, etc.).

Thus, although there is no applicable local or state criterion requiring a corresponding downzone to Exclusive Farm Use zoning as a condition of the proposed upzone approval. This concurrent

request to eliminate the potential for non-agricultural uses in the Downzone Area is sufficient to ensure no net loss of agricultural productivity as a result of the proposed upzone approval.

See also Application at page 69 with technical evidence at Exhibits 2, 7, 10A and 10B, as referenced and incorporated herein.

- 4. Goal 4 (Forest Lands): To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.**

Response: The proposal does not affect lands that are designated for forest use. Goal 4 does not apply.

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

Response: The County Comprehensive Plan has not identified any significant natural, scenic, historic or open space areas within or near the Site, or within the proposed Downzone Area. Per the analysis in the Natural Resources Assessment at Applicant's Exhibit 12, there are no significant Goal 5 resources that would be affected by this proposal to amend land use designations. To protect confidential location information that may be critical to cultural resource conservation efforts, Applicant reports completing an Archaeological and Cultural Resources Assessment and sharing it with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) for review, comment, and coordination; CTUIR was provided notice of this application and can provide comments directly to the County during the public hearing process.

Within the Applicant's property but outside and west of the Site (the proposed exception area), on the east bank of Sixmile Creek, the Oregon Department of Geology and Mineral Industries (DOGAMI) issued permit #25-0006 to Three Mile Canyon Farms for the "Six-Mile Pit." See Exhibit 16; the permit location is labeled "25006" on the Significant Resource Overlay Map. The permit allows the extraction of screened sand and gravel from a 12-acre area that the County has not designated as "Goal 5 Significant." The Applicant intends to retain the facility's current EFU zoning, maintain its active status under the permit, and provide for vehicular access to it in any future development plans for the Site. All relevant areas are under common ownership (i.e., owned by Three Mile Canyon Farms, LLC). This proposed approach will allow extraction under the existing DOGAMI permit to continue until the permit is terminated.

The Significant Resource Overlay Map also includes a dot within the Site identified as "25008." DOGAMI permit #25-0008, issued to Portland General Electric Company, is listed by DOGAMI as a "Riprap Quarry" site for extraction of "rock." Its permit is listed as "Closed" in the DOGAMI Permit Data spreadsheet (updated January 6, 2021), and there is no corresponding line

item in the County's "Inventory of Natural Resources/Aggregate and Mineral Resources" table, included in Exhibit 16. As in the case of DOGAMI permit #25-0006, the facility is not identified as a significant Goal 5 resource, so this request will have no effect on significant Goal 5 resources. Moreover, because the permit's status is closed, no further extraction activity is expected at this permit location. Post-extraction reclamation for a different use will be consistent with the Goal 5 process as it applies to mineral/aggregate resource sites.

See also Application at pages 37-38 and 69, with technical evidence at Exhibits 11 and 12, as incorporated by reference herein.

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

Response: The State of Oregon has adopted statutes and administrative rules to protect air, water and land resources from environmental impacts of development and land use activities. In the site development and construction permitting processes that will follow this amendment proposal, pursuant to MCZO 5.020 and proposed Conditions of Approval (see page 3 above), all future development and use of the Site will be required to comply with permitting requirements for air quality management, stormwater management (i.e., the Oregon Department of Environmental Quality 1200-C process), wetland fill/removal (i.e., the Joint Removal/Fill Permit process administered by the US Army Corps of Engineers and Oregon Department of State Lands), wastewater discharge, and other such permitting. Since all proposed developments will be contingent on the receipt of any required state and federal permits, compliance with Goal 6 is assured.

Regarding noise as an environmental impact issue, the Site is located west of the Boardman Airport and distant from any noise-sensitive receiver sites or uses, such as residential development. Based on the Site's large distance from noise-sensitive sites, and the occasional background noise levels associated with aircraft take-off and landing activities at the Airport, there is no reason to anticipate any exceedance of applicable noise control standards arising from future development under the proposed land designation/zoning amendment.

See also Application at pages 38 and 70, with technical evidence at Exhibits 11 and 12.

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

Response: The subject Site does not contain mapped flood or geologic hazards. See FEMA FIRM Panels at Exhibit 14, and DOGAMI SLIDO Maps at Exhibit 15. The proposed amendment will have no effect on Morrow County's compliance with Goal 7.

Further, as to this particular Site, the Morrow County Comprehensive Plan does not require compliance with the Community Wildfire Protection Plan. However, prior to any development on the Site, MCZO 5.020 (site plan review) will apply, and this provision provides that "development in hazard areas identified in the Morrow County Comprehensive Plan, Natural

Hazard Mitigation Plan, or Community Wildfire Protection Plan shall comply with all applicable requirements.

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

Response: The proposal does not affect recreational facilities or land needed to meet Morrow County's recreational needs. Goal 8 does not apply.

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

Response. Applicant has provided an economic analysis at Applicant's Exhibit 8, which identifies demand for an estimated 3,000 acres (or more) of land in the vicinity in the next 10 years, to meet the rapidly growing demand for data center services. That report observes that the availability of sufficient, reliable electric power and other critical location factors make the Morrow County segment of the Columbia River corridor region attractive for such uses – including at the exascale-level – and the report also notes that the highly competitive, time-critical nature of that industry makes it imperative for jurisdictions to ensure that their regulatory environments and inventories of eligible and available land combine to offer feasible development opportunities that align with industry drivers. In addition to the direct economic benefits attributable to having Exascale Data Center Campuses located in Morrow County, their presence is expected to induce beneficial secondary economic effects on the local economy. Adopting the proposed land designation amendments is a fundamental first step in ensuring that Morrow County will enjoy the health, welfare and prosperity benefits of this emerging economic development trend.

See also Application at pages 39 and 70, with technical evidence at Exhibit 8.

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

Response: The proposal does not affect the provision of housing. While development of the site will likely increase demand for housing, the proposed amendments have no direct effect on Morrow County's compliance with Goal 10.

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

Response: The findings presented above in response to compliance with OAR 660-014-0040 support the County's decision to adopt an exception to Goal 11 in order to address the documented demand for land for exascale data center development. And Goal 11's intent to prevent the proliferation of urban uses in rural areas caused by the availability of urban-level services extended beyond UGBs is largely not implicated due to the fact that the Limited Use

Overlay restricts industrial uses to data centers, and the Boardman Airport area (which will include the development for a recently approved data center campus) directly to the east already allows for extension of urban-scale services.

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

Response. Applicant has submitted a Transportation Planning Rule (TPR) analysis (per OAR 660-012), which demonstrates that a Goal 12 exception is not required because the land use activity to be allowed by the proposed zoning (data center) will not require extension of urban transportation improvements on rural lands, and the land use designation changes will have no significant effect on transportation facilities identified in the Transportation System Plan (TSP). Data center use of the Site is projected to produce fewer trips than other development that is allowed under the Site's current zoning designations (SAI and EFU). Additionally, the Port of Morrow has constructed Boardman Airport Lane between Tower Road and the Site with paved width and other features consistent with the Rural Arterial II standard in the TSP.

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

Response. The Site's location – close to existing electric power transmission lines – makes it highly efficient and cost-effective to meet the power needs of Exascale Data Center Campus operations. Additionally, EDCCs yield operational efficiency benefits because the concentration of operations on a single campus facilitates consolidation of inventories and performance of maintenance/repair/upgrade activities with a minimum of off-site travel and associated effects such as fuel consumption, traffic, increased vehicle miles traveled (VMT), and operational delays. This proposal to redesignate the Site to allow Exascale Data Center Campus use responds to society's accelerating computing needs – and associated demand for large tracts of land – in a way that provides for efficient construction and operations of sufficient and suitably located facilities.

See also Application at page 41, with technical evidence at Exhibit 8.

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

Response. To support the request for an exception to Goal 14 to allow large-scale data center campus development of the 1,298-acre Site, Applicant has provided evidence and findings that address the Goal 14 exception standards in OAR 660, Division 14.

Statewide Planning Goal 15 (Willamette River Greenway), Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes), and Goal 19 (Ocean Resources) are not applicable because the Site is not located near these resources/areas.

F. Compliance with Morrow County Comprehensive Plan and Land Use Regulations

1. MCZO 8.040 Criteria for Amendments

MCZO 8.040, CRITERIA. The proponent of the application or permit has the burden of proving justification for its approval. The more drastic the request or the greater the impact of the application or permit on the neighborhood, area, or county, the greater is the burden on the applicant. The following criteria shall be considered by the Planning Commission in preparing a recommendation and by the County Board of Commissioners in reaching their decision.

A. The local conditions have changed and would warrant a change in the zoning of the subject property(ies)

Response: Applicant's evidence includes a report from Johnson Economics at Exhibit 8 that documents a recent economic/land development trend: deployment of Artificial Intelligence (AI) services across a wide range of applications is spurring a rapid – and only recently emerging – expansion in computing demand. That growth is in turn spurring demand for land suitable for Exascale Data Center Campus siting. The Johnson Economics report projects that Morrow County can expect EDCC development to absorb an estimated 3,000 acres of land within the coming 10-year period.

Up to the present, comprehensive land use planning by Morrow County and other jurisdictions in the vicinity has relied on estimates of industrial/employment land needs that have been based on a familiar mix of historic demand drivers, supplemented by Economic Opportunities Analyses (EOAs) to identify strategic opportunities and make projections for associated land needs; however, the novel nature of the emerging trend includes the very recent advent of demand for AI services, which has recently dramatically accelerated demand for mass computation capabilities requiring multiple buildings on large campus sites served by direct connections to high-capacity power transmission lines and fiber optic communications/internet service. See also Application at pages 60-61, 89.

The Johnson Economics report identifies changes in the need and market demand for tracts of industrial land suitable for the specific needs of EDCCs. These changes in local conditions are sufficient to warrant the proposed change in the zoning of the Site. This criterion is met.

B. The public services and facilities are sufficient to support a change in designation including, but not limited to, water availability relevant to both quantity and quality, waste and storm water management, other public services, and streets and roads.

Response. As noted above, service provider letters for power (Pacific Power) and water (Port of Morrow) indicate that the necessary services are available, or will be available, for EDCC development on the Site. See Exhibits 17A and 17B. In addition, the data center development is anticipated to rely upon on-site services for sanitary sewer and industrial wastewater disposal. Such new infrastructure would be planned and sized to accommodate the proposed data center development(s) on this Site and, therefore, would not detract from the ability of Boardman to provide such services. Finally, as described more fully in the application materials, provision of

services will be addressed in detail during the County's Site Plan Review approval, prior to any development of the Site. See also Application at pages 61-64 and 89-90.

With respect to road access and traffic, existing improved transportation facilities – more particularly Boardman Airport Lane and Tower Road – will provide adequate access to the Site. See Exhibit 17C. Further, the Applicant has provided a Traffic Analysis at Exhibit 9 and Supplemental Traffic Memo at Exhibit 9A addressing Statewide Planning Goal 12 and compliance with the Transportation Planning Rule (TPR). To summarize, the proposal will not “significantly affect” any transportation facility because the proposed zone change is projected to generate fewer trips than allowable under the existing SAI/EFU zoning for the subject Site. Finally, Morrow County will have opportunities to impose conditions of approval during Site Plan Review approval, prior to development, at which time mitigation measures can properly align with impacts from an actual development proposal. See also Application at pages 28-31, 61, and pages 89-90.

With respect to other public services, data center developments to date have not been associated with unusual levels of police activity or need for community services, but data centers' payrolls as well as the employment and property tax revenues they provide to local jurisdictions contribute significantly to funding needed for police, emergency and other public services. The proposed redesignation will contribute positively to achieving these policies. See Application at pages 52-54, with technical supporting evidence at Exhibit 8. This criterion is met.

1. Amendments to the zoning ordinance or zone changes which significantly affect a transportation facility shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

- a. Limiting allowed land uses to be consistent with the planned function of the transportation facility or roadway;***
- b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,***
- c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel to meet needs through other modes.***

Response. As discussed below, this amendment request does not significantly affect a transportation facility, therefore this Subpart and Subpart (2), discussed below, do not apply to this application.

2. A plan or land use regulation amendment significantly affects a transportation facility if it:

- a. Changes the functional classification of an existing or planned transportation facility;***
- b. Changes standards implementing a functional classification;***

- c. *Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or*
- d. *Would reduce the level of service of the facility below the minimal acceptable level identified in the Transportation System Plan.*

Response. Applicant's submittal includes a Transportation Planning Rule (TPR) compliance report and a supplemental memo from David Evans and Associates at Exhibits 9 and 9A, which establish that the proposed change in zone designation and associated allowed development will not "significantly affect" any transportation facility because the proposed zone change is projected to generate fewer trips than allowable under the existing SAI/EFU zoning for the subject Site. That conclusion is reasonable due to the proposed LU Overlay designation restricting use to data center, which is consistent with the types of travel demand reducing strategies authorized in subparagraphs a and c of Subpart 1 quoted above, and the net reduction in vehicular trips to and from the Site as compared with reasonable worst-case trip generation under current zoning. See also Application at pages 61-62 and 89-90.

C. *That the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports goals and policies of the Comprehensive Plan, that there is a public need for the proposal, and that the need will be best served by allowing the request. If other areas in the county are designated for a use as requested in the application, then a showing of the necessity for introducing that use into an area not now so zoned and why the owners there should bear the burden, if any, of introducing that zone into their area.*

Response. Applicants' materials address the four discrete tests in this Subpart. First, the Applicant identified and responded to each of the Policies and Objectives of the Morrow County Comprehensive Plan that are relevant to, or could be affected by, the proposed amendment. See Application at pages 74-87. Second, Applicant's Exhibit 8 contains an economic report from Johnson Economics that documents recent accelerating growth in data processing as a service, largely associated with broad adoption of AI services, which is causing a recent, rapid increase in demand for, and construction of, Exascale Data Center Campuses. It estimates a demand for an additional 3,000 acres for data center development in the region over the next 10 years. Third, Applicant's Exhibit 7 contains an analysis of alternative areas within a large vicinity east and west of the Site pursuant to Oregon Administrative Rules (OAR) exceptions standards, which demonstrates that the Site is the best situated location with respect to multiple siting factors, whether examined individually or in combination. And fourth, regarding the question of placing a burden on the owners of property where the new zoning would be introduced, this application has been presented by Threemile, who owns the property as well as much of the surrounding area. Threemile has adequately considered how the proposed rezoning would affect its properties and operations and is satisfied that rezoning as proposed is preferable to maintaining the existing zoning designations as they apply to this Site. See also Application at pages 44, 62 and 90-91. This criterion is met.

D. *The request addresses issues concerned with public health and welfare, if any.*

Response. Economic development is an important public health and welfare issue of concern to Morrow County, and the recent, rapid and broad-based popular adoption of AI technology services is spurring a rapid increase in demand within northern Morrow County and the surrounding vicinity for large tracts of land to support Exascale Data Center Campus development and use see Exhibit 8. Communities in the Columbia River corridor have already found themselves well positioned to compete to attract regional data center developments: the presence of sufficient electric power and transmission lines, Interstate 84, and high-capacity fiber optic facilities in the Columbia River corridor, together with available suitably-zoned land with sufficient buffering from other uses has already led to numerous data center development projects completed or now in process. But those projects have generally occupied about 150 acres or less and have utilized land already zoned to allow data center development, reducing available inventories of industrially-zoned buildable land available to meet other economic development needs and objectives. For this reason, identifying particularly suitable locations and designating land for EDCC development and use contributes to public health and welfare, by meeting emerging needs while keeping adopted Economic Development planning on track.

Separately, regarding public health and welfare issues associated with impacts of industrial development and use activities, EDCCs are normally equipped with backup diesel generators to avoid, or at least mitigate, occasional disruptions in data processing due to instability or outages in the electric transmission system. In populated areas, such generator activations and operations can result in perceived impacts at sensitive receptor sites, such as residences, even though the actual noise levels, air emissions and other effects may in fact be in compliance with applicable federal, state and local standards. But the relative isolation of the Site for the proposed zone change – west of the Boardman Airport, on the south side of the I-84 corridor and on the east bank of Sixmile Creek – dramatically reduces potential for such perceived impacts. See also Application at pages 62-63 and 91-92. This criterion is met.

2. MCZO 3.110 Criteria for Limited Use Overlay Zone

1. No other zoning district currently provided in the zoning ordinance can be applied consistent with the requirements of the 'reasons' exception statement because the zoning would allow uses beyond those justified by the exception.

Response. There are Morrow County base zones in which data center is an allowed use, but they also include use lists that would allow activities other than data centers within the Site. Because such other uses would be inconsistent with the purpose of this application and the exceptions from Statewide Planning Goals requested by this application, the LU Overlay is necessary and appropriate in conjunction with the proposed base rezoning to General Industrial (MG). This criterion is met.

2. The proposed zone is the best suited to accommodate the desired uses(s); and

Response. Applying the MG zone to the Site, together with an LU Overlay restricting land use to data center, is the best way to provide land for large-campus Exascale Data Center Campus development and use because data centers are typically consistent with the form, appearance, and sometimes very large scale of industrial sites and buildings in the MG zone and the proposed LU Overlay will reserve the full area of the Site for data center use, ensuring that other forms of

employment development will not seek to locate within the Site instead of at currently planned locations for such other uses. This criterion is met.

3. It is required under the exception rule (OAR 660, Division 4) to limit the uses permitted in the proposed zone.

Response. This provision implements OAR 660-004-0018(4)(a), which states that “when a local government takes an exception under the ‘reasons’ section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.” Findings are provided above responding to the “reasons” exception rules in OAR 660-004 in Section I.D.1 above and implementation of this provision of MCZO 3.110 limits the uses permitted under the proposed zone to only those justified in the exception. Consequently, approval of the requested goal exceptions necessarily requires the adoption and implementation of the overlay zone designation for the Site as proposed, to ensure compliance with applicable law as required under this code criterion.

B. Official Plan/Zoning Map. The official plan/zoning map shall be amended to show an LU suffix on any parcel where the Limited Use Overlay Zone has been applied.

Response. Staff will amend the map to show the LU suffice over this Site.

C. Site Plan Requirement. In addition to limiting the uses in the zone it may be necessary to require County approval of the location of buildings, access and parking, screening and other site planning considerations in order to ensure the compatibility of the permitted uses with the area. This requirement may be added by specific reference in the adopting ordinance. The ordinance shall indicate any special concerns or locational requirements that must be addressed in the site plan and be approved by the Planning Commission.

Response. Any development of this Site will first require Site Plan Review and approval, pursuant to MCZO 5.020. Further, the surrounding area is not currently improved or designated for any types of future development, such as residential, that would be considered sensitive to impacts affecting compatibility of uses. See also Application at 64-65. This criterion is met.

3. MCZO 3.092 Airport Safety and Compatibility Overlay Zone

A map of the imaginary surfaces for the Boardman Airport, including the boundary of the Site, is included in Exhibit 13. As indicated in the exhibit, the Site is partially within the horizontal and conical surface areas surrounding the runway. However, it will be feasible for future data center development to comply with the requirements in this overlay zone, as demonstrated by the conceptual site plan provided as Exhibit 4. This is because the Site is more than 5,000 feet from the Boardman Airport runway and only a small portion of the Site overlaps with the imaginary surfaces--at the eastern edge of the Site, nearest to the airport, a structure would have to be over 100 feet in height to penetrate the conical surface. Across the rest of the Site, structures could be well over 100 feet without penetrating the surface. Final compliance will be confirmed through the County’s Site Plan Review process. See also Application at pages 65-67, with technical

supporting evidence at Exhibit 6. There is no incompatibility with the Airport Safety and Compatibility Overlay Zone presented by this application.

4. Compliance with Morrow County Comprehensive Plan Goals and Policies

Not all Comprehensive Plan Goals and Policies provide review criteria for a quasi-judicial application—i.e., aspirational goals and policies do not constitute review criteria. The discussion below focuses primarily on Morrow County Comprehensive Plan goals and policies that provide relevant and applicable criteria for this application.

(i) Goal 1 (Citizen Involvement)

The Citizen Involvement Goal develops and implements a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process. Citizen Involvement Policy 3 encourages people to attend and participate in Morrow County Planning Commission and Board of Commissioners meetings and hearings. Procedures include notice to the public, Oregon State Agencies including the Departments of Land Conservation and Development (DLCD) and Transportation (ODOT), Confederated Tribes of the Umatilla Indian Reservation (CTUIR) and other interested parties, and public hearings. The goal and policy are satisfied through the opportunities afforded to the public to participate at public hearings before the Morrow County Planning Commission and Board of Commissioners on the proposed amendments, as provided for by state law and the county's Zoning Ordinance.

(ii) Goal 2 (General Land Use)

General Land Use Policy 9 requires that all plan and zone changes comply with all applicable statewide planning goals and County policies and procedures. This policy can be satisfied upon approval of the Findings and analysis of compliance with the statewide goals and applicable County zoning provisions that are contained in this application.

In preparing to submit this request, the Applicant's team coordinated with staff of affected local governments (cities and counties), CTUIR, and utility service providers to identify issues of concern and address them in the analysis and recommendations, and to obtain data and service provider letters to support the analysis and proposed amendments.

Applicant has presented factual evidence and analysis findings – in particular, the responses provided above to implementing regulations in OAR 660-004 and OAR 660-014-0040 – demonstrating that the proposed redesignation package complies with “reasons” exception criteria. In addition to demonstrating that the proposed Site to be rezoned to allow data center use is superior and preferable to alternative potential areas within a sizable vicinity, the proposal incorporates equivalent-area conversions of land between resource and industrial zones, such that no net loss of productive agricultural land will occur. The proposal therefore maintains consistency with policies in the comprehensive plan, satisfying Goal 2 requirements.

See also Application at pages 42-45, with technical supporting evidence at Exhibit 8.

(iii) Goal 3 (Agricultural Lands Element)

Applicant is seeking a Goal 3 exception. Applicant's evidence and recommended findings addressed the Agricultural Lands Exceptions Objectives of the Comprehensive Plan.

Agricultural Lands Exceptions Objective 1 seeks "To maintain a viable agricultural base, preserve agricultural lands for agriculture, and to protect agriculture as a commercial enterprise." The proposal includes redesignation of more productive farmland from its current SAI zoning to EFU, which will replace the Site area proposed for EFU/SAI to MG redesignation. This exchange will ultimately remove 967 acres of non-productive land from EFU and replace it with approximately 1,623 acres of EFU-zoned land, which is actively farmed. This action contributes positively to meeting this objective.

Agricultural Lands Exceptions Objective 2 seeks "To conserve natural resources constituting important physical, social, aesthetic and economic assets through the development and adoption of realistic land use and development policies intended to achieve an economic-environmental balance, minimize public costs, and maximize energy conservation." Applicant's submitted evidence and recommended findings demonstrate that the proposed redesignations are consistent with land use and development policies. The Site contains no significant natural resources, and its geology and soils characteristics will not support cultivated farming. See Exhibit 10A. The needs of Exascale Data Center Campus development and use make the Site particularly suitable for data center use, which will contribute to the County economy while preserving other industrial-zoned lands for employment uses as intended by previous economic development and planning efforts. Public costs, which may include capital expenditures as well as ongoing operations and maintenance expenditures, will be minimized by siting data center development where access to high-capacity electric transmission lines is feasible and proximate. The Port of Morrow has plans to extend water services to serve the Airport property, next-door to the east of the Site; this proposal will add another rate-paying user to absorb those costs and fund service operations. Those factors similarly contribute to maximizing energy conservation, along with enabling future data center operator(s) to realize operational economies of scale by consolidating facilities on a large campus rather than on distributed sites (which would necessitate multiple trips on public roads by data center staff vehicles, to perform operational, maintenance, repair and other tasks). For those reasons, the proposed designation amendments are consistent with this objective.

Agricultural Lands Exceptions Objective 3 seeks "To minimize and actually prevent conflict between farm and non-farm uses and resultant increased economical costs to the agricultural sector." Applicant's evidence indicates that data center operations at the Site will not constrain agricultural practices, including movements of agricultural vehicles/implements, in the surrounding area. Relative to the size of the campus area, human occupancy is low, and all operations are indoors. Transportation access requires only the extension of the existing paved segment of Boardman Airport Lane to the west, across the railroad spur that extends south to the Carty Generating Station, into the Site. The proposal includes converting a larger area (approximately 1,623 acres +/-) of SAI-zoned land, which is now in farm use, to EFU. And the Applicant – the primary farm user in the vicinity – has not identified a conflict between the proposed exascale data center use and its existing or planned farm uses. The proposal furthers the goal of preventing farm/non-farm conflicts, as intended by this objective.

Agricultural Lands Exceptions Objective 4 seeks “To provide maximum opportunity for optimum management and operational practices, and provide adequately efficient supportive resources and services.” As discussed above for Objective 3, the proposed land designation changes will improve the overall quality and farm productivity of land in the County’s EFU inventory by replacing the Site’s non-farmable land with more than 1,600 acres of EFU land, which is irrigated, productive farmland. The resulting improved alignment between zoning designation and productive agricultural capacity contributes to this objective by preserving better-quality farmland in EFU for long-term use in accordance with optimum agricultural management and operational practices.

Agricultural Policy 1 states, “It shall be the policy of Morrow County, Oregon, to preserve agricultural lands, to protect agriculture as its main economic enterprise, to balance economic and environmental considerations, to limit non-compatible nonagricultural development, and to maintain a high level of livability in the County.” Applicant noted that the Board of Commissioners included the following finding in its 2018 approval of the Goal 3 exception for OE Solar 1, LLC, familiarly known as the HARP Solar Generation Facility:

Another interpretation of Economic Element Goal 4 would be that allowing this activity on land zoned for Exclusive Farm Use protects land zoned Port or General Industrial from uses that consume large amounts of acreage, but do not either create jobs or significant tax base. Placing the proposed solar photovoltaic energy generation facility on land zoned for Exclusive Farm Use preserved industrial land for higher density and impact uses.

The reasoning is similarly applicable in this case, where economic data indicates a novel, and very recent trend: growth in regional demand for 3,000 acres of land for development of Exascale Data Center Campuses in a 10-year period. Exascale Data Center Campuses are a new type of land use previously unanticipated by economic development planning and land use allocations to date. As a result, relying on existing inventories of industrially zoned exception lands to meet the novel demand would have the perverse effect of absorbing land (i.e., removing it from the available inventories to meet employment needs associated with growth planning in the first place). In that scenario, in the future it will become necessary to urbanize more land to satisfy growth needs, leapfrogging over and around the zoned industrial lands absorbed by data center development.

It follows that enabling the Site to accommodate an Exascale Data Center Campus on non-farmable land located west of the Boardman Airport will protect productive agricultural lands from expansion pressure. This occurs because allocating non-farmable land to meet the novel demand for exascale data center use preserves existing industrial land allocations to meet employment needs already associated with the population growth forecasting/planning process. For the above reasons, the proposed designation changes are consistent with this policy.

Agricultural Policy 17 states, “The County, Port, regional and state agencies should work with private citizens to secure utilization of the Navy’s north Morrow tract, so that when market conditions permit, the land may be developed for more intensive agriculture, or other compatible and/or complementary uses including industrial and energy purposes.” The Applicant understands the “Navy’s north Morrow tract” to refer to the large, generally rectangular area

labeled “Naval Weapon Systems Training Facility Boardman” on the Morrow County Comprehensive Plan Map. The Site of the proposed redesignation/zone change is approximately four miles west-northwest of that tract.

This policy anticipates that the “north Morrow tract” will be converted to private sector tenancy and use, possibly to include private ownership, at a future time. Unless and until such time, the land in that tract is not available for data center development or other private use.

The proposed redesignation of the Site to allow exascale data center use will have no significant effect on the ability of the County to convene parties and engage with the federal government regarding redeployment of the “Navy’s north Morrow tract” for locally preferred activities. Therefore, the proposal is consistent with this policy.

With respect to the proposed Downzone Area (discussed more fully below), the proposed conversion of approximately 1,623 acres from Industrial/SAI designation to Agriculture/EFU will contribute to ensuring that no net loss of productive agricultural land will occur. The Applicant has provided geotechnical/soils analysis documentation at Exhibit 10B demonstrating that the Downzone Area contains superior soil conditions and is actively farmed and improved with center-pivot irrigation. The Downzone Area contains Class IVe soils and is far more suitable for the proposed Agriculture/EFU designation than the EFU-zoned soils at the Site, which has many agricultural limitations, would require substantial financial and time investment to achieve a cultivation condition, and even if such condition were achieved, would still be inferior to the agricultural condition of the downzone study area. As noted in the Downzone Area Soils Report, given these limitations the land proposed for upzoning is not likely to become cultivation land, while the Downzone Area is likely to remain in high-value crop production due to favorable soil conditions and associated improvement (irrigation, land leveling, access, etc.). Although there is no criterion requiring a corresponding downzone as a condition of upzone approval, the greater acreage and productivity of the currently-farmed Downzone Area is sufficient to provide mitigation for the upzone.

See also Application at pages 45-48 and 69, with technical supporting evidence at Exhibits 9, 9A, 10A, 10B, 11, 12, 13, 15, and 17A, B and C.

(iv) Goals 5 and 6 (Natural & Cultural Resources Elements)

The Natural Resources Element of the plan provides a general overview of all natural resources common to the County. In general, natural resources are considered vital to the County’s historical and future development and are recognized as a primary base for the County’s economy.

As directed by Statewide Planning Goal 5 and its implementing statutes and administrative rules, Morrow County has inventoried resources; has analyzed Environmental, Social, Economic, and Energy (ESEE) consequences of conservation/protection versus allowing development impacts; and has adopted designations of significant Goal 5 resources. Such significant resource designations include land resources (soils, minerals, vegetation, and water resources); air resources; air, water, and land quality; fish and wildlife; fisheries; wildlife; scientific and cultural resources; and historical resources.

Neither the proposed redesignation Site (from the SAI/EFU zone to MG with Limited Use Overlay restricting use to data centers) nor the Downzone Area contain any significant Goal 5 resources; therefore, the proposed amendments will have no effect on Goal 5 compliance.

Natural Resource General Policy M states that the County should establish policies for the analysis of proposed zone changes' effects on air, water, and land quality.

Applicant's evidence demonstrates that the proposed Site for rezoning to permit exascale data center campus development does not contain soil conditions suitable for farm productivity, even if irrigation were available to it. The Port of Morrow has provided a service provider letter indicating its ability to provide industrial water service to the Site, so future development will not rely on groundwater wells for its water supply. Water quality and air quality will be assured through compliance with all applicable Oregon DEQ permitting requirements in the Site Plan Review process, which a future developer must complete prior to any non-farm construction and industrial use of the property.

Applicant has proposed rezoning the Downzone Area to ensure that the Site-related amendments will not reduce the amount of EFU-protected cropland in the County's inventory.

See also Application at pages 48 and 69-70, with technical supporting evidence at Exhibits 11 and 12.

(v) Goal 11 (Public Facilities and Services Element)

Applicant requests a Goal 11 exception, but Applicant's evidence has also addressed the application's consistency with the MCCP's Public Facilities and Services policies.

General Policies A and B require "planning and implementation of public facilities and service programs necessary for the public health, safety and welfare ... [which, for urban areas,] shall be provided at levels appropriate to support optimum development." Applicant has provided correspondence from service providers indicating that levels of power and water service appropriate to support EDCC development can feasibly be provided to the area in which Goals exceptions are proposed (i.e., the Site). Providing excess capacity to serve additional development is not warranted in this circumstance because the Site encompasses all of the potential industrial development area located between the ALI-zoned Airport area and the eastern top-of-bank of the Sixmile Canyon to the west, which forms a natural boundary constraining contiguous development west of the City of Boardman.

General Policy D requires that the provision of public facilities and services to rural areas being changed to urban use shall be based on (1) the least time required to provide the service, (2) the most reliable service, (3) lowest financial cost, and (4) adequate levels of service that satisfy long range needs. General Policy E calls for the coordinated development of all necessary urban facilities and services appropriate to an urban area.

Applicant's evidence demonstrates that the Port of Morrow has planned water service capacity to support development consistent with the proposed zoning changes for the Site, including both industrial use and fire-suppression flows. Applicant's evidence also indicates that on-site septic systems and open ponds for industrial water management can feasibly be provided within the

Site. In the Site Plan Review process, the developer will be required to provide designs for specific methods of handling public facility service requirements, demonstrate that service capacities are or will be made available timely to support operations, and obtain all necessary permits from regulatory agencies, such as Oregon DEQ with respect to air and water quality. Developer will also be required to propose emergency service access routing to the Site as part of Site Plan Review, for review by the County Sheriff's Office, County Emergency Manager and other emergency services providers.

General Policy F calls for the siting of utility lines and facilities on or adjacent to existing public or private ROW or through generally unproductive lands to avoid dividing existing farm units. General Policy G requires that public facilities and services not exceed the carrying capacity of the air, land, and water resources.

Applicant has provided correspondence from service providers indicating that levels of water and power service appropriate to support EDCC development can feasibly be provided. These policies provide guidance to service providers regarding how to plan and implement such service provision following adoption of the proposed Plan Map/Zoning amendments and exception findings. Consistent with these policies, the applicant/owner and/or any future prospective developer(s) will be required to coordinate with all needed service providers regarding specifics of design, construction, and operation of such utility services. Demonstration of sufficient service capacities and carrying capacities will be required from the developer in the Site Plan Review procedure prior to industrial construction and use of the property, supported by compliance with federal and state environmental permitting requirements in construction and operations.

General Policy K is an aspirational policy that establishes a goal of achieving a maximum balance of public costs versus benefits and revenues in the provision of public facilities and services. General Policy L states, "equitable approaches and methods of financing shall be a goal." As noted in the above statements for policies D through G, a future developer will be required to coordinate with the Port of Morrow and other service providers regarding specifics of design, construction and operation of needed utility services, as well as funding mechanisms and rate structures to be utilized within that process. This request does not require provision of additional utility services by the county. Additionally, the project will provide economic benefits such as new employment, payroll, spending with vendors on construction and operations, and new tax revenue.

General Policy M calls for Morrow County to "utilize development review processes to ascertain the impact of large projects on County and community services and should demand the sponsor to participate in meeting associated expenses." Similarly, Utilities Policy F calls for coordination of development with utilities providing electrical, natural gas, cable television, and telephone services. Conditions of Approval 1, 3 and 4 (listed above) require Site Plan Review prior to non-farm construction and industrial use of the Site, consistent with that policy.

Water and Sewer Policy is to "encourage intensive development to locate within existing cities whenever possible," but then it further provides that when development occurs in unincorporated areas, compliance with minimum state sanitation and health requirements is required. Applicant has provided an inventory and analysis of alternative potential areas for EDCC development and

operation within a large area surrounding the proposed Site. Exhibit 7 Its study area extends along the Columbia River corridor both west and east of the Site to include portions of Gilliam, Morrow and Umatilla Counties, respectively, and the UGBs of included cities, i.e., Arlington, Boardman, Ione, Irrigon, Umatilla, Hermiston, Stanfield, and Echo (from west to east). The analysis finds that appropriately zoned areas within those cities' UGBs are not available to meet the 3,000-acre projected need within a 10-year period see Exhibit 8, for reasons such as being already developed and irrevocably committed to other uses, or being insufficient in dimensions or total contiguous area.

Applicant's evidence demonstrates that the Site is suitable for EDCC use because urban water utility services already extend to the Boardman Airport area, adjacent to the east of the Site, and it is feasible to meet minimum State sanitation and health requirements through on-site industrial septic facilities until such time infrastructure for treatment and disposal may be extended to the Site by the Port of Morrow. Conditions of Approval 1, 3 and 4 (listed below) require the developer/applicant to demonstrate the sufficiency of such facilities and services in Site Plan Review prior to data center construction and industrial use of the Site.

Solid Waste Policies A and B can be met by a new industrial development using the same processes for which solid waste management occurs elsewhere in the county, typically a contract for solid waste services or direct hauling of waste to Finley Buttes Landfill.

Regarding the Downzone Area, its redesignation from Industrial/SAI to Agriculture/EFU is proposed to ensure that the proposed redesignation of the Site to allow data center use will not cause a net decrease in the total amount of Goal 3 resource land in Morrow County protected for agricultural use. Continued crop production under EFU zoning will not require urban service extensions.

See also Application at pages 50-54 and 71, with technical supporting evidence at Exhibits 7, 8, 17A, 17B and 17C.

(vi) Goal 12 (Transportation Element)

While most of the County's Goal 12 objectives are general in nature and directed towards the County, four – Objectives 2, 5, 14, and 15 – apply more directly to this application. This application complies with the objectives for the following reasons:

- Applicant's Transportation Planning Rule (TPR) analysis at Applicant's Exhibits 9 and 9A shows that the proposed amendments will not cause a significant impact on existing or planned transportation facilities because reasonable worst-case trip generation under the proposed zoning – including LU Overlay limiting industrial use to data center – will be lower than that allowed under the Site's current zoning, which includes approximately 331 gross acres in the Space-Age Industrial (SAI) zone.
- Applicant's TPR analysis shows that the proposed land use amendment can be accommodated by the existing transportation infrastructure network, consisting of Boardman Airport Lane and Tower Road, which connect the Site to Interstate 84. Proposed Condition of Approval 1.a above (see page 3) will require the developer to

provide a traffic impact analysis as part of Site Plan Review procedure, so mitigation measures warranted by the proposed development can be included through conditions of Site Plan Review approval.

Applicable Transportation Policies 1, 2, 4, 5, 6, 7, 9, 10, and 11 are summarized below.

- The overall transportation network is capable of accommodating the overall transportation-related demands on the multi-modal network (Policy 1), but it is appropriate to consider specific conditions and impacts through Site Plan Review when development is proposed, and to require appropriate mitigation measures at that time. Proposed Condition of Approval 1.a will require that.
- No modifications or updates are needed to the Morrow County Transportation System Plan (Policy 2) because (1) Boardman Airport Lane does not have a specific functional designation in the TSP, and (2) the Port of Morrow has constructed Boardman Airport Lane between Tower Road and the Site with sufficient capacity to handle projected vehicle trip volumes under the proposed new zoning.
- No changes are required to the roadway functional classification system (Policy 4).
- No changes to the standards that implement the management and maintenance of the system (Policy 5).
- Conditions 1 and 1.a will require analysis of traffic impacts that may require ROW modification and/or roadway facility upgrades (Policy 6) during the Site Plan Review procedure prior to industrial development or use of the Site. To the extent warranted, the County may at that time require mitigation actions through conditions of Site Plan Review approval, which may include a Road Use Agreement specifying certain improvements or proportional funding contributions to planned public improvement projects.
- Traffic generation will be compatible with the function of the applicable roadway network (Policy 7).
- Traffic generation may not exceed carrying capacity of roadway (Policy 11).
- Traffic impacts may impact roadway function or require modifications to roadway classifications (Policies 9 and 10). The classification of Tower Road is appropriate to accommodate anticipated traffic attributable to data center campus operations, which is generally limited to data center employees and personnel.

Regarding the Downzone Area, its redesignation from Industrial/SAI to Agriculture/EFU is proposed to ensure that the proposed redesignation of the Site to allow data center use will not cause a net decrease in the total amount of Goal 3 resource land in Morrow County protected for agricultural use. Continued crop production in the Downzone Area under EFU zoning will not require any change in the existing road network.

See also Application at pages 54-56 and 71-73, with technical supporting evidence at Exhibits 9 and 9A.

(vii) Goal 13 (Energy Conservation Element)

As with many other MCCC policies identified, these policies are directory or aspirational in nature, rather than mandatory to an applicant. While they are not standards upon which approval or denial is based, they are nevertheless addressed herein.

Energy Conservation Policy 1 encourages the use of renewable and/or efficient energy systems, design, siting, and construction materials in all new development in the County. Energy Conservation Policy 14 encourages the County to combine increasing density gradients along high-capacity transportation corridors to achieve greater energy efficiency.

This request affects County land designation policy and does not include a proposal for actual development of the Site. That procedure will subsequently be required of a proposed developer(s) following approval of the requested land designation/zoning amendments, prior to industrial development and use within the Site. The developer's preparation of a Site Plan Review application package will necessarily involve coordination with one or more suppliers of energy to achieve consistent, reliable service to the Site. At this time, Applicant has contacted Pacific Power and anticipates that electric service will be provided by a future Pacific Power extension of transmission lines from the south, which is already permitted and will also serve other data centers in the vicinity and increase density on those lines.

Regarding the Downzone Area, its redesignation from Industrial/SAI to Agriculture/EFU is proposed to ensure that the proposed redesignation of the Site to allow data center use will not cause a net decrease in the total amount of Goal 3 resource land in Morrow County protected for agricultural use. Continued crop production in the Downzone Area under EFU zoning will not cause any change in energy needs or consumption patterns.

See also Application at pages 56- 57 and 73, with technical supporting evidence at Exhibit 17B.

(viii) Goal 14 (Urbanization Element)

Applicant is seeking a Goal 14 exception to allow for urban-scale and type of development and for the provision of public utility services (water) to the Site.

Regarding the Downzone Area, its redesignation from Industrial/SAI to Agriculture/EFU is proposed to ensure that the proposed redesignation of the Site to allow data center use will not cause a net decrease in the total amount of Goal 3 resource land in Morrow County protected for agricultural use. Continued crop production in the Downzone Area under EFU zoning will be protected from urbanization pressure.

See also Application at pages 57-58 and 73, with technical supporting evidence at Exhibit 10A and 10B.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE DOWNZONE AREA:

This application also proposes to amend the Comprehensive Plan/Zoning Map by redesignating approximately 1,623 acres on another site south of Boardman from its current Comprehensive Plan designation of Industrial to Agriculture and zoning from SAI to EFU.

A. Downzone Area Description and Surrounding Land Use:

The Downzone Area is an area southwest of the City of Boardman, abutting the western boundary of the Naval Weapons Systems Training Facility. It is approximately 1,623 acres. Zoning to the east is PUB; zoning to the north and west is SAI; and zoning to the south is MG. There is existing pivot-irrigated farm use to the west and portions of the north (as well as within the Downzone Area itself).¹¹

Applicant's Exhibit 10B reports that the Downzone Area contain Class IVe soils, and that the area is likely to remain in high-value crop production due to favorable soil conditions and associated existing improvements (irrigation, land leveling, access, etc.).

The Downzone Area has vehicular access consistent with its current use for crop production. No change in its access and circulation is associated with the proposed downzoning. And there is no proposed change in provision of utilities or public services.

B. Summary of Proposal for the Downzone Area

Applicant proposes to amend the Comprehensive Plan to change the Plan and zoning designation of the Downzone Area from Industrial/Space Age Industrial (SAI) to Agriculture/Exclusive Farm Use (EFU). The purpose of that change is to maintain (or, effectively, increase) the County's inventory of productive farm land under EFU protection while allowing data center use at the Site. Although there is no criterion requiring a corresponding downzone to EFU as a condition of upzone approval, the downzone will eliminate the potential for non-agricultural uses over a greater acreage of more productive soils, and is sufficient to ensure no net loss of agricultural productivity as a result of the proposed upzone approval.

C. Compliance with Statewide Planning Goals

County adopts these findings to show that the Downzone request complies with applicable Statewide Planning Goals. The goals are presented below in bold, underlined print with responses in regular print.

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

¹¹ Generally, the boundaries of the proposed 1,623-acre Downzone Area correspond to the southern half of Morrow County Tax Map 04N 24E Section 36, together with Tax Map 03N 24E Sections 01 and 02 to the south and southwest of it, respectively.

Response: Generally, Goal 1 is satisfied when a county complies with public notice and hearing requirements in the Oregon Statutes and in the local Comprehensive Plan and Land Use Code. The County's Zoning Ordinance is consistent with State law with regards to notification requirements. Pursuant to Section 9 of Morrow County Zoning Ordinance at least one public hearing before the Planning Commission and Board of Commissioners is required. Legal notice in a newspaper of general circulation is required. The County has met these requirements and notified DLCD 35 days prior to the first evidentiary hearing.

2. Goal 2 (General Land Use): To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Response: The downzone request will convert land currently in agricultural use from an Industrial/Space Ace Industrial (SAI) designation to Agriculture/EFU to ensure that no net loss of productive agricultural land will occur with the proposed redesignation of the Site, as discussed in detail above in this report. Based on the discussion below regarding compliance with applicable Comprehensive Plan policies, the proposal maintains consistency with policies in the Comprehensive Plan, and thus satisfies Goal 2 requirements.

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

Response: With respect to the proposed Downzone Area, the proposed conversion of approximately 1,623 acres from Industrial/SAI designation to Agriculture/EFU will help ensure that no net loss of productive agricultural land will occur. The Applicant has provided geotechnical/soils analysis documentation in Exhibit 10B demonstrating that the Downzone Area contains superior soil conditions, and is actively farmed and improved with center-pivot irrigation. The Downzone Area contains Class IVe soils and is far more suitable for the proposed Agriculture/EFU designation than the EFU-zoned soils at the Site, which has many agricultural limitations, requires substantial financial and time investment to achieve a cultivation condition, and even if such condition were achieved, would still be inferior to the agricultural condition of the downzone study area. See Exhibit 10B. As noted in the Downzone Area Soils Report, given these limitations the land proposed for upzoning is not likely to become cultivation land, while the Downzone Area is likely to remain in high-value crop production due to favorable soil conditions and associated improvements (irrigation, land leveling, access, etc.) The Applicant has also provided aerial photographic evidence of center-pivot irrigation in use in the Downzone Area (see Exhibit 2).

Although there is no criterion requiring a corresponding downzone as a condition of upzone approval, the downzone will eliminate the potential for non-agricultural uses in the downzone area is sufficient to ensure no net loss of agricultural productivity as a result of the proposed upzone approval.

4. Goal 4 (Forest Lands): To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the

continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Response: The proposal does not affect lands that are designated for forest uses. Goal 4 does not apply.

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

Response: The County Comprehensive Plan has not identified any inventoried significant natural, scenic, historic or open space areas within or near the proposed Downzone Area. See the attached Significant Resource Inventory Map, Exhibit 11 and also a map excerpt in Exhibit 16. Per the analysis in the Natural Resources Assessment, there are no significant Goal 5 resources that would be affected by this proposal to amend land use designations.

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

Response: The effect of the proposed redesignation of the Downzone Area will be to protect it from urban industrial development. Like other agricultural operations, activities within the Downzone Area will be required to comply with applicable local, state, and federal regulations regarding air, water and land resources quality as they apply in EFU-zoned areas.

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

Response: The Downzone Area does not contain mapped flood or geologic hazards (see FEMA FIRM Panels, Exhibit 14, and DOGAMI SLIDO Maps, Exhibit 15). The amendment will have no effect on Morrow County's compliance with Goal 7.

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

Response: The proposal does not affect recreational facilities or land needed to meet Morrow County's recreational needs. Goal 8 does not apply.

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

Response. Agriculture is a vital component of the Morrow County economy. The redesignation of the Downzone Area – from Industrial/SAI to Agriculture/EFU – will ensure that the proposed

Response. Agriculture is a vital component of the Morrow County economy. The redesignation of the Downzone Area – from Industrial/SAI to Agriculture/EFU – will ensure that the proposed redesignation of the Site to allow data center use (the subject of the exceptions discussed in the above section of this report) will not cause a net decrease in the total amount of Goal 3 resource land in Morrow County protected for agricultural use. Additionally, because soil conditions and irrigation capacity are superior for agriculture at the Downzone Area as compared to the Site, the net effect is to ensure the long-term productivity of a greater acreage of higher quality farmland in Morrow County. The net effect of the whole proposal will be a net increase in both the quantity and the quality of Morrow County’s total agricultural resource area in the EFU zone. See Exhibits 10A and 10B.

In 1987, Morrow County, at the request of Boeing, completed the exceptions process in order to change its Comprehensive Plan and zoning designation for approximately 14,080 acres of EFU land to an Industrial Comp Plan designation and Space Age Industrial (SAI) zoning. In 1996, the County further amended the SAI zone to allow farm uses as a permitted use to respond to changes making it possible to irrigate portions of this area and to allow interim uses pending Boeing long-term efforts to develop portions of the area for industrial uses.

Since the time of the 1987 redesignation, no development consistent with the “Space-Age Industrial” uses the zoning was intended to generate or attract has occurred. While such development may occur in the future, there is scant evidence of economic demand within that economic sub-sector to date for the approximately 13,500 acres currently in the SAI zone. The proposed downzone will reduce the County’s SAI-zoned land inventory by approximately 1,623 acres or 12.3%, from approximately 13,169 acres (after the proposed conversion of 331 acres of the Site to MG/LU Overlay) to a total of approximately 11,546 acres. Given the apparent lack of economic demand for SAI development to date, there is no evidence to suggest that an SAI inventory reduction of about 12.3% will in any way compromise the County’s ability to attract economic user(s) of the remaining 11,546 acres of land in the SAI zone.

For these reasons, the Downzone will continue to further the goal of providing “adequate opportunities ... for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens” and is consistent with Goal 9.

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

Response: The proposal does not affect the provision of housing. The proposed amendments have no effect on Morrow County’s compliance with Goal 10.

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

Response: The proposed Downzone – from Industrial/SAI to Agriculture/EFU – will designate the area agricultural resource land, making it ineligible for extension of urban facilities. In this context, it is appropriate to consider whether such ineligibility could potentially compromise future utility extensions that would be necessary to serve other SAI-zoned areas that will require

public facilities. Significantly, the large SAI-zoned area is situated on both sides of Tower Road, which is likely to serve as the primary corridor for transportation access as well as public facilities infrastructure to serve the area. Because the Downzone Area is situated at the far eastern edge of the SAI zone, its redesignation to EFU will not impose a barrier to public facilities extension(s) to serve any other SAI-zoned property from the central Tower Road corridor. The proposed downzone maintains compliance with Goal 11 and prior actions of Morrow County that imply future extensions of public facilities to serve development in the remaining SAI-zoned areas.

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

Response. The downzone will eliminate the current allowance of urban development based on existing SAI zoning within the Downzone Area (approximately 1,623 acres), and proposes redesignation of the entire Area as Exclusive Farm Use, allowing only rural farm and limited non-farm uses. Such change will not only reduce potential reasonable-worst-case trip generation from the Downzone Area itself (based on EFU- rather than SAI-zone land uses), it will also reduce the overall potential for vehicle trips from urban sources/destinations on County roads in the vicinity and at the Tower Road interchange.

In Exhibit 9, the Applicant has provided a report that addresses the requirements of the Transportation Planning Rule (OAR 660-012). In relevant part, the TPR Analysis concludes that vehicular traffic generated by uses allowed under EFU zoning will have a less significant impact compared with the potential vehicular traffic generated under the existing SAI zone designation. For these reasons, based on the TPR Analysis, the proposed downzoning does not “significantly affect” a transportation facility as defined in OAR 660-012-0060(1)(a) through (c).

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

Response. The Downzone Area currently supports extensive agricultural activity with center-pivot irrigation and sufficient access to allow continued and enhanced farming. The proposed designation change will require no energy inputs or practice changes relative to existing conditions because the established farm use will continue under the new zoning, while eliminating the possibility of industrial development of the area (~1,623 acres).

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

Response. The Downzone Area is not located adjacent to an Urban Growth Boundary (UGB), where the proposed Agriculture/EFU redesignation could foreseeably conflict with the purpose of Goal 14: notably, to foster and achieve efficient urban growth and development patterns in the future. Because the Downzone Area’s location is suitable for continued farming use, its redesignation for Agriculture/EFU zoning will maintain consistency with Goal 14 by focusing urban growth and development pressures appropriately on other areas proximate to established UGBs.

Statewide Planning Goal 15 (Willamette River Greenway), Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes), and Goal 19 (Ocean Resources) are not applicable because the Site is not located near these resources/areas.

D. Compliance with Morrow County Comprehensive Plan and Land Use Regulations

1. MCZO 8.040 Criteria for Amendments

MCZO 8.040, CRITERIA. The proponent of the application or permit has the burden of proving justification for its approval. The more drastic the request or the greater the impact of the application or permit on the neighborhood, area, or county, the greater is the burden on the applicant. The following criteria shall be considered by the Planning Commission in preparing a recommendation and by the County Board of Commissioners in reaching their decision.

A. The local conditions have changed and would warrant a change in the zoning of the subject property(ies)

Response: The proposal to redesignate the approximately 1,623-acre Downzone Area, from the Industrial Comprehensive Plan designation and SAI zoning to the Agriculture designation and EFU zoning, is specifically designed to ensure that Morrow County's inventory of zoned and productive EFU land will not be diminished as the County moves to respond to a rapidly expanding regional demand for land suitable for EDCC siting and development. In fact, the County's overall EFU productivity will increase because the Downzone Area adds 1,623 acres to the County's EFU inventory, which is already improved with center-pivot irrigation and being actively farmed, while removing about 967 acres of land not suitable for commercial farming (see Soils Reports, Exhibits 10A and 10B). This criterion is met.

B. The public services and facilities are sufficient to support a change in designation including, but not limited to, water availability relevant to both quantity and quality, waste and storm water management, other public services, and streets and roads.

1. Amendments to the zoning ordinance or zone changes which significantly affect a transportation facility shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

- a. Limiting allowed land uses to be consistent with the planned function of the transportation facility or roadway;***
- b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,***
- c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel to meet needs through other modes.***

2. A plan or land use regulation amendment significantly affects a transportation facility if it:

- a. Changes the functional classification of an existing or planned transportation facility;**
- b. Changes standards implementing a functional classification;**
- c. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or**
- d. Would reduce the level of service of the facility below the minimal acceptable level identified in the Transportation System Plan.**

Response. This proposal will convert the approximately 1,623-acre area to an agricultural resource designation and zoning that allows only farming and other EFU-allowed uses. The Downzone Area will then become ineligible for public services (unless and subject to a subsequent Goal exception adoption procedure). As noted above, potential trip generation from the Downzone Area will be significantly lower under the new zoning than the current SAI zoning, so the proposal will not significantly affect transportation facilities. The Downzone Area will require no stormwater or wastewater services and is already served with pivot irrigation water. These criteria are met.

C. That the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports goals and policies of the Comprehensive Plan, that there is a public need for the proposal, and that the need will be best served by allowing the request. If other areas in the county are designated for a use as requested in the application, then a showing of the necessity for introducing that use into an area not now so zoned and why the owners there should bear the burden, if any, of introducing that zone into their area.

Response. First, the the proposed amendment is consistent with relevant Comprehensive Plan Policies and Objectives. Second, the proposed designation/zone change in the Downzone Area will ensure that, as the County moves to address an emergent public need for EDCCs, doing so will not result in a net loss of productive farmland under the protection of Agriculture designation and EFU zoning. Third, with the proposed conversion of the Downzone Area's 1,623 acres from SAI to EFU, there will still be approximately 11,546 acres of land available in the SAI zone. And fourth, in the particular case of the Downzone Area, the question is not one of *introducing* farming as the preferred use zoning, but rather that of *protecting in place* the continuation of established productive farming practices that are already in use within the Downzone Area. Regarding the question of placing a burden on the owners of property where the EFU zoning is proposed, this application has been presented by Threemile, who owns the Downzone Area, as well as much of the surrounding area. Threemile has adequately considered how the proposed rezoning would affect its properties and operations, and is satisfied that rezoning as proposed is preferable to maintaining the existing zoning designations as they apply to this property. This criterion is met.

D. The request addresses issues concerned with public health and welfare, if any.

Response. The proposed Downzone Area amendment complements the Site designation changes to ensure that the County's inventory of productive cropland under EFU protection is not reduced by the zoning changes at the Site. The changes will enable the Downzone Area to continue contributing to the agricultural economy of the County. Such economic productivity contributes to the local economy and also provides local property tax revenues that support County efforts to meet public health and welfare goals. This criterion is met.

2. Compliance with Morrow County Comprehensive Plan Policies and Goals

Not all Comprehensive Plan Goals and Policies provide review criteria for a quasi-judicial application—i.e., aspirational goals and policies do not constitute review criteria. The discussion below focuses primarily on Morrow County Comprehensive Plan goals and policies that provide relevant and applicable criteria for this application.

Additional evidence demonstrating compliance with Morrow County Comprehensive Plan Policies and Objectives for the downzone can be found in Application at pages 74-89.

(i) Goal 1 (Citizen Involvement)

The Citizen Involvement Goal develops and implements a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process. Citizen Involvement Policy 3 encourages people to attend and participate in Morrow County Planning Commission and Board of Commissioners meetings and hearings. Procedures include notice to the public, Oregon State Agencies including the Departments of Land Conservation and Development (DLCD) and Transportation (ODOT), Confederated Tribes of the Umatilla Indian Reservation (CTUIR) and other interested parties, and public hearings. The goal and policy are satisfied through the opportunities afforded to the public to participate at public hearings before the Morrow County Planning Commission and Board of Commissioners on the proposed amendments, as provided for by state law and the county's Zoning Ordinance.

(ii) Goal 2 (General Land Use)

The Downzone Area is already a productive farm site, not adjacent to any UGB, with center-pivot irrigation and sufficient access to allow farming. The established farm use will continue under the new zoning, while eliminating the possibility of industrial development of the developable portions of the Site. For those reasons, the proposal is consistent with the Farm element, which states “[i]n order to protect the agricultural element of the County's economic base, productive farm lands should be protected from encroachment by non-agricultural uses. Farm land in Morrow County is best managed in large units...”

The Space Age Industrial element states that uses inconsistent with the purpose of providing areas suitable for space age technology research and development will not be authorized. With the proposed redesignation of Downzone Area, the Morrow County inventory of SAI-zoned land will remain at approximately 11,546 acres, or approximately 18 square miles of land. The

relatively minor change will not compromise Morrow County's ability to realize the intended development potential of the SAI land use designation.

It is appropriate to use EFU zoning to protect this productive agricultural land, keep it in farm production, and restrict potential for it to be converted to industrial use.

(iii) Goal 3 (Agricultural Lands Element)

The proposed SAI-to-EFU conversion puts productive agricultural land now in use for farming under the protections of the Agriculture Comprehensive Plan designation and EFU zoning. The proposed approximately 1,623-acre Downzone Area contains productive irrigated agricultural soils but no other inventoried significant natural resources. Compared to the approximately 967-acre EFU-zoned portion of the Site (proposed for resignation from EFU to MG/LU Overlay), its geology and soils characteristics support commercial farming, which is not feasible within the Site, based on findings in the Soils Report (Exhibits 10A and 10B). Thus, the Downzone Area is superior as compared to the Site for Agriculture/EFU designation and farm use. The resulting improved alignment between zoning designation and productive agricultural capacity contributes to this objective by preserving more and better-quality farmland in EFU for long-term use.

Threemile Canyon Farms LLC is the owner not only of the Downzone Area but also of the adjacent lands in the SAI zone. As owner, Threemile has selected the area for EFU conversion because they have concluded that it will not create a conflict if and when development and use of the adjacent SAI-zoned property occurs. The proposal furthers the goal of preventing farm/non-farm conflicts.

(iv) Goal 11 (Public Facilities and Services Element)

No provision of public facilities and services is proposed to the Downzone Area. Continued crop production under EFU zoning will not require urban service extensions.

Because Tower Road is the logical, centrally-located corridor for provision of transportation access and public facilities and services to the SAI-zoned area generally, and because the proposed Downzone Area is at the eastern perimeter of the SAI-zoned area, its conversion to Agriculture/EFU designation will neither require further extension of planned future public facilities infrastructure, nor be in conflict with orderly service provision to the SAI-zoned area over time as its development may occur.

(v) Goal 12 (Transportation Element)

No new road extensions or other improvements are necessary for access to the Downzone Area to support commercial farming because access has already been successfully established.

In fact, the downzone will substantially reduce potential vehicle trip generation from the area because travel demand associated with EFU uses is lower than that of SAI-zone uses. Therefore, the proposed SAI-to-EFU change will cause no "significant effect" on existing or planned facilities identified in the Transportation System Plan (TSP).

III. MISCELLANEOUS CONCERNS RAISED BY OPPONENTS

Two public comments were submitted at the April 29, 2025 Planning Commission hearing. First Mary Killion raised several issues that are outside the scope of this proceeding and/or relate to issues that not applicable to approval criteria. By way of example but not limitation, Ms. Killion spoke about the general policy need for the County to maximize protection of farm land and the need to consider the potential for future increases in traffic on Tower Road. With regard to this testimony, the Board finds that these concerns and issues, while acknowledged by the Board, are not relevant to the Board's analysis of compliance with the applicable legal criteria. A local government is not required to address in its findings issues that are not substantively relevant to the applicable approval criteria. *See* ORS 215.416(8)(a) (approval or denial shall be based on standards and criteria).

DLCD sent an email stating that:

“Although we are not fully convinced that the applicable criteria of OAR Chapter 660, Division 14 have been satisfied, we believe the county has sufficient information to make an informed decision. Should the county move to approve the applicant's proposal, downzoning the companion 1,605 acres needs to be part of the decision.”

The Downzone Area has since been revised to include 1,623 acres, per the Planning Commission's recommendation. And the Planning Commission recommended concurrent approval of the upzone and downzone requests; thus, the substance of DLCD's comment has been addressed.

IV. AGENCIES NOTIFIED

Department of Land Conservation & Development, Oregon Department of Transportation, Oregon Department of Fish & Wildlife, Oregon Water Resources, Oregon Department of Environmental Quality, Morrow County Public Works, Morrow County Emergency Management, Morrow County Sheriff, Boardman Rural Fire District, City of Boardman, Port of Morrow, Federal Aviation Administration, Oregon Department of Aviation, NAS Whidbey Island Air Station

V. ATTACHMENTS

Applicant's Narrative/Findings Report, including Applicant's Exhibits:

1. Land Use Application Forms
2. Vicinity Map
3. Presentation Slides from 1-9-2025 Pre-Application Meeting
4. Conceptual EDCC Site Plan
5. Map of Proposed SAI to EFU Rezone
6. Text of Proposed Limited Use Overlay
7. Alternative Areas Analysis Report
8. Economic Impact Analysis
9. Transportation Rule Analysis (TPR)
 - A. Supplemental Traffic Memo

10. Soils Reports
 - A. Upzone Area
 - B. Downzone Area
11. Morrow County Significant Resource Inventory Map
12. Natural Resources Assessment
13. Boardman Airport Horizontal and Conical Surfaces Map
14. FEMA FIRM Panels
15. DOGAMI SLIDO Maps
16. Six-Mile Canyon Sand and Gravel Site Information
17. Service Provider Letters
 - A. Water – Port of Morrow
 - B. Power – PacifiCorp
 - C. Road Access – Port of Morrow
18. Data Center Reference Literature
 - A. State of the Digital Infrastructure Industry 2024 Annual Report, iMasons
 - B. AI Power: Expanding Data Center Capacity to Meet Growing Demand, McKinsey & Company
 - C. Mega \$14 billion data center project proposed in metro Phoenix, Phoenix Business Journal
 - D. Data center boom transforms Culpepper, InsideNoVa
 - E. Technical Memo: Siting Criteria for Hyperscale Data Centers, Mackenzie
 - F. The Impacts of Data Processing in Oregon, Business Oregon
19. Proposed Morrow County Zoning Map Amendments

VI. HEARING DATES

Planning Commission
 North Morrow Government Building
 April 29, 2025
 North Morrow Government Center
 215 NE Main Street
 Irrigon, OR 97844

Board of Commissioners
 June 18, 2025
 North Morrow Government Center
 215 NE Main Street
 Irrigon, OR 97844

VII. RECOMMENDATION OF THE BOARD OF COMMISSIONERS

Based on the entire record compiled through the Planning Commission proceeding, including the Planning Commission's favorable recommendation, and based on the public hearing before the Board, the Board of Commissioners votes to approve the Application based on the Application


materials and Findings of Fact and Conclusions of Law as presented herein, subject to the following conditions of approval.

Conditions of Approval

The following conditions of approval must be satisfied prior to non-farm development within the Site. These conditions are binding upon the Applicant and future owners of the property:

1. Prior to any data center development, developer shall prepare and submit an application to Morrow County for Site Plan Review subject to the submittal requirements, standards, approval criteria and procedure set out in MCZO 5.020.A through H.
 - a. As part of the Site Plan Review application, developer shall retain a Traffic Engineer to provide a project-specific Traffic Impact Analysis (TIA) consistent with the requirements of MCZO 4.035. That work shall include coordination with staff of Morrow County and the Oregon Department of Transportation (ODOT) on the necessary scope of the analysis; assessment of operational and safety impacts of the proposed development on affected intersections, including the Interstate 84-Tower Road interchange, other Tower Road intersections, and any secondary/emergency access routes and facilities; and providing recommendations for mitigation actions at locations where performance is projected to fall below established standards due to traffic generated by the proposed development.
2. Prior to construction, developer shall provide notice to Threemile Canyon Farms, the area farming operator, of its construction traffic schedule and coordinate with Threemile Canyon Farms to minimize any potential impacts to farm traffic during harvest.
3. Developer shall obtain all necessary local, state and federal permits and approvals for the data center campus construction and operation prior to commencement of the proposed use or certificate of occupancy being granted. If applicable, such permits shall include, but are not limited to: (A) review and approval of a Water Pollution Control Facilities (WPFC) permit issued by the Oregon Department of Environmental Quality and (b) Pollutant Discharge Elimination System (NPDES) 1200-C Permit issued by the Oregon Department of Environmental Quality.
4. Delivery of adequate electricity and water from third-party providers shall be provided substantially as described in this record, prior to commencement of the proposed use or certificate of occupancy being granted.

MORROW COUNTY BOARD OF COMMISSIONERS



David Sykes, Chair

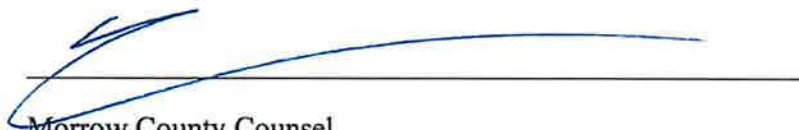


Jeff Wenholz, Vice-Chair



August (Gus) Peterson, Commissioner

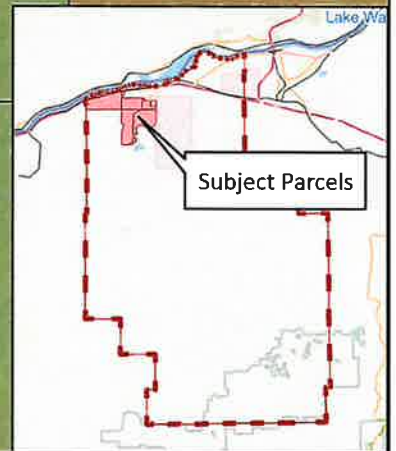
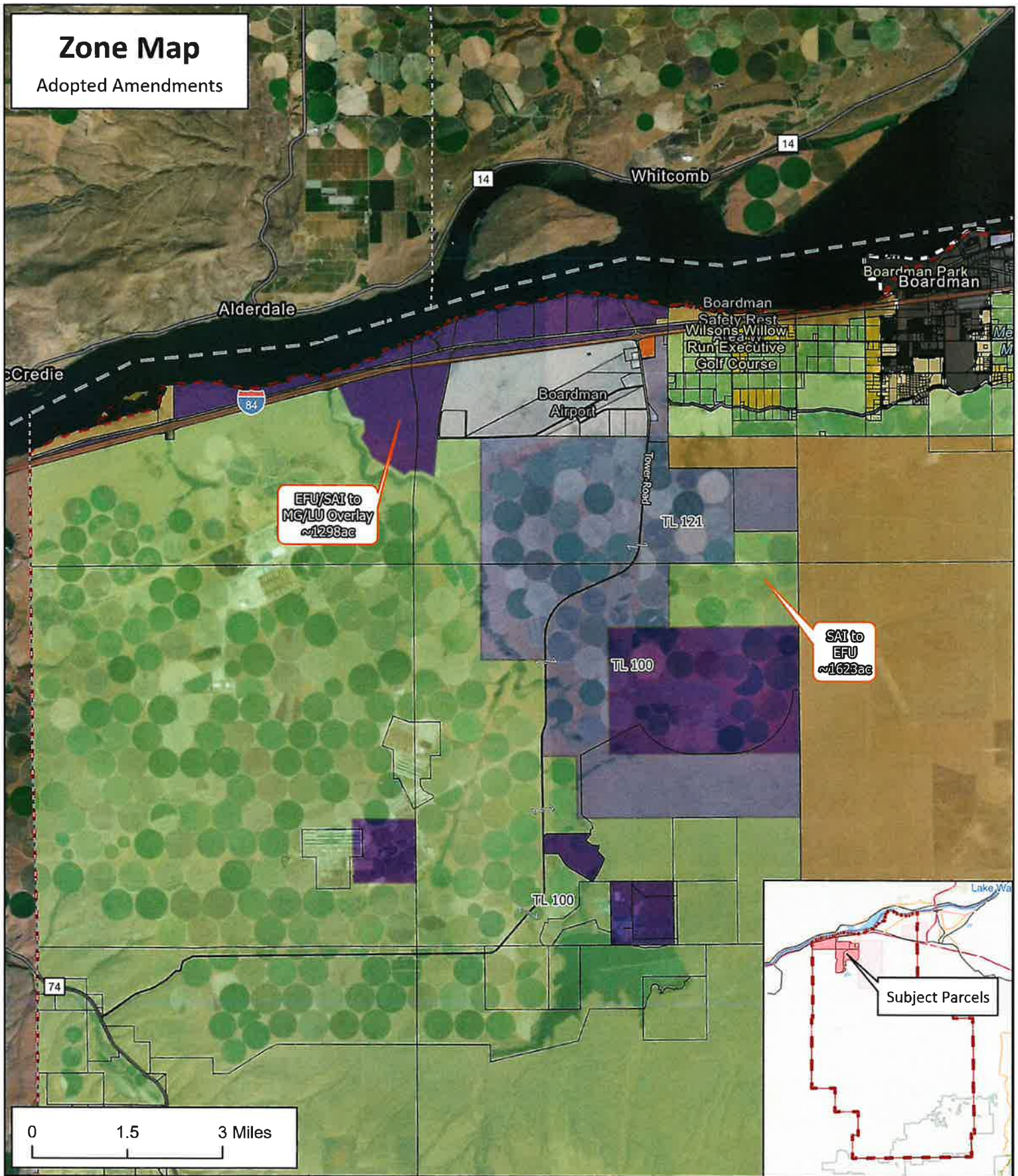
Approved as to Form:



Morrow County Counsel
Wash. Nelson
OSB #074460

Zone Map

Adopted Amendments



ACM-N-155-25

AZM-N-156-25

ACM-N-157-25

AZM-N-158-25

Threemile Canyon Farms
Multiple Map and Tax Lots

- City Limits
- UGB
- Morrow County Boundary
- Taxlots

Coordinate System:

NAD 1983 HARN StatePlane Oregon North FIPS 3601

Projection: Lambert Conformal Conic

Datum: North American 1983 HARN

Cartography By: Stephen Wreccics

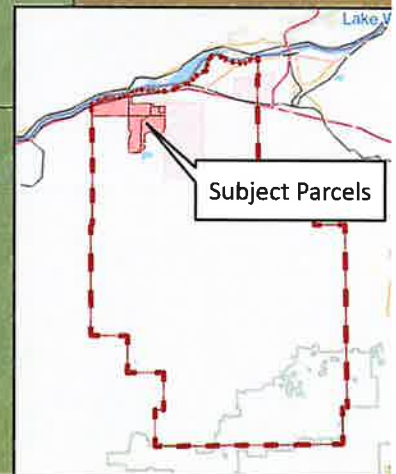
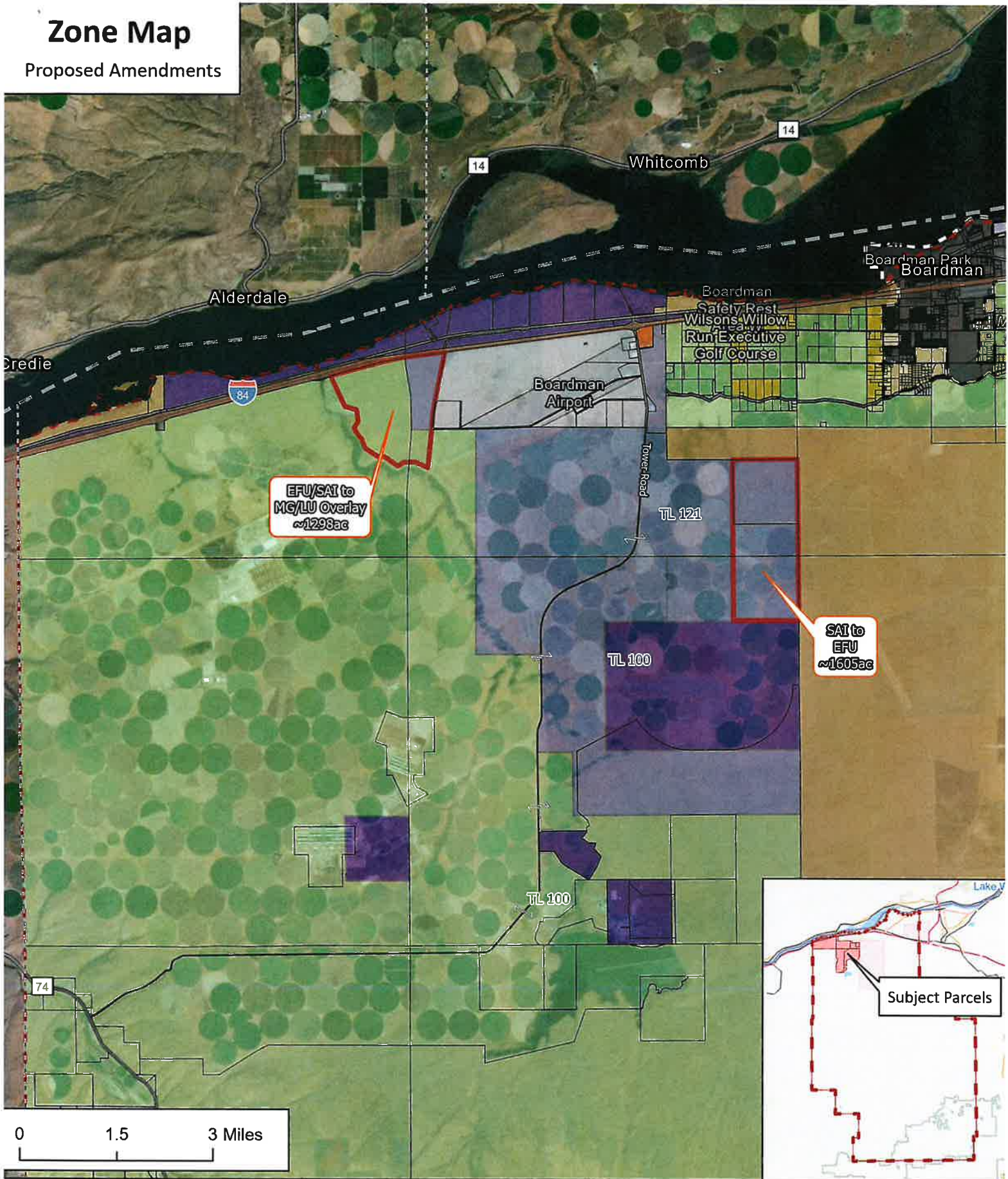
Wednesday, April 16, 2025

Morrow County Planning Department



Zone Map

Proposed Amendments



ACM-N-155-25

AZM-N-156-25

ACM-N-157-25

AZM-N-158-25

Threemile Canyon Farms
Multiple Man and Tax Lots

- City Limits
- UGB
- Morrow County Boundary
- Taxlots
- Map Amendments

Coordinate System:

NAD 1983 HARN StatePlane Oregon North FIPS 3601

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Cartography By: Stephen Wreccics

Wednesday, April 16, 2025

Morrow County Planning Department



Section 3.110 Limited Use Overlay Zone, LU

Section 3.111. West of Boardman Airport Limited Use (WBA LU) Overlay.

The purpose of the WBA LU Overlay zone is to limit industrial use within the boundary of the WBA LU Overlay zone consistent with the adopted Goal exceptions for that area.¹

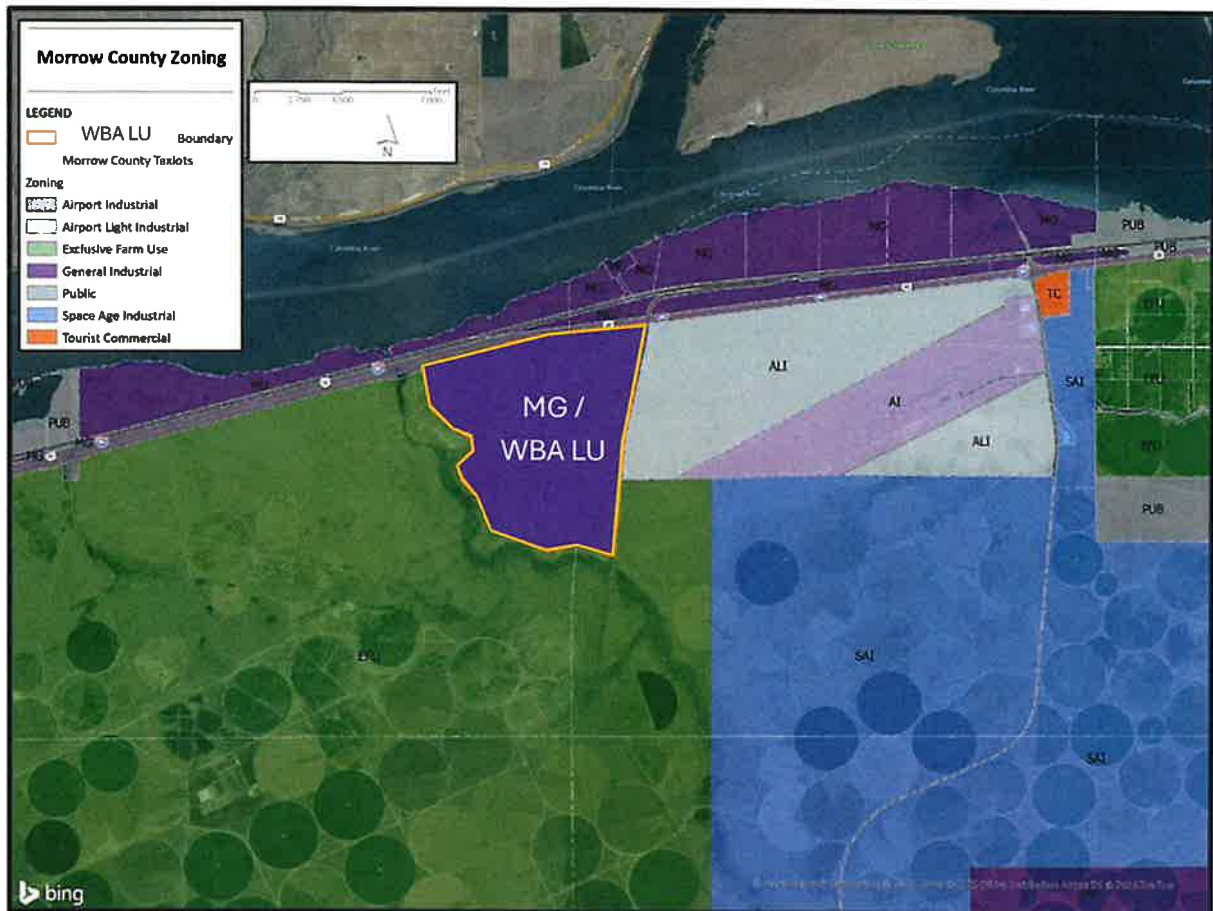
- A. **Area of Applicability.** The WBA LU Overlay zone area, containing approximately 1,264 acres, is bounded at the north by Interstate 84, at the east by a rail spur that extends south to the Carty Generating Station, and at the west and south by the easterly top-of-bank of Sixmile Creek Canyon and an existing mineral/aggregate extraction site² located within the Sixmile Creek Canyon. The WBA LU Overlay zone boundary is depicted in Figure 3.111-1.
- B. **Uses Permitted Outright.** The following uses are permitted outright:
 - 1. Data centers, including related ancillary improvements and associated infrastructure facilities, subject to Site Plan Review under Section 4.165.
 - 2. Farm use as defined in Section 1.030 Definitions.
- C. **Conditional Uses.** The following uses and their accessory uses are permitted when authorized in accordance with the provisions of this section and Article 6 of this ordinance:
 - 1. Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities.
- D. **Development Standards.**
 - 1. All development and use shall comply with standards of Section 3.092 Airport Safety and Compatibility (ASC) Overlay Zone.
 - 2. Development is subject to surface water management facilities permitting requirements designed to protect groundwater and surface waters from potential contamination by nitrates and other compounds, as may be required under Water Pollution Control Facilities (WPCF) permits issued by the Oregon Department of Environmental Quality pursuant to ORS 468B.050.

¹ Ordinance XX-XX

² Operating Permit 25-0006, Oregon Department of Geology and Mineral Industries (DOGAMI)

4. Data center development shall use drought tolerant landscaping and to the extent practicable, native plants to meet any landscape requirements; no long-term irrigation shall be allowed.
5. Data center development does not require screening.

Figure 3.111-1 West of Boardman Airport (WBA) LU Overlay Area Boundary



**Summary - Threemile Canyon Farms Amendments
ACM-155-25, AZM-156-25, ACM-157-25 AND AZM-158-25**

The proposal and adoption consists of the following specific amendment requests:

1. Amend the Zoning Map by redesignating the easterly 331 acres of the 1,298-acre Site from its current Space Age Industrial (SAI) zoning to General Industrial (MG), as depicted in Figure II-3.
2. Amend the Comprehensive Plan and Zoning Map by redesignating the remaining westerly 967 acres of the 1,298-acre Site from its current Exclusive Farm Use (EFU) zoning to MG and Comprehensive Plan designation from Agriculture to Industrial, as depicted in Figure II-3.
3. Adopt a Limited Use (LU) Overlay Zone applicable to the Site, with the following provisions:
 - A. Allowed land uses are limited to:
 - I. Data center, including related ancillary improvements and associated infrastructure facilities.
 - II. Uses and activities allowed by the EFU zone regulations (i.e., Section 3.010 of the Morrow County Zoning Ordinance and its subsections).
 - B. All development and use shall comply with standards of the Airport Safety and Compatibility (ASC) Overlay Zone (i.e., Section 3.092 of the Morrow County Zoning Ordinance and its subsections), and applicable standards of other aviation-related regulatory agencies including the Federal Aviation Administration.
4. Amend the Comprehensive Plan/Zoning Map by redesignating approximately 1,623 acres on another site south of Boardman from its current Comprehensive Plan designation of Industrial to Agriculture and zoning from SAI to EFU, as depicted in Figure II-4 (and referred to throughout this report as the “downzone area”).²
5. Adopt findings of compliance with standards for “Reasons” exceptions to Goals 3, 11, and 14 as presented in this report, to support the above zoning actions.