

**AC-145-23; ACM-146-23; AZM-147-23 Comprehensive Plan and Map Amendment. Rowan Percheron, LLC, Applicant.**

**EXHIBITS ADDED TO THE RECORD**

**INCLUDES ITEMS SUBMITTED AFTER PACKETS WERE MAILED on June 16, 2023**

<b>DATE RECEIVED</b>	<b>EXHIBIT</b>	<b>DESCRIPTION</b>
June 16, 2023	EXHIBIT A1 pgs 3 EXHIBIT A pg 4-5	Memo to PC from Staff Email from DLCD
June 21, 2023	EXHIBIT B pg 6	Letter from Threemile Canyon Farms
June 22, 2023	EXHIBIT C pg 7	Letter from City of Boardman
JUNE 26	EXHIBIT D pg 8	Letter from Oregon Department Of Fish and Wildlife
JUNE 26	EXHIBIT E pg 9	Letter from Greater Eastern Oregon Development Corporation
June 27	EXHIBIT F pg 10-63	Letter from Elaine Albrich, Counsel for Rowan Percheron, including Attachment 1 revised Findings and Attachment 2 response to DLCD





## PLANNING DEPARTMENT

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PO Box 40 • Irrigon, Oregon 97844  
(541) 922-4624

June 16, 2023

TO: Planning Commission

FROM: Tamra Mabbott, Planning Director

RE: AC-145-23; ACM-146-23; AZM-147-23 Comprehensive Plan and Map Amendment. Rowan Percheron, LLC, Applicant. The property is located approximately 9 miles south of I-84 on Tower Road. The application proposes to amend the Comprehensive Plan to allow for rezoning approximately 274 acres from Exclusive Farm (EFU) Use to General Industrial (MG) and adopt a Limited Use Overlay Zone to limit MG uses to a data center only. The application also includes an exception to Statewide Planning Goals 3 Farmland, Goal 11 Public Facilities, and Goal 14 Urbanization. Applicable Criteria include Morrow County Zoning Ordinance (MCZO) Article 8 Amendments, Oregon Administrative Rules (OAR) 660-004-0010.

The attached Findings for the Plan and Map Amendment are draft and were written primarily prior to receiving detailed comments of the Department of Land Conservation Development (DLCD). Where neither staff nor the applicant have had adequate time to fully address all of the comments of DLCD, a Continuance is recommended.

Staff and applicant had a phone meeting on June 14<sup>th</sup> to discuss the application and the process. Both agree continuing the hearing to July 25<sup>th</sup> is warranted.

My recommendation is to open the hearing and allow for staff report, applicant presentation and public and agency testimony. Then, after discussion, continue the hearing to July 25<sup>th</sup>. Items noted either in your review or in additional evidence presented at the hearing can be addressed more fully at the July 25<sup>th</sup> meeting.

### Options for Planning Commission Action:

1. Continue the hearing to July 25, 2023 (Bartholomew Building, Heppner) and, direct staff and application on items that warrant additional Findings or clarification.
2. Recommend Board of Commissioners approve and accept Findings as presented.
3. Vote to recommend Board of Commissioners not approve based on application and Findings as presented.

**Tamra Mabbott**

**From:** HERT Dawn \* DLCD <Dawn.Hert@dlcd.oregon.gov>  
**Sent:** Thursday, June 15, 2023 12:55 PM  
**To:** Tamra Mabbott  
**Cc:** JININGS Jon \* DLCD; FOOTE Hilary \* DLCD  
**Subject:** PAPA#001-23 - Morrow County Comments

**STOP and VERIFY This message came from outside of Morrow County Gov**

Hello Tamra,

Thanks for taking the time to talk about the Percheron application submittal earlier this week. Just wanted to follow up with some comments pertaining to the exceptions to Goals #3, #11 & #14. DLCD has reviewed the application materials and wanted to provide you with comments as well as identify inconsistencies.

First, it appears that the appendices documents that you shared with DLCD staff was not included in the PAPA Download. The application stated, "SEE PACKAGE OF APPENDICES UNDER SEPARATE COVER." If you or Stephanie could please download those onto our PAPA database, that would be great and ensure that we have all the application materials.

Overall staff is concerned with the deficiencies in the application submittal and do not believe this application submittal is complete. As promised, we wanted to provide you with some specifics:

- Goal 14 exception criteria in OAR 660-014-0040(3)(A) and (B) do not appear to have been addressed. The text in the application incorrectly cites a different section of rule.
  - *OAR 660-014-0040(3) To approve an exception under section (2) of this rule, a county must also show:*

\* \* \*

*(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.*
  - Details on water resources is minimal. Additional information and analysis needs provided. The applicant indicates that they are evaluating options for sourcing water supply to the site for both potable water and industrial processing water that will amount to between 20 and 60 million gallons of total annual water use. Applicant states that water may be provided by the Port of Morrow through a water service line extension for which a Goal 11 exception is being requested, or through transfer of water rights from existing nearby water rights holders. The application indicates that the latter option may have impacts to the ground and surface water conditions in the immediate vicinity of the Project and that groundwater is becoming more restricted in use. If the latter option is pursued, what are the anticipated impacts to ground and surface water conditions in the vicinity of the project and how will such anticipated impacts effect agricultural operations in the vicinity? If water service is provided by the Port of Morrow, will such service detract from the utility's ability to serve urban uses within their district?
  - Compatibility of this proposed use on the adjacent site uses. This is a very urban-large-scale use being proposed in a rural area, the application does not identify assurances that

the proposed use will not negatively impact the adjacent properties/uses. The application indicates that there are surrounding 'ongoing agricultural operations' and 'pivots', but it is unclear from the narrative what farm uses are occurring in the vicinity of the project site or what the potential impacts to such agricultural uses might be during construction or operation of the proposed facility. Potential impacts from such things as traffic impacts on farm equipment, noise impacts on livestock, and dust and litter impacts on crops, as well as changes to air quality and water quality and quantity are commonly addressed in assessing the compatibility of a proposed use with nearby agricultural operations.

- Goal 14 Exception criteria in OAR 660-014-0040(2). The application claims that a Goal 14 exception is warranted because the use is an "economic activity that is dependent upon an adjacent or nearby natural resource." The application does not clearly explain what the "dependence on a natural resource is." This needs to be better defined. The application appears to assert that the "natural resource" is land protected for farm use and that the use is "dependent" on the subject property because the establishment of the use will provide a revenue stream that could help the other farmland remain in production. We do not understand the rule to operate in this way.
- Goal 14 exception. Concerns that exception criteria in OAR 660-014-0040(3) are not adequately met, including:
  - (a) Alternative area analysis – Insufficient detail regarding all other candidate lands, both within and adjacent to existing UGBs within Morrow and Umatilla Counties. Only four sites mapped, others categorically excluded. No sites in Umatilla County at all?
  - (b) EESE analysis does not consider impacts relative to other candidate sites.
  - (c) Managing stormwater and wastewater onsite through "evaporation and retention ponds" requires more explanation in relation to potential impacts to air, water, energy, and land resources.
  - (d) Water service discussions with the Port of Morrow does not meet the criterion for "likely to be provided in a timely and efficient manner."
  - (e) Criterion (e) is not addressed.
- The alternative analysis pursuant to OAR 660-004-0020(b) and OAR 660-014-0040(3)(a) needs to recognize that:
  1. There are large amounts of lands nearby the subject property that are not protected for resource use. These areas include lands zoned for General industrial and Space Age Industrial, lands at the former Umatilla Chemical Depot, as well as lands at, or owned by, the Ports of Morrow and Umatilla.
  2. There are large amounts of vacant lands inside existing Urban Growth Boundaries, Hermiston and Umatilla in particular.
  3. The application doesn't appear to consider the expansion of an existing UGB as contemplated by OAR 660-014-0040(3)(a).

All of these areas listed above would seem to be able to meet the identified siting criteria. The application must explain the other possible areas are not suitable to accommodate the use.

- Goal 11 exception case law:
  - Per *Foland v. Jackson County*, an exception to Goal 11 is needed when proposing to provide water service to serve an urban use on rural land. However, the consideration of alternative sites is not sufficiently detailed to demonstrate that the proposed site makes the most sense for this data center, especially when considering that the source of necessary water to this site has not been clearly established (there is a reference to potential service from the Port of Morrow, but no firm commitment as far as we can tell)

Please include this email from my agency in the record for the upcoming public hearing proceedings. Also, please let me know if you have any additional questions or concerns. DLCD plans to have at least one staff person attend the Public Hearing on June 27<sup>th</sup>.

Take care and talk soon,  
Dawn



Chair Sykes, Vice-Chair Wenholz, Commissioner Drago,

As president of Threemile Canyon Farms, I write today in support of Rowan Digital Infrastructure's application to rezone a 274-acre parcel of our property to general industrial use. As national leaders in sustainable agriculture, we believe that while the land is presently zoned for agriculture, this land is not suitable for farming.

Threemile Canyon has never irrigated or actively farmed it this parcel and has no plans to do so in the future. In fact, the property has not been farmed in the seven decades for which we have records. Research from the Morrow County Soil and Water Conservation District also concludes that the soil is "not farmable."

More than 11 miles outside of town, this parcel borders property owned by the U.S. military and Portland General Electric, far from any potential community impact. Other industrial-zoned parcels currently exist within a mile of this parcel. The project will connect to existing and planned transmission lines, eliminating the need for new connections to be developed. The Project Parcel is located about 5,000 feet from the Carty site and adjacent to an existing 230 kV transmission line ROW. The existing 230-kV transmission runs about 1.6 miles along the western boundary of the Project Parcel and Tower Road to the existing transmission infrastructure at the Carty site.

Truly responsible farming practices are key to our business model, and we are grateful that Rowan is committed to continuing this legacy of stewardship by powering this facility with renewable energy and utilizing development best practices throughout construction. Sustainable projects can set a positive standard for all infrastructure development in our region.

The rezone will add to the significant economic growth for our county by transitioning an underutilized and nonproductive piece of ground with little value as "farmland" into a tangible and long-term benefit for our community.

Rowan has demonstrated responsible stewardship through its sustainability and conservation practices, such as weed control and the use of appropriate landscaping measures that support agriculture and minimize water use. Other practices include recycling of construction waste, setting aside conservation areas, and maintaining setbacks from areas of concern.

Finally, we are grateful for the project team's commitment to a strong collaboration with our community – both within and outside of the public process – as their application moves to the county planning commission and eventually to this body.

Thank you for the opportunity to comment in support of this project.

Sincerely,

Bill Antilla, President, Threemile Canyon Farms



# City of Boardman



200 City Center Circle  
P.O. Box 229  
Boardman, OR 97818  
Phone: (541) 481-9252  
Fax: (541) 481-3244  
TTY Relay 711  
[www.cityofboardman.com](http://www.cityofboardman.com)

June 21<sup>st</sup>, 2023

Dear Chair Sykes, Vice-Chair Wenholtz and Commissioner Drago:

This letter is in support of Rowan Digital Infrastructure's (Rowan) data center project in Morrow County. The City of Boardman is providing this letter to express our support for this project and the benefits it will deliver for our community. We understand that the first hearing for the Rowan project will be before the County Planning Commission on June 27, 2023, please include this letter in the official record.

The City of Boardman has experienced significant positive economic impacts that the data center industry has brought to our economy. Rowan's construction of a data center facility will undoubtedly add to these benefits by bringing hundreds of construction jobs and creating many high-paying permanent jobs locally.

We recognize that by deploying over half a billion dollars of capital investment locally, the project will lift all boats and be additive to the regional economy. This scale of development will have rippling economic development effects that will induce additional demand for data center service providers and suppliers. This project will increase general prosperity for our residents and benefit the Eastern Oregon region as a whole.

We are affirmatively in support of the Rowan project given that it will reposition unfarmable land from a passive, unproductive parcel into one that is economically beneficial to the community. This higher, better use creates an opportunity to expand our economic base and diversify of our regional economy, strengthening our position as a great place to live and work.

Boardman is a welcoming and collaborative place to do business and the Rowan team exemplified that approach. They have had productive conversations with us and other members of the community by sharing their plans and seeking feedback. The City of Boardman looks forward to helping this project and its benefits come to fruition.

We ask that the Planning Commission approve of Rowan Digital Infrastructure's land use application and that the Board of Commissioners do the same.

Sincerely,

A handwritten signature in black ink that reads 'R.A. Stokoe'.

Rick Stokoe  
City Manager Pro Tem  
[stokoer@cityofboardman.com](mailto:stokoer@cityofboardman.com)



# Oregon

Tina Kotek, Governor

## Department of Fish and Wildlife

John Day Watershed  
East Region  
73471 Mytinger Lane  
Pendleton, Oregon 97801  
(541) 276-2344  
FAX (541)276-4414

June 26, 2023

Morrow County Planning Department  
Attn: Tamara Mabbott, Planning Director  
215 NE Main Ave  
Irrigon, Oregon 97844

RE: AC-145-23; ACM-146-23; AZM-147-23 Comprehensive Plan and Map Amendment

Dear Tamra Mabbott,

Thank you for providing the Oregon Department of Fish and Wildlife (ODFW) with the notice of application to amend the Morrow County Comprehensive Plan, modifying 274 acres of Exclusive Farm Use to General Industrial zoning. It is the policy of the state to protect and enhance Oregon's fish and wildlife and their habitats for use and enjoyment by present and future generations (ORS 496.012) and good habitat is the foundation of healthy fish and wildlife populations.

The area within the site boundary is primarily cultivated agriculture and although wildlife species can use the areas between cultivated agriculture circles for nesting and foraging, these areas do not typically act as significant habitat. The subject property additionally contains an area of impounded water and associated wetland habitats. In the Columbia Plateau many wetland habitats are created as a result of crop irrigation practices and these areas provide important habitat for many wetland-dependent species. Maintaining wetland and surrounding upland habitat benefits wildlife, but also improves water quality by allowing filtration of possible contaminants before reaching streams and ground water. ODFW reviewed the notice and includes the following comment for County consideration.

- For future development within the subject property, the department recommends a buffer of at least 100ft from wetlands and associated riparian habitats.

Sincerely,

Lindsay Somers  
Regional Habitat Biologist  
John Day District Office  
Oregon Department of Fish and Wildlife

# GEODC

## Greater Eastern Oregon Development Corporation

proudly serving Gilliam, Grant, Harney, Malheur, Morrow, Umatilla, Wheeler counties

June 26, 2023

Morrow County Board of County Commissioners  
100 S Court St.  
Heppner, OR 97836

Dear Chair Sykes, Vice-Chair Wenholtz, and Commissioner Drago:

On behalf of the Greater Eastern Oregon Development Corporation (GEODC), I am pleased to offer our support for Rowan Digital Infrastructure's proposed data center project in Morrow County. GEODC encourages you to support this high-value, low-impact project.

I understand the first public hearing is before the Morrow County Planning Commission and will come before the Morrow County Board of Commissioners in the coming months; please enter this letter into the record for all hearings related to this project.

GEODC is a regional economic development non-profit 501(c)3 organization charged with supporting job creation and economic growth within our district; by assisting to create, retain, and expand businesses. GEODC teams with local government to develop human and physical infrastructure to support these businesses and the communities they serve.

Rowan's project aligns with GEODC's day to day work to attract new business investments and establish our region as an appealing destination for emerging technologies and the future workforce. By supporting projects like this, we aim to diversify the local tax base, enhance our region's competitiveness, and ensure its economic resilience.

We are excited about the potential of utilizing an economically unproductive parcel and transforming it into a highly profitable project with significant benefits for communities in Morrow County and beyond. The construction of this data center presents numerous advantages, including the creation of well-paid permanent jobs and a significant boost to eastern Oregon's economy. With this kind of local capital investment, this project will improve the livelihoods of all who live and work in eastern Oregon.

Moreover, we commend Rowan for their dedication to sustainable practices. This company's commitment to a cleaner and more sustainable future is much appreciated. We believe that this alignment with our values will not only benefit the residents of Morrow County but also position the entire region as a leader in environmentally responsible development.

Thank you for the opportunity to comment.

Sincerely,

*Susan M. Christensen*

Susan Christensen  
Executive Director



Suite 2400  
1300 SW Fifth Avenue  
Portland, OR 97201-5610

**Elaine R. Albrich**  
503-778-5423 tel  
elainealbrich@dwt.com

June 26, 2023

**VIA EMAIL & HAND DELIVERY**

Morrow County Planning Commission  
c/o Tamra Mabbot, Planning Director  
Morrow County Bartholomew Building  
110 N. Court St.  
Heppner, OR 97836

**Re: Rowan Percheron, LLC - Pre-Hearing Submittal  
(Docket AC-145-23, AC(Z)-146-22, AZM-147-23)**

Dear Chair Ekstrom and Fellow Planning Commissioners:

Thank you for the opportunity to provide you with this pre-hearing submittal on behalf of Rowan Percheron, LLC (“Applicant”). We look forward to appearing before you on Tuesday, June 27 for the first evidentiary hearing on Applicant’s zone change and goal exceptions request.

Our team is in receipt of the draft staff findings released on June 16 (“Staff Report”) along with an email from the Oregon Department of Land Conservation and Development (“DLCD”), dated June 15 (“DLCD email”). This pre-hearing submittal responds to items identified in the Staff Report and DLCD Email and provides additional information into the record ahead of the hearing. Applicant identifies three issues raised in the Staff Report or DLCD email that Applicant wants to address ahead of the hearing. To date, Applicant is not aware of any other public comment that requires our response prior to the hearing.

**Water Source and Supply**

The Staff Report raised potential concerns over Applicant’s ability to further certain Morrow County Comprehensive Plan (“MCCP”) goals and policies if Applicant was to use area groundwater for its operational water source. The Project Parcel is located within the Lower Umatilla Basin Groundwater Management Area and just north of the Ella Butte Classified Groundwater Management Area. The Project Parcel is outside any Critical Groundwater Area.

In the application, Applicant proposed more than one sources of water for its project, including use of groundwater via a new groundwater well. Since submitting the application, Applicant had further conversations with the Port of Morrow and now plans to secure water from the Port of Morrow, thus avoiding a new groundwater well. The record contains a copy of the memorandum of understanding and the more recent letter of intent Applicant negotiated with the Port of Morrow to deliver water services to the Project Parcel.

Morrow County Planning Commission  
June 26, 2023  
Page 2

Applicant provides *Supplemental Findings* in Attachment 1 (in the form of a redline of the Staff Report) to reflect the updated information concerning the water source and supply for the Project Parcel.

### **Alternatives Analysis**

The DLCD email raised questions concerning Applicant's alternatives analysis and whether Applicant had considered sites that were within an urban growth boundary or within zones where a data center use was already allowed. Applicant's alternatives analysis did consider these factors, including land in and near the City of Hermiston.

Applicant provides *Supplemental Findings* in Attachment 1 that respond to DLCD's comments and further bolster Applicant's alternatives analysis. In addition, Applicant provides a question by question response to the DLCD email in Attachment 2.

### **Construction Traffic and Road Use Agreement**

The Staff Report raised questions concerning the project's construction traffic and potential road impacts to be mitigated for Tower Road. Following issuance of the Staff Report, the Applicant team met with County Planning Director and County Public Works Director to discuss these questions. In response, the parties are working together to negotiate a Road Use Agreement acceptable to both the County and Applicant to mitigate for potential adverse impacts to Tower Road from construction traffic. Applicant is also working with its traffic engineer to provide additional information into the record concerning construction traffic (anticipates submitting prior to the second evidentiary hearing).

Applicant anticipates providing a draft *Road Use Agreement* for discussion into the Planning Commission record. The draft will be based on a template received from the County.

### **Hearing Process**

Applicant understands that the Planning Commission anticipates holding its first evidentiary hearing on June 27 and will likely continue the hearing until July 25 for deliberation and decision. Applicant welcomes questions at the hearing and if needed, will use the time between the two hearings to respond to Planning Commission questions and file supplemental information into the record to support a recommendation of approval for Applicant's request during the July 25 hearing.

We appreciate your time on this project, and thank you for your consideration.

Very truly yours,

Davis Wright Tremain LLP



Elaine R. Albrich

**Morrow County Board of Commissioners  
Draft Findings of Fact  
Rowan Percheron, LLC  
AC-145-23, AC(Z)-146-22, AZM-147-23**

**REQUEST:** to amend the Comprehensive Plan to change the Plan and zoning designation of a 274-acre parcel from Exclusive Farm Use (EFU) to General Industrial (MG) and adopt a Limited Use Overlay (LUA) Zone to limit use to a data center. Application also includes an exception to Statewide Planning Goal 3, 11 and 14 to allow for a data center use.

**APPLICANT:** Rowan Percheron, LLC  
1330 Post Oak Boulevard, Suite 1350  
Houston, TX 77056

**OWNER:** Threemile Canyon Farms  
75906 Threemile Road  
Boardman, OR 97818

**PROPERTY DESCRIPTION:** [Parcel 2 of Partition Plat No. 2023-3; a 274-acre parcel described as a portion of Tax Lot 100 of Assessor's Map 3N 24 \(project parcel or parcel\)](#)

**PROPERTY LOCATION:** ~~Property~~[The project parcel](#) is located on Tower Road approximately 9 miles south of Interstate 84, west and south of the City of Boardman. Parcel is just north of the old [Portland General Electric \(PGE\)](#) Coal Fire Plant.

**FINDINGS OF FACT:**

**I BACKGROUND INFORMATION:**

The ~~274-acre~~[project](#) parcel is vacant, non-irrigated, undeveloped land. Along the western boundary of the parcel is an existing 230-kV transmission line that runs south approximately 1.6 miles to the existing transmission infrastructure at the ~~Portland General Electric (PGE)~~ Carty natural gas generating plant. To the east of the parcel is the Boardman Conservation Area (BCA) and to the southeast is the existing Carty site. There is a parcel of land zoned General Industrial (MG) approximately 5,000 feet to the south and west and a large parcel to the north and east zoned Space Age Industrial.

**Project Description:**

Rowan Percheron, LLC (~~Applicant~~[applicant](#)) is the contract purchaser of the 274-acre parcel. ~~Rowan Percheron~~[Applicant](#) proposes to develop a data center campus. The ~~Project Parcel~~[project parcel](#) is currently zoned Exclusive Farm Use (EFU). The ~~purpose of the EFU Zone is to "preserve, protect and maintain agricultural lands for farm use, consistent with historical,~~

~~existing and future needs, including economic needs, which pertain to the production of agricultural products.” MCZO 3.010~~

~~The project parcel is vacant, non-irrigated, and uncultivated. There is no history of active farming, irrigation, or grazing on the~~ project parcel ~~has not been put into productive use, dating back to the 1950s.~~ The parcel is comprised predominately of nonarable soils and the ~~applicant~~ Applicant and owner consider it to be not suitable for farm use. The property owner has been unsuccessful in putting the land into agricultural cultivation and does not believe grazing is an option. The landowner submitted an affidavit to this effect.

According to the application, the project parcel is suitable for data center use given its proximity to critical infrastructure. The project parcel is located about 5,000 feet from the ~~Portland General Electric~~ PGE Carty generating plant site and adjacent to an existing 230 kV transmission line right of way (ROW). The existing 230-kV transmission line runs about 1.6 miles along the western boundary of the ~~Project Parcel~~ project parcel and Tower Road. The ~~Portland General Electric~~ PGE Carty site includes a 450-megawatt (MW), combined-cycle natural gas-fueled electric generating power plant, the Grassland Switchyard, the Carty Substation, a 500-kV transmission line and the Carty Reservoir. In total, the Carty site encompasses an approximately 4,997-acre site boundary.<sup>4</sup> According to the application, the data center anticipates receiving power from Pacific Power via the existing and planned electrical infrastructure at the Carty site and via the existing transmission ROW along Tower Road.

According to the application, the parcel is suitable for a data center due to the flat topography (less than 15 percent slope) and is situated to avoid adverse environmental impacts to water availability, wetlands, habitat, and sensitive species and is not located within a floodplain.

Applicant proposes to limit development to 190 acres of the project parcel (project footprint).

The application indicates that development of the data center campus will be phased according to market demand and conditions, with an estimated full build-out of the project footprint over a number of years. The Applicant anticipates full build-out to include multiple data warehouse buildings, and all associated accessory components as described below. The primary and associated components of the proposed data center constitute a “data center” within the meaning of MCZO 1.030 and are anticipated to be limited to the project footprint. ~~See “~~ (see Application, Figure 5 Preliminary Project Area Components” attached Layout). The primary and accessory components of the proposed development may include:

- A data center campus including multiple data system warehouse buildings
- Parking areas for employees and interior access roads
- Anticipated onsite septic, stormwater, and wastewater management systems
- Fire protection system, including water storage tank(s)
- Back-up power supply systems

- Onsite substations and electrical interconnection equipment

These are the primary and accessory facility components based on the ~~applicant~~ Applicant's conceptual design and represent the likely facility components of the final design, although the specific number and size of the particular facility components may vary. The ~~applicant~~ Applicant maintains that such variation does not undermine the analysis to support the requested goal exceptions and zone change to allow a data center within the Project Footprint.

The ~~applicant~~ Applicant has experience with data center development and plans to locate the proposed data center and accessory buildings in a manner that avoids impacts to the wetlands and floodplain within the project parcel. Additionally, the ~~Applicant will maintain~~ applicant proposes a 250-foot buffer (~~250-feet~~) of the project footprint from the adjacent ~~conservation area~~ BCA that runs along the eastern edge of the project parcel. In general, data centers have a relatively lower level of impact to the surrounding area than other industrial uses, due to less intensive operational traffic, noise, emissions, and viewshed impacts.

#### **Surrounding Land Uses:**

The surrounding land use is primarily agriculture however, to the east is the PGE natural gas plant and to the south is the site of the former PGE Coal fired plant.

#### **Soil Types:**

As provided in ~~the~~ Applicant's soil ~~report provided by the applicant~~ analysis memo (Application Appendix C), land capability classifications within the project footprint are predominantly 7e (non-irrigated) for Koehler and Quincy, 6e (non-irrigated) for Royal and Taunton, and a very small percentage of 4e (non-irrigated) for Sagehill fine sandy loam. Outside of the project footprint, soils are Class 4e, 6e, and 7e soils. The predominate non-irrigated soil land capability classifications indicate severe limitations (land capability classes 6 and 7) to cultivation for most of the project footprint and moderate limitations (land capability class 4) for the remaining area of the project parcel.

#### **Water Supply:**

According to the application, the project will require potable water for employees and industrial water for processing and cooling. For industrial process water, the Applicant anticipates about 20 to 60 million gallons of annual total water use for the data center campus at the time of full buildout. Applicant ~~is evaluating~~ will cycle the cooling process water an estimated 2-3 times before discharging the water as industrial wastewater to the onsite evaporation pond system.

Applicant evaluated options for sourcing the needed water. ~~Currently, potential water supply sources for domestic and industrial water include but are not limited to, including~~ (1) a water supply agreement for use or transfer of existing water rights from nearby water rights holder(s) and (2) water supply and an infrastructure agreement with the Port of Morrow to obtain water from the Port's proposed water treatment facility located near the Boardman Airport Industrial Park. After evaluating options, Applicant eliminated option (1) and plans to secure water from

the Port of Morrow. See attached Port of Morrow Water Supply Memorandum of Understanding (MOU) and Port of Morrow Letter of Intent (LOI) in the record.

The application describes the benefits of working with the Port of Morrow as a water supplier. “First, the Port of Morrow is currently designing additional infrastructure to serve potable industrial uses near the Boardman Airport Industrial Park and extension of these services may serve the Project Parcel. In addition, this option would help to minimize impacts to the ground and surface water conditions in the immediate vicinity of the Project Parcel, including to adjacent productive farmlands. Applicant requests the Goal 11 exception as a part of this application because the Applicant seeks ~~the flexibility to select~~ a water supply source that ~~may involve~~involves extension of public services from the Port of Morrow. ~~(Note, the application includes a—~~While the plain language of Goal 11 exception for the does not reference extension of public water services ~~“despite the plain language of the goal and the implementing administrative rules because of as triggering an exception, Applicant includes a Goal 11 exception request in its application given~~ the court of appeals’s ruling in *Foland v. Jackson County*, 239 Or App 60, 64-65 (2010) (finding that the overarching policies of Goal 11 and the history of amendments to the goal supported Land Use Board of Appeal’s [LUBA] decision that Goal 11 prohibits the extension of city water services to serve an *urban use* on rural land without a Goal 11 exception).” ~~Goal 11 exception is below~~The county agrees with this approach.

#### **Power:**

The project parcel is directly adjacent to an existing transmission line ROW that runs south along Tower Road for about 1.6 miles to the Carty site and Grassland Switchyard. The application indicates that the project will receive power from Pacific Power via a new 230-kV transmission line utilizing existing ROW along Tower Rd, and 34.5kV distribution facilities. The existing transmission line ROW is shown on Applicant’s ALTA survey (Application, Appendix A). The data center campus project will also include the installation of onsite back-up power supply systems.

#### **Wastewater:**

Applicant proposes to manage all stormwater and industrial wastewater onsite with one or more onsite retention or evaporation ponds. The on-site stormwater retention pond design includes an infiltration rate of 2 inches/hour with a 6-foot pond depth and up to 2 feet of freeboard. The cooling wastewater evaporation pond will be separate from the stormwater retention pond. Specific design was not included in the application however the application indicates that the wastewater treatment systems are expected to be designed and engineered for the appropriate quantities of produced industrial waste water. Application indicates that a ~~state~~NPDES 1200-Z ~~Permit~~permit will not be needed, as there is no anticipated direct discharge or stormwater runoff. However, a copy of Public Notice and Findings were sent to DEQ who has regulatory authority over stormwater.

According to the application, for onsite black and grey water, the estimated annual volumes for a data center could range from 10,000 to 15,000 gallons per day (GPD).~~The application indicates that the data center campus will seek to minimize stormwater runoff to the extent possible. Applicant also will construct and will be managed with~~ an onsite septic system.

~~For industrial wastewater (process and blowdown water), the applicant anticipates recycling the water using an onsite wastewater treatment system. Specific design was not included in the application however the application indicates that “once the water is no longer capable of being recycled, wastewater will be treated, managed onsite in a retention pond, or treated using other appropriate water recycling technologies. If needed, the wastewater treatment systems are expected to be designed and engineered for the appropriate quantities of produced industrial waste water.”~~

### **Transportation & Access:**

Applicant provided a [transportation analysis and traffic study impact analysis \(Application Appendix I\) \(TIA\)](#) as part of the application, which concludes that no roadway improvements are necessary. The ~~traffic study~~ [TIA](#) recommended that development include a new access to Tower Road be constructed and to install a stop sign.

The data center will operate 24-hours per day in shifts. On average, data center will employ at least 35 full-time equivalent employees and many additional third-party vendor employees. The jobs include data center engineering operations (managing the facility), data center operations (managing the servers in the data halls), and security operations staff.

## **II. MORROW COUNTY ZONING CODE STANDARDS APPLICABLE TO LEGISLATIVE DECISIONS**

To approve ~~the~~ [Applicant's](#) request, [the](#) county ~~will be~~ [is](#) required to adopt findings to show that the request meets the necessary criteria which are presented below in **bold** print with [proposed findings](#) (responses) in regular print.

MCZO 8.040 provides the applicable approval criteria for a zone change. ~~Applicant response is in standard font below.~~

***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 Court 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 ~~Project Parcel~~project parcel has been zoned EFU since ~~Comprehensive Plan~~the MCCP and ~~Zoning Ordinance~~MCZPO acknowledgement on January 30, 1986. Applicant provides the following analysis: “The purpose of the EFU Zone is to “preserve, protect and maintain agricultural lands for farm use, consistent with historical, existing and future needs, including economic needs, which pertain to the production of agricultural products.” “Agricultural Lands” are defined as land of predominately Class I-VI soils and “other lands suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices. MCCP, Goal 3 (Agricultural Lands Element): OAR 660-033-0020(1)(a). The Project Parcel is comprised predominately of nonarable soils, not suitable for farm use. The underlying soils are unproductive, highly erodible, and the property owner has been unsuccessful in putting the land into agricultural cultivation; it is not even productive for grazing.” Applicant provided an affidavit declaring the land is not farmable.

According to the application, “the historic and current conditions of the Project Parcel arguably disqualify the Project Parcel from being “agricultural land” under Goal 3.” This argument implies that given that the land has not been farmed and is not practicably suitable for farming, the land should not be considered “agricultural land” under Goal 3.

Applicant further notes that “future conditions of the Project Parcel, given the changing environmental conditions of the area, likely ensure that it will remain unproductive into the future with likely increased soil erodibility.”

~~If county concurs with the analysis above, county may find that conditions have changed to warrant rezoning the Project Parcel.~~

The County agrees with Applicant’s analysis and concludes that evidence in the record supports a finding of compliance with Criteria A.

***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:**

Stormwater or Wastewater Services and Facilities. No *public* stormwater or wastewater services or facilities are proposed or needed. Applicant anticipates managing all stormwater or industrial wastewater onsite. Criteria B is met for stormwater and wastewater.

Water Services and Facilities. The development will require potable water for employees and industrial water for processing and cooling. For industrial process water, ~~applicant~~Applicant anticipates about 20 to 60 million gallons of annual total water use for the data center at the time of full buildout, depending on a variety of factors. As discussed in Section I, Applicant ~~is evaluating options for sourcing the needed water. Currently, potential water supply sources include, but are not limited to (1) a water supply agreement for use or transfer of existing water rights from nearby water rights holder(s) and, (2)~~plans to enter into a water supply agreement

with the Port of Morrow to obtain water from a new water infrastructure project located at the Port's Boardman Airport Industrial Park. ~~Initially, an onsite exempt groundwater well may provide up to 5,000 GPD of potable water for supplying the restrooms, sinks, lunchroom, until such time as POM facility water is available~~ The County finds that Criteria B can be met based on the MOU and LOI in the record.

Police/Fire/Emergency Response Services and Facilities. The ~~Project Parcel~~ project parcel is within the Boardman Rural Fire Protection District's (RFPD) service area. A copy of the Public Notice was sent to Boardman Rural Fire Protection District. Since submitting the application, Applicant has reached out to RFPD to discuss its fire and emergency response plans.

Transportation Services and Facilities. ~~Applicant provided a Traffic Impact Analysis that~~ The TIA in the record concluded that the proposed zone change will not result in significant impacts to the County's transportation system and the existing roads. The TIA ~~analysis~~ analysis calculated traffic impacts during construction and operation. Based on the TIA and the ~~conditions~~ recommended in conditions, the ~~HIS~~ County may find that the public transportation system is adequate to support the zone change. ~~Morrow County Public Works is evaluating the TIA and may provide additional comments.~~

*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 under Subpart (2) below, this zone change application does not significantly affect a transportation facility, therefore Subpart (2) does 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. (MC-C-8-98)*

**Response:** The application concludes that the zone change application does not significantly affect a transportation facility, as demonstrated in the [Traffic Impact Analysis TIA](#). Morrow County Public Works reviewed the TIA and found that the recommendations for an access permit and stop sign are acceptable however, Public Works also recommends ~~the~~ [Applicant](#) enter a Road Use Agreement to pay for a chip seal of the northerly ~~eight~~ [nine](#) (89) miles of Tower Road after construction is complete (prior to issuance of an Occupancy Permit). Morrow ~~county~~ [County](#) has responsibility to maintain the northerly 8 miles of Tower Road, from the intersection of Interstate 84 south to milepost 8. From milepost 8 to the south, Portland General Electric has responsibility for road maintenance, including snow plowing and surface improvements. ~~Applicant could consult with PGE and develop an agreement for maintenance on the southerly section of Tower Road~~ [Under the proposed Road Use Agreement, the County will assume responsible for milepost 8 to milepost 9.](#)

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 ~~in~~ [there](#) should bear the burden, if any, of introducing that zone into their area.*

**Response:** ~~Application included an alternatives analysis of other locations and concluded that “[t]he proposal serves a public need of providing safe, reliable data storage, benefitting individuals, as well as public and private entities.” The Alternatives Analysis (attached) indicates that “another site is not reasonably available.” The proposed Project Parcel is in proximity to other industrial uses and transmission infrastructure. The application concludes that they do not “anticipate offsite impacts that would burden area landowners.” The alternatives analysis could be more specific in order to make affirmative Findings that the application ~~complies with this standard~~ [Applicant addressed consistency with the MCCP goals and policies in the application and findings of compliance are addressed in Section 5 below. The application is, or can be made through conditions, consistent with the MCCP for the reasons provided in Section 5 and incorporated here. With respect to public need, the County has a recognized need for continued economic development around particular industry sectors to reduce unemployment, offer more living wage employment opportunities, and facilitate growth of County work force. The County adopted amendments to the Economic Element in 2015 to guide land use decisions for the next 20 years and beyond. One important focus of the Economic Element Amendments is large industrial activity sector and industrial diversification of the County’s traditional agricultural economic base. The record demonstrates that this public need will be served by the data center project. Applicant performed an alternatives analysis \(Application Appendix D\) to](#)~~

justify rezoning the project parcel to allow for the data center use. The alternatives analysis concluded that “[t]he proposal serves a public need of providing safe, reliable data storage, benefitting individuals, as well as public and private entities.” The alternatives analysis also concludes that “another site is not reasonably available.” Applicant applied 8 siting criteria when evaluating potential sites: (1) access to electrical infrastructure and power supply; (2) water supply and discharge capability; (3) suitable land characteristics; (4) ability to avoid environmentally sensitive resources and protected areas; (5) road access; (6) fiber network connectivity; (7) land use and zoning; and (8) financial feasibility. The alternatives analysis methodology is detailed in the alternatives analysis and the considered sites are presented in Table 1 of Application Appendix C. Applicant started with an overarching assessment of land in Umatilla and Morrow counties, looking at potential sites in UBGs, then sites zoned for data center use, and then non-resource lands. The assessment resulted in 6 sites for further analysis, and finally, the selection of the project parcel. The project parcel satisfies all siting criteria except being properly zoned for data center use. Applicant addressed the project’s compatibility with adjacent land uses and consulted with the surrounding landowner who is a large agricultural operator in the vicinity. The record demonstrates that the surrounding landowner does not have concerns with compatibility. Further, the project plans to use water provided by the Port of Morrow, not from an onsite groundwater well or water transfer agreement. Additional findings regarding compatibility are found in Section III below and are incorporated here. Criteria C is met.

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

**Response:** Applicant demonstrates in the EESE Analysis (see Section III below) that the proposal will not result in significant ~~adverse impacts to nearby lands~~ environmental, economic, social or energy consequences, which the County views as capturing public health and welfare considerations. Applicant does not anticipate the proposed construction and operation of the data center would result in public health or welfare concerns and ~~will respond on nothing in~~ the record ~~if to date raises~~ any such concerns ~~are raised~~. Accordingly, Criteria D is met.

### III. GOALS 3, 11, AND 14 EXCEPTION REQUESTS

~~The~~ Applicant proposes to develop an urban-scale industrial use on rural agricultural land that ~~may require~~ requires 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.

#### **COMPLIANCE WITH OAR 660, DIVISION 4**

##### **A. Goal Exception Process, OAR 660-004-0010**

*(1) The exceptions process is not applicable to Statewide Goal 1 "Citizen Involvement" and Goal 2 "Land Use Planning." The exceptions process is generally applicable to all or part of those statewide goals that prescribe or restrict certain uses of resource land, restrict urban uses on rural land, or limit the provision of certain public facilities and services. These statewide goals include but are not limited to:*

(a) Goal 3 "Agricultural Lands"; however, an exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses allowed in an exclusive farm use (EFU) zone under ORS chapter 215 and OAR chapter 660, division 33, "Agricultural Lands", except as provided under OAR 660-004-0022 regarding a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;

\* \* \*

(c) Goal 11 "Public Facilities and Services" as provided in OAR 660-011-0060(9)

(d) Goal 14 "Urbanization" as provided for in the applicable paragraph (l)(c)(A), (B), (C) or (D) of this rule:

\* \* \*

(D) For an exception to Goal 14 to allow urban development on rural lands, a local government must follow the applicable requirements of OAR 660-014-0030 or 660-014-0040, in conjunction with applicable requirements of this division;

**Response:** Application includes goal exceptions under OAR 660-004-0010(1)(a) Agricultural Lands, (c) Public Facilities, and (d)(D) ~~urbanization. Findings below evaluate whether this application meets~~ Urbanization. The findings below support the County's conclusion that the goal exception requests can meet the applicable requirements of OAR 660-004-0020, 660-004-0022, 660-011-0060(9), and 660-014-0040 ~~to allow the requested goal exceptions.~~

## B. Planning for the Goal Exception Area, OAR 660-004-0018

(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, OAR 660-014-0040, or OAR 660-014-0090, 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:** Applicant seeks reason exceptions to Goals 3, 11, and 14 to allow for urban-scale industrial use and provision of public water service on land designated and zoned agricultural.<sup>21</sup> The ~~Project Parcel~~ project parcel is also considered "undeveloped rural land" under OAR 660-014-0040(1). To ensure that the County meets OAR 660-004-0018(4), the ~~Applicant requests~~ applicant requested that the County impose a Limited Use (LU) overlay zone on the ~~Project Parcel~~ project parcel to limit the industrial uses allowed in the M-G Zone to only a data center under MCZO 3.070(16). The proposed development falls within the definition of "data

<sup>21</sup> While OAR 660-011-065 does not explicitly require an exception to be taken to extend water service to rural land, case law suggests that such an exception is in fact required. *See Foland v. Jackson County*, 239 Or App 60, 64-65 (2010) (finding that the overarching policies of Goal 11 and the history of amendments to the goal supported LUBA's decision that Goal 11 prohibits the extension of city water services to serve an *urban use* on rural land without a Goal 11 exception).

center” under MCZO 1.030, as discussed above ~~under~~ in Section 21, Project Description Background Information.

### C. Goal Exception Requirements, OAR 660-004-0020

*(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. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.*

**Response:** ~~The Applicant requests that the County amend~~ This requirement can be met by amending the MCCP to document the exceptions ~~to~~ and ensure compliance with OAR 660-004-0020(1).<sup>32</sup>

*(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:*

**Response:** Goal 2, Part II(c) imposes four standards for evaluating the requested goal exceptions. The findings supporting compliance with each are presented below.

#### ***Reasons Justify the Requested Exceptions:***

*(2)(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 for goal exception requests. It requires an applicant to (1) demonstrate reasons justifying why the applicable goal policies should not apply, (2) describe the amount of land for the use, and (3) explain why the use requires a location on resource land.

With respect to “reasons,” justifying why the applicable policies of Goals 3, 11, and 14 should not apply to the ~~Project Parcel~~ project parcel, the affected Goal 3 Policy would not apply as the policy preserves agricultural lands for farm use, the affected Goal 11 Policy would not apply as the policy prohibits extension of public services to serve industrial uses on rural lands, and the affected Goal 14 Policy would not apply as the policy prohibits urban-scale uses on rural land.

OAR 660-004-0020(2)(a) does not prescribe the “reasons” that may be used to justify an exception. OAR 660-004-0022, 660-011-0060(9), and 660-014-0040 provide reasons for justifying the requested goals exceptions, although these rules do not provide an exclusive list of reasons. The language is clear that the list of reasons to justify an exception “include but are not

<sup>32</sup> Applicant notes that OAR 660-014-0040(4) mirrors OAR 660-004-0020(1), requiring that exceptions be captured in the MCCP.

limited to” those in rule.<sup>43</sup> Applicant demonstrates below that reasons that justify why the state policies embodied in Goals 3, 11, and 14 should not apply to the Project Parcel.

With respect to the “*amount of land for the use being planned*,” Applicant is requesting up to a 274-acre exception area for the ~~Project Parcel~~ project parcel. However, the actual footprint of the development will be smaller than 274-acres. ~~Rather, applicant proposes~~ Applicant plans to microsite the ~~Project~~ data center project within the project parcel and limit the impacts to the project footprint in order to avoid impacts to drainages and wetlands ~~and limit permanent impacts to about 190 acres. See attached “conceptual example layout.”~~.

~~According to the application, with~~ With respect to “*why the use requires a location on resource land*,” Applicant states that the location on agricultural land, adjacent to large tracts of agricultural land, “allows for the opportunity to manage process water onsite, alleviating the need for the extension of public sanitary services or facilities.” In addition, rural resource land proposed for the ~~Project Parcel~~ project parcel is adjacent to critical infrastructure (an existing transmission with capacity), a siting factor that was severely constrained for other sites considered as a part of the ~~Alternatives Analysis.~~ alternatives analysis. The alternatives analysis identifies the siting criteria, the alternatives analysis methodology, and the geographic areas the Applicant evaluated before selecting the project parcel. Based on the above, and the findings addressing OAR 660-004-0020(2)(b) and OAR 660-014-0040(3)(a), the County believes Applicant has adequately explained why the project would be located on this particular piece of resource land.

~~The application claims that it is proposing “the minimal amount of land to accommodate the use” and that “no non-resource land is available.” Applicant seeks to remove approximately 274 acres from Goals 3, 11 (water supply only), and 14 protections as “this is the minimal amount of land to support the proposed data center campus.” Applicant provided the Alternatives Analysis “to support findings that justify why the Goal 3, 11, and 14 protections should not apply to the Project Parcel and locating the use on resource land is justified.” See attached Alternatives Analysis.~~

following sections provide 3 reasons that the County accepts as justifying the requested goal exceptions. Together with the above, Applicant satisfies OAR 660-004-0020(2)(a).

<sup>43</sup> 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”).

Reason 1: Rural Industrial Development (OAR 660-004-0022(3)(c))

The proposed development is industrial-scale in nature and would be located on resource land outside of an Urban Growth Boundary (UGB). According to the ~~applicant~~ Applicant, the data center campus ~~is appropriate at this location~~ has significant comparative advantages located on the project parcel based on the following:

- Proximity to Transmission and Capacity. The ~~Project Parcel~~ project parcel is directly adjacent to an existing transmission line ROW that runs south along Tower Road for about 1.6 miles to the Carty site and Grassland Switchyard. The ~~Applicant understands the Carty site to be in close proximity to~~ existing and planned ~~Pacific Power transmission~~ critical electrical infrastructure and ~~capacity~~ transmission located at the Carty site gives the project a significant comparative advantage by reducing the need for new transmission lines and minimizes the need for long extensions of new high voltage lines across agricultural land. The ~~Project~~ project will receive power from Pacific Power, who anticipates providing service via a new 230-kV transmission line utilizing existing ROW along Tower Rd and capacity in the area.
- Proximity to Industrial Activity and Energy Facility. The ~~Project Parcel~~ project parcel is almost adjacent to the existing Carty site that is zoned for industrial use and historically operated as a power generation facility with supporting transmission infrastructure. The ~~Project Parcel~~ project parcel is effectively co-locating next to an existing industrial operation and its associated power infrastructure. This location, with proximity to existing industrial operations avoids and minimizes impacts to surrounding lands and offers the project a significant comparative advantage because it is readily compatible with adjacent uses.
- Availability of Suitable Land for Onsite Stormwater and Wastewater Management. The ~~Project Parcel~~ project parcel is of sufficient size, topography, and soil composition to accommodate onsite stormwater and wastewater management, thereby minimizing the need for offsite land application or extension of public sanitary services.

~~The applicants Alternatives Analysis concludes~~ Overall, the County finds that the ~~“Project Parcel met~~ project parcel is locationally dependent on the availability of existing and planned transmission infrastructure, and it has a significant comparative advantage than other sites because it is vacant, has no productive agricultural value, and is suitable for onsite stormwater and wastewater management. The alternatives analysis (Application Appendix D) supports a conclusion that the project parcel satisfies all of the Applicant’s siting criteria with the exception of except Siting Criteria 7, Land Use and Zoning and no other site evaluated has the same comparative advantage as the project parcel.”

**Urban-Scale Facility Supports Economic Activity (OAR 660-014-0040(2))**

~~A reason to support the Goal 14 exception includes, but is 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.” The project parcel is near industrial/utility use as well as farmland. The application indicates the “proposed development supports the ongoing agricultural production of the adjacent farming operation (Threemile Canyon Farms) by putting the Project Parcel to higher, better use and providing revenue to support the ongoing farming operation.” This standard does not require the development foster economies of the farmland rather, that the use is dependent upon nearby~~

~~natural resource. While arguably a data center may be compatible with farmland the application does not conclude how the specific location is “dependent upon adjacent or nearby natural resources.” Further, the application does not describe how the development is dependent upon an urban location. The nearest urban area is the city of Boardman, located approximately 10 miles to the north.~~

~~Based on the above, it is not clear the application has adequately justified compliance with this standard.~~

Reason 2: Other Reasons (OAR 660-004-0022(1)): Minimal Impact to Productive Agriculture

~~The application claims~~ Applicant maintains that the ~~“proposed development project~~ and removal of the ~~Project Parcel~~ project parcel from Goal 3 protections will have no impact to productive agriculture” ~~based primarily on the fact that~~ because the parcel is comprised predominately of Class 7, a nonarable soil ~~and~~, has not been irrigated, and has no history of any agricultural productivity. The parcel has not been grazed or farmed due to poor soil conditions and topography. ~~The applicant concludes~~ soil analysis memo (Application Appendix D) and the landowner affidavit (Application Appendix B) in the record support these conclusions. On this basis, the County agrees with Applicant that ~~“[r]emoving removing the Project Parcel~~ project parcel from the agricultural land supply will not diminish any potential agricultural economic benefit because historically, no benefits have been derived from the ~~area of the Project Parcel.”~~ project parcel. Further, as discussed more fully under OAR 660-004-0020(2)(d) and incorporated here, the proposed use of the project parcel can be compatible with the surrounding ongoing agricultural operations.

The County agrees with the Applicant ~~requests county approve the~~ that the request results in minimal impacts to agricultural land that is a sufficient justification to warrant a Goal 3 exception ~~here and~~. Applicant requests ~~county~~ that the County also utilize the Goal 3 exception ~~Findings~~ findings here to support the requested Goal 14 exception to allow urban scale use of rural resource land. Applicant correctly points out that “reasons for a Goal 14 exception are not limited to only those set forth in OAR 660-014-0040(2). OAR 660-014-0040(2) specifically provides that “[r]easons that can justify why the policies in Goals 3, 4, 11, and 14 should not apply can include, but are not limited to \* \* \*.” Further, ~~applicant~~ Applicant concludes that “a reason that supports a Goal 3 exception may also support a Goal 14 exception.” Staff concurs that reasons that support the Goal 3 exception may in part support a Goal 14 exception notwithstanding the application complies with other Goal 14 exception requirements.

Reason 3: Other Reasons (OAR 660-004-0022(1)): Comparative Economic Benefit

The ~~applicant~~ Applicant claims the parcel “is unused because it has no economic value for agricultural operations.” Goal 3 does not require that resource land be highly productive. In fact, Goal 3 protects lands that have moderate to low economic value. The reality that the Goal 3 exception would likely bring higher revenues than a marginally productive farm use ~~however that~~ is not by itself, sufficient to justify compliance with this reasons standard. There must be greater comparative economic benefit for the community to warrant an exception. The Applicant did submit ~~ana~~ third-party analysis of the economic impacts (Application Appendix G) of data center projects in the area and of local market wages and employment characteristics. A summary of the economic impact analysis is below:

- On average, data center projects in the greater Oregon region have brought between \$500 million to \$800 million in initial investment to the Oregon economy, with subsequent expansions bringing total investment figures to over \$1.8 billion to \$2 billion. This project is assumed to bring investment figures commensurate with these projects.
- Over the course of data center expansions, similar projects of similar anticipated size have grown to support construction employment in the thousands, and over 200 full-time permanent positions.
- During operation, the Project may offer a minimum of 35 full-time jobs with direct employment opportunities with estimated average wages of \$75,000 per employee, well above the median annual earnings of Morrow County residents with full employment (\$44,500).

Applicant correctly points out that the data center development “furthers the goals and policies MCCP Goal 9, Economic Element. The Economic Element provides the foundation for the economic situation in Morrow County. The County adopted amendments to the Economic Element in 2015 to guide land use decisions for the next 20 years and beyond. One important focus of the Economic Element Amendments is large industrial activity sector and industrial diversification of the County’s traditional agricultural economic base. Applicant’s proposal directly contributes to industrial diversification and adds to the large industry activity sector, helping further the County’s Economic Element Goals and Policies, specifically Goals 2-4.

*Goal 2: To expand job opportunities and reduce unemployment, reduce out-migration of youth and accommodate the growth of the County work force.*

*Policy 2A: To maximize utilization of local work force as job opportunities increase.*

*Policy 2B: To increase the income levels of County residents by \* \* \* encouraging the location of industries in the County which will hire local residents.*

**Response:** The project appears to support [SWPGMCCP Economic Element](#), Goal 2 and [MCCP Policy 2A](#) and [Policy 2B](#) by providing increased job opportunities during construction and operation.” The application claims the new data center jobs will increase “wages well above the median annual earnings of County residents.” [Applicant provided an economic impact analysis \(Application Appendix G\) that supports Applicant’s economic impact findings. The analysis relied on IMPLAN \(IMPact for PLANning\) economic multiplier model. See Application Appendix G, p 5.](#) Although, ~~applicant~~ [Applicant](#) did not submit an [separate demographic and labor study](#) ~~that supports that conclusion the data provided does show, the economic impact analysis provides data that shows~~ the jobs will exceed the average wage in Morrow County. During construction, ~~applicant~~ [Applicant](#) estimates there will be 200 FTE at a wage “well above median earnings of a county resident, and for operation, a minimum of 35 FTE at about \$75,000 per FTE is anticipated (well above the \$44,500 median annual earnings of a full-time employed County resident).“ This finding supports MCCP Policy 2B.

*Goal 3: To diversify local businesses, industries and commercial activities and to promote the economic growth and stability of the County.*

*Policy 3A: To encourage local producers to new markets for local products and to seek out new products that are in demand in the market place and that can be produced locally.*

**Response:** The ~~Project~~ project promotes continued growth in the cloud storage and energy sectors in ~~Morrow~~ the County, as well as the construction and technology industries, including supporting service providers. Application appears to support MCCP Goal 3 above. ~~However, it is not clear how applications supports~~ The project does not directly further Policy 3A, ~~however, the economic benefits from the project are anticipated to indirectly benefit local producers and likely encourage continued growth of the local market.~~

*Goal 4: To encourage the development of compatible land uses throughout the County and to protect areas suitable for industrial development from encroachment of incompatible land uses.*

*Policy 4A: To limit uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with industrial and commercial development.*

**Response:** ~~Application claims they “selected the Project Parcel given its significant comparative advantages of being~~ The project parcel is located next to the Carty site and existing and planned transmission infrastructure ~~to serve, which gives~~ the Project project a significant comparative advantage to other considered sites. This co-locating of industrial uses minimizes the need for transmission line extensions or new high voltage transmission lines across agricultural land.” Given this and the proximity to infrastructure, ~~application~~ the project appears to foster MCCP Goal 4 and Policy 4A.

#### ***No Alternative Site Can Reasonably Accommodate the Project:***

OAR ~~660-004-0020~~ 660-004-0020(2)(b) and OAR 660-014-0040(3)(a) require ~~Applicant~~ applicant to demonstrate that new areas, not requiring an exception, cannot reasonably accommodate the use and that the use cannot be accommodated through an expansive of UGB or intensification of development in an existing rural community. ~~Applicant provided an Alternatives Analysis. See attached.~~ The alternatives analysis for Goal 14 exception provides 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.” OAR 660-014-0040(3)(a). ~~Application provides that the~~ Applicant provided proposed findings under OAR 660-004-0020(2)(b) to demonstrate that Applicant also satisfies OAR 660-014-0030(3)(a), as the rule language and requirements almost mirror each other.” ~~Application also notes that to “The County agrees with this approach. To the extent that stand alone the rule language varies, additional findings are required for the~~ Goal 14, Applicant incorporates by reference the analysis and findings under OAR 660-004-0020(2)(b) as findings for OAR 660-014-0040(3)(a).” exception are presented in Section III.D below.

(2)(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;*

**Response:** Applicant submitted ~~a map of possible alternative~~ maps showing the location of areas considered in the Alternatives Analysis alternatives analysis, including areas that do not require a new exception. See Application Appendix D, Figures 6a, 6b, and 6c. Applicant also provided a map showing the site of the requested exception area. See Application Appendix D, Figure 6f. This requirement is met.

(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 identified eight siting criteria for selecting a data center project location and noted that no ~~singed~~ single criteria was determinative. The criteria reflect factors, including economic, for determining that the proposed data center campus cannot be reasonably accommodated in other areas, and include (1) access to electrical infrastructure and power supply; (2) water supply and discharge capability; (3) suitable land characteristics; (4) ability to

avoid environmentally sensitive resources and protected areas; (5) road access; (6) fiber network connectivity; (7) land use and zoning; and (8) financial feasibility.

1. Access to Electrical Infrastructure and Power Availability. The proposed data center requires considerable electrical power and power reliability. Key siting considerations related to power delivery include:
  - a. Proximity to existing infrastructure to minimize impacts and reduce project costs. Only lands directly adjacent or with clear access (e.g., via a transmission easement) to an existing electrical infrastructure (e.g., substation or high-voltage transmission line) were assessed as reasonable alternatives.
  - b. A viable site required electrical infrastructure (i.e., transmission lines and a substation) with available load capacity of at least 200 megawatts (MW).
  - c. Power needed to be available and delivered at high voltages (138 kilovolt [kV] or higher) due to the power use of the proposed data center and electrical pricing.
  - d. Power needed to be available and delivered to a site within 24–36 months of the initial load interconnection application.
  - e. System upgrades to provide the requested power load needed to be economically feasible for the Project.
2. Water Supply and Discharge. The proposed data center requires water supply and sufficient land to manage industrial wastewater onsite or have access to a municipal sanitary system. Applicant considered sites that could be served by private infrastructure, as well as municipal infrastructure. Key siting considerations related to water supply and discharge include:
  - a. Either location within the service territory of a municipal utility with sufficient capacity to service the needs of the Project or the potential for financially feasible upgrades to service the Project.
  - b. Alternatively, feasibility for private onsite wells and wastewater treatment facilities to be permitted and constructed.
3. Land Characteristics. The proposed data center requires a particular parcel size and topography. Key siting considerations related to land include:
  - a. A site with a minimum of 200 contiguous acres (about 0.5 to 1.0 acre per MW is required in order to accommodate the proposed Project's infrastructure).
  - b. A vacant undeveloped site.
  - c. Sites could include more than one parcel as long as contiguous.
  - d. Topography needed to be less than 15 percent slope to minimize grading.
4. Environmentally Sensitive Resources and Protected Areas. Applicant seeks to avoid sensitive biological, water, and cultural resources, as well as areas that are potentially contaminated or under legal protection or conservation. Key siting considerations related to environmentally sensitive resources and protected areas include:

- a. A site must have approximately 200 acres that are unconstrained by sensitive resources. Avoiding sensitive reasons minimizes adverse environmental impacts and streamlines permitting.
- b. A site must be permittable within 1 year or less to meet the Applicant's commercial operation date.
- c. Contaminated sites with potential remediation liabilities may be viable in some circumstances, but are generally less desirable for Project siting.
5. Road Access. Applicant requires that a site be located within 100 feet or less of public right-of-way access to allow for direct or near direct access to the site and avoid construction of new access roads.
6. Fiber Network Connectivity. The proposed data center requires reasonable access to multiple long-haul fiber lines with available capacity to service the data center's communication needs. Key siting considerations for fiber network connectivity include:
  - a. Fiber network with an available capacity must be available regionally.
  - b. Fiber network connectivity to the site must be feasible via easements.
  - c. Fiber network providers must be willing and able to meet the Project's needs within 12 months of the service request.
7. Land Use and Zoning. Applicant requires that the proposed data center be located on land zoned for data center use, as a permitted or conditional use or that there be a viable pathway for rezoning a site.
8. Financial Feasibility. While not determinative, Applicant requires that costs for land, energy, water, fiber easements, grading, and environmental mitigation be aligned with the financial feasibility goals for the Project.

Applicant applied these 8 siting criteria when evaluating sites within Umatilla and Morrow Counties between 2020 and early 2021. The process involved many months of interactions and inquiries with local utilities, landowners, and other stakeholders to assess viability against the siting criteria. Table 1 of Application Appendix D summarizes the alternatives analysis, detailing the sites considered, the zoning and jurisdiction of each, the distance to the UGB and the criteria assessment. Table 1 is incorporated here by reference as findings to support why the proposed data center campus location (the exception area) is justified and alternatives sites have been adequately considered and properly disregarded.

In performing the alternatives analysis, Applicant first evaluated the possibility of siting the data center campus on non-resource lands within the Urban Growth Boundaries (UGBs) of Umatilla and Morrow Counties. Applicant then evaluated the possibility of siting the project outside the UGB, but within zones where a data center may be allowed, specifically Rural Light Industrial Zone (RLIZ), Limited Rural Light Industrial Zone (LRLIZ), and Heavy Industrial (HI) for Umatilla County and General Industrial (MG), Port Industrial Zone (PI) and Airport Light Industrial Zone (ALI) for Morrow County. Based on this review, no reasonable alternative sites were identified in either the UGB areas or zones allowing a data center. The identified sites did not meet the siting criteria with the main constraints being lands already developed with another

use, availability of existing transmission infrastructure and capacity, topography, and land availability (e.g., willing landowner). Table 1 details the analysis of the siting criteria, describes why these sites failed to satisfy the siting criteria, and therefore, were not reasonable alternatives.

Applicant next assessed other non-resource lands in Umatilla and Morrow Counties that may have required a zone change, but would not require a goal exception. As described further in Table 1, there were available sites that met some of the siting criteria, but ultimately, none of the identified sites were reasonable alternatives because they failed to satisfy the siting criteria, with the main constraints being availability of transmission capacity and land characteristics.

Lastly, Applicant evaluated Exclusive Farm Use (EFU)-zoned sites against the siting criteria that would require a goal exception. Of these sites, the main constraints were land characteristics, sensitive resources, and financial feasibility, with the exception of the project parcel that met all siting criteria except for being zoned to allow a data center and requiring an exception.

The County agrees that Applicant evaluated all the required land types as a part of the Alternatives Analysis alternatives analysis before identifying the Project Parcel. See attached Alternatives Analysis to support findings under project parcel. The County also finds that the presented alternatives analysis demonstrates that other areas in the vicinity cannot reasonably accommodate the proposed data center campus and OAR 660-004-0020(2)(b)(B) and (C). No one to date has identified other sites with specific that would require the Applicant to undertake a more detailed evaluation of specific alternative sites.

#### ***Environmental, Economic, Social and Energy Consequences (“ESEE Analysis”):***

An ESEE Analysis required for a goal exception. OAR 660-004-0020(2)(c) (e.g., Goal 2, Part II(c)(4)) provides the general ESEE Analysis analysis for goal exceptions. ~~OAR 660-014-0040(3)~~

~~(e2) provides additional considerations for an ESEE Analysis when taking an exception to Goal 14. Below is the applicable Goal 14 ESEE standards:~~(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;*

~~Applicant provided the following analysis to show how the proposed parcel meets ESEE requirements. NOTE: Appendix referenced below (B, G, K, H, L, M, N and Figure 4) are part of the record and available upon request.~~

Environmental. Applicant ~~has~~ evaluated agricultural productivity, water availability, wetlands, habitat, and sensitive species for the ~~Project Parcel~~project parcel to demonstrate that the proposed data center will not have an adverse ~~environmenta~~environmental impact. The ~~Project Parcel~~project parcel meets the Applicant's siting criteria, including avoiding environmentally sensitive resources and protected areas, having a topography of less than 15 percent, and being underutilized, vacant, and/or undeveloped land. Moreover, the ~~Project Parcel~~project parcel anticipates avoiding the adjacent floodplain, existing jurisdictional water features by at least 80 feet, and incorporate a 250-foot BCA buffer.

Applicant has characterized the vegetation onsite and performed a preliminary site survey for sensitive habitat and species. See Application Appendix K (Threatened and Endangered Species Habitat Assessment) and Application Appendix H (~~WGS~~Washington Ground Squirrel Protocol Survey Results). The ~~Project Parcel~~project parcel contains no ~~WGS. AKS~~Washington Ground Squirrels. Applicant's consultant also concluded that the ~~Project Parcel~~project parcel does not hold a high potential to support Laurence's milkvetch. No other sensitive species or habitat was identified. Applicant also performed a wetland delineation, had a site visit with the Oregon Department of State Lands (DSL), and filed the wetland delineation with DSL for concurrence. See Application Appendix L (Wetland Delineation Report and DSL Concurrence). Applicant will avoid wetlands, drainages, and development within the Federal Emergency Management Agency (FEMA) floodplain. See Application Figure 4 (Project Area and Key Site Features).

In addition, ~~Applicant has evaluated~~applicant performed a desktop study of potential cultural resource impacts for the ~~Project Parcel~~project parcel and engaged in consultation with the Oregon SHPO and the Confederated Tribes of the Umatilla Indian Reservation. There are no known cultural resources onsite and Applicant will implement an inadvertent discovery plan during construction. See Application Appendix M (Cultural Resources Desktop Report) and Application Appendix N (Tribal Email Correspondence).

Applicant seeks to minimize adverse impacts from construction and operational activities. Applicant will conduct all construction and operational activities such that they comply with local and state permitting requirements. Applicant ~~discusses the anticipated state level permits~~anticipates pursuing an NPDES 1200-C permit from Oregon Department of Environmental Quality (DEQ), a DEQ onsite septic permit, a DWT basic air contaminant discharge permit, and any other local or state permit that may be required for construction and operation ~~in Section 4, which is incorporated herein by reference~~of the data center campus. For these reasons, the County ~~may conclude~~concludes that the proposed data center will not result in negative environmental impacts.

Economic. The ~~Project Parcel~~project parcel has no history of agricultural productivity or any other viable productive use. See Application Appendix B (Landowner Affidavit). Removing the ~~Project Parcel~~project parcel from the agricultural land supply will have no economic ramifications on area agricultural operators or land supply. Further, the proposed data center will result in economic benefits to the local community, provide family-wage jobs, and continue to support the County's economic development goals. See Application Appendix G (Economic Analysis Summary Memo); see ~~Section 6~~also the findings under OAR 660-004-0020(2)(b) and OAR 660-014-0040(3)(a) above ~~for Reasons Analysis~~. Applicant will be responsible for sourcing any water supply and is anticipating managing industrial wastewater onsite. There should be no increase in burden on any public service provider. Accordingly, the County ~~may find~~finds that the proposed data center will not result in negative economic impacts.

Social. The ~~Project~~proposed data center campus will provide increased local job opportunities for area ~~residences~~residents, during construction and operation. It will also provide social benefits in the form of taxes for the County's social programs. In addition, Applicant has evaluated potential cultural resource impacts for the ~~Project Parcel~~project parcel and engaged in consultation with the Oregon SHPO and the Confederated Tribes of the Umatilla Indian Reservation. There are no known cultural resources onsite and Applicant will implement an inadvertent discovery plan during construction. See Application Appendices M and N. ~~Applicant maintains~~On this basis, the County concludes that the proposed data center will not result in negative social impacts.

Energy. The proposed data center requires high-voltage transmission service and proximity to existing and planned transmission infrastructure with capacity to serve the ~~Project~~project parcel. The ~~Project Parcel~~project parcel is ideal given its proximity to existing and planned transmission infrastructure at the Carty site and the advantage of an existing transmission ROW running from the Carty site to the ~~Project Parcel~~project parcel, along Tower Road. Applicant is in conversations with Pacific Power to provide the required power infrastructure and supply for the ~~Project~~data center campus in accordance with Oregon Public Utility Commission-approved rules and regulations and tariffs. ~~Applicant requests that the~~The County ~~find~~finds that the proposed data center will not result in negative energy impacts.

~~Response: Based on the above analysis, county may find the application complies with this standard.~~

Based on the above EESE analysis, the County finds the long-term EESE consequences of the proposed data center campus on the project parcel will reduce adverse impacts and will not result in significantly more adverse impacts than would typically result from the same proposal being located in areas requiring a goal exception.

***The Project is Compatible with Adjacent Uses:***

*(2)(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:** To the north and west, adjacent land is in center pivot irrigation and is farmed. Land to the east is uncultivated and located within the conservation area. To the south is the Carty site. The ~~Project~~project does not appear to have significant adverse impacts on the environment or existing public services or facilities. Temporary impacts from construction may involve dust and increased traffic, but these impacts will be managed with dust control, traffic management, and other measures to ensure compatibility with adjacent uses during construction. Applicant seeks the ~~flexibility~~ability to use public water supply to avoid having to use groundwater. ~~—If groundwater is the source, the project may have~~Therefore, no impacts to groundwater ~~and therefore farming in~~or agricultural irrigation are anticipated. Further, the ~~region.~~The onsite ~~or offsite~~-management of ~~stormwater and~~ process wastewater is not anticipated to create incompatibilities, as it is already a common practice in the County and subject DEQ regulation. Threemile Canyon Farms is the surrounding property owner and views the proposed data center as compatible with its existing operations. ~~—With the exception of a possible reliance on groundwater, county may conclude~~The County concludes that the proposed data center use will be compatible with the adjacent uses.

#### D. Compliance with OAR 660-011-0065

As discussed in the application, Goal 11, nor the implementing regulations, expressly on their face require Applicant to take a goal exception to extend public water service to the project parcel. However, the court of appeals ruled in *Foland v. Jackson County*, 239 Or App 60, 64-65 (2010), that Goal 11 prohibits the extension of city water services to serve an urban use on rural lands without a Goal 11 exception. Applicant provided reasons to justify the Goal 11 exception under OAR 660-004 and OAR 660-014, and the County agrees that the presented reasons justify the requested Goal 11 exception. *Foland* made clear that the same factors that justify a Goal 14 exception may be the same factors that justify the Goal 11 exception. 239 Or App at 72.

(2) Consistent with Goal 11, local land use regulations applicable to lands that are outside urban growth boundaries and unincorporated community boundaries shall not:

(a) Allow an increase in a base density in a residential zone due to the availability of service from a water system;

(b) Allow a higher density for residential development served by a water system than would be authorized without such service; or

(c) Allow an increase in the allowable density of residential development due to the presence, establishment, or extension of a water system.

**Response:** The project involves a non-residential, urban-scale use on rural land. The provisions of OAR 660-011-0065 do not apply to the project and the requested Goal 11 exception is justified for the reasons presented in Section III.C and E.

## E. Compliance with OAR 660-014-0040

Applicant requests goal exception for “rural agricultural land” or “undeveloped rural land” as used within the meaning of OAR 660-014-0040. County may justify the requested Goal 14 exception based on reasons set forth under OAR 660-004 and OAR 660-014-0040. OAR 660-014-0040 contains similar requirements to OAR 660-004 for granting a goal exception. There are certain sections, however, where the language varies slightly. To the extent the language in OAR 660-014-0040 corresponds and mirrors the language in OAR 660-004, the County opts to rely on the findings under OAR 660-004 rather than making duplicate findings under OAR 660-014-0040. However, to the extent the requirements different between OAR 660-004 and OAR 660-014-0040, the County makes findings below. The following sections provide findings under OAR 660-014-0040 to detail how the County evaluates Applicant’s requested Goal 14 exception, finds reasons to justify it, and supplements the findings under Section III.C above.

### *Reasons Justify the Exception*

*(2) A county can justify an exception to Goal 14 to allow 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:** ~~The~~ OAR 660-014-0004(2) does not prescribe the “reasons” that may be used to justify a Goal 14 exception. While the rule provides a reason that may justify a Goal 14 exception, plain language of the rule makes clear that other reasons may be the basis for a Goal 14 exception. The language is clear that the reasons to justify an exception “include but are not limited to” those in rule.<sup>4</sup> The County makes findings under OAR 660-014-004(2) with respect to the requested Goal 14 exception but relies more heavily on the reasons presented under OAR 660-004-0020 and -0022 to justify the requested exceptions, including the Goal 14 exception request because the reasons identified by the applicant/Applicant to justify the Goal 3 exception also support the extension of public water service to the ~~Project Parcel~~ project parcel from the Port of Morrow Airport Industrial Park and the requested Goal ~~H~~14 exception. The development would have significant economic benefits and will bring higher economic value to a parcel of farmland compared to farming on the parcel. The economic benefits are dependent on having access to existing and planned transmission infrastructure with capacity. The application does show how economic benefits are dependent upon having a large parcel with relatively flat topography and well-drained soil types that will accommodate the onsite stormwater and wastewater management. However, the application does not specifically show how the ~~specific location~~ urban-level data center campus and the related economic activity from

<sup>4</sup> 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”).

the development is “dependent upon an adjacent or nearby natural resource.” Since the application was submitted, Applicant provided additional information related to this question – Applicant maintains that the project parcel, and the proposed urban-level development of the parcel, is dependent on a consistent, quality water supply that the Port of Morrow can provide from a nearby natural resource, the Columbia River. In addition, the project parcel is located in an area with a relatively mild climate (air and water), which is an important for proper data center operational functions. While these may not be the strongest arguments, they do fall within the reason enumerated in OAR 660-014-0040(2) and coupled with Applicant’s other reasons above, justify the requested Goal 14 exception.

### ***UGB Sites Cannot Reasonably Accommodate the Project***

(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:** ~~The applicant~~ Applicant evaluated alternative sites, including potential sites located within existing UGBs of Umatilla and Morrow Counties, as well as sites already zoned for data centers. The ~~Alternatives Analysis~~ alternatives analysis (Application Appendix D) concludes that sites within existing UGBs or rurally zoned industrial areas cannot reasonably accommodate the ~~Project~~ project, even with further intensification of development on those lands. Applicant applied 8 siting criteria as a part of the Alternatives Analysis and the Project Parcel met 7/8 criteria. Sites that could not accommodate Project and meet the siting criteria were deemed not reasonable sites. See email from City of Hermiston in record. County ~~may find~~ finds the application complies with this standard.

### ***EASE Analysis***

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

~~(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:~~

**Response:** ~~Application incorporated by reference the EASE Analysis above to support findings under OAR 660-014-0030(3)(b).~~

### ***The Project is Compatible with Adjacent Uses:***

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

\* \* \*

(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 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:** ~~Application referenced a Compatibility Analysis to show that the~~ The amount of land included in the exception area is appropriate in order that the development will and gives Applicant flexibility to avoid impacts to sensitive environmental resources and impose a 250-foot buffer to avoid impacts to drainages, wetlands, and the floodplain. The project parcel appears to be of sufficient size to manage stormwater and wastewater onsite through evaporation and retention ponds. Applicant indicated they have studied the potential environmental impacts and demonstrates, based on available information, the development “should not, with appropriate minimization and mitigation measures achieved through appropriate permitting, result in adverse impacts to air, water, energy, and land resources of the surrounding area.” Additionally, to verify application complies with this standard, ~~applicant~~ Applicant will be obligated to obtain all local, state, and federal environmental permits prior to construction and operation.

County may find the application complies with this criteria.

***Appropriate Level of Public Water Services:***

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

\* \* \*

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

**Response:** ~~Application identifies two sources of water, a transfer of irrigation water rights or use of a municipal (Port) water supply. Applicant provided evidence that it is in discussions~~ Applicant has entered into an MOU and an LOI with the Port of Morrow for the Port to provide supply water to the project parcel from a proposed Water Treatment plant its water project located at the Airport Industrial Park. The MOU and LOI evidence that the water supply may be provided in a timely and efficient way.

Based on the above, ~~county may find~~ the County finds that the application complies with this standard.

**Coordination of New Urban Development on Rural Land:**

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

\* \* \*

(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:** The County is the affected jurisdiction where the new urban development would take place on rural land. The County is undertaking a coordinated comprehensive plan amendment for the establishment of new urban development (data center campus) on rural land (Project Parcel). These findings address the project's compatibility with the County's applicable MCCP goals and policies along with SWPGs. Accordingly, this standard is met.

#### **IV. RESPONSE TO MCZO 3.110 LIMITED USE (LU) OVERLAY**

The goal exception rules in OAR chapter 660, Division 004, require that the uses permitted by a goal exception are limited to only those evaluated under the goal exception request. The purpose of the LU overlay zone is to ensure that the uses allowed under a goal exception are limited to only those analyzed and justified in the exception request. Therefore, ~~applicant~~ Applicant requests that the county impose an LU overlay zone limiting the use of the parcel to those uses allowed either under MCZO 3.010 (EFU) and a data center under MCZO 3.070(16). Applicant proposes the additional provisions for the LU overlay zone:

- The data center construction is subject to ministerial site plan review under MCZO 4.165
- The data center must obtain all necessary local, state, and federal permits and approvals.
- The data center must report findings of cultural, archaeological or historical artifacts if uncovered. Reports shall be made to the Oregon State Historic Preservation Office (SHPO) and the Cultural Resources Protection Program (CRPP) of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR).
- The data center must use drought tolerant landscaping and to the extent practicable, native plants to meet any landscape requirements; no long-term irrigation shall be allowed
- The data center perimeter does not require screening, as no adverse impacts to visual resources have been identified (as supported by EESE analysis)

The County agrees with these provisions for the proposed LU overlay zone and find that the provisions meet the intent of the LU overlay zone.

#### **V. CONSISTENCY WITH MORROW COUNTY COMPREHENSIVE PLAN GOALS AND POLICIES**

The MCCP goals and policies identified below are most relevant and applicable to this application.

### ***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 County Court~~ Commissioner meetings and hearings. The goal and policy are satisfied through the opportunities afforded to the public to participate at public hearings before the Planning Commission and Board of Commissioners on the proposed amendments, as provided for by state law and the county's Zoning Ordinance. Additionally, the Applicant hosted a public meeting on November 3, 2022, to hear comments and obtain feedback on the proposed ~~Project Parcel~~ project parcel and the proposed development.

### ***Goal 2 (General Land Use)***

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

### ***Goal 3 (Agricultural Lands Element)***

Applicant is seeking a Goal 3 exception. Nonetheless, ~~applicant~~ Applicant did address the project's consistency with the MCCP's Goal 3 policies to the extent the ~~Project Parcel~~ project parcel furthers the County's policies.

Agricultural Land Objective 3 seeks to minimize and prevent conflict between farm and nonfarm uses. The proposed development appears to be consistent with this policy because, as demonstrated by over decades of ongoing use, the existing industrial operations (Carty site) and existing agricultural operations (Threemile Canyon Farms) are compatible.

Agriculture Policy 2 permits development outside of UGBs only where conflicts with productive agricultural areas are minimal and where the development complies with the Comprehensive Plan. Conflicts between the proposed data eenterscenter campus and agricultural uses appear to be minimal. Industrial development nearby appears to be compatible and is a good comparison for determining the proposed data ~~eenterscenter~~ center would also be compatible with farming.

Agriculture Policy 6 provides that the County to consider the needs of the farming community in evaluating future development projects in other sectors of the economy. This policy appears to be partially satisfied because the land proposed for conversion from agriculture to industrial is not productive and the lease or sale of the land could be reinvested in farming. However, where increased traffic on Tower Road may interfere with farming, particularly during harvest season, the proposed development may have some negative impact to farming. This can be addressed by coordinating with the area farming operations, specifically Threemile Canyon Farms, during harvest season when construction is occurring. The County proposes a condition of approval to require Applicant to coordinate with the surrounding farming operator to minimize potential traffic impacts during harvest and construction.

### *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.

In the context of this application and amendments, Natural Resource General Policy M states that the County should establish policies for the analysis of zone changes effect on air, water, and land quality. The County has not promulgated such a policy and relies instead on individual, site specific and project specific circumstances and conditions. Application claims that this policy is met because the development “will have a limited impact on air quality, water, and land quality.” ~~However, see analysis below regarding compliance with Goal 5 and 6. The project does appear to have an impact on water quantity where groundwater supplies in the basin are limited. Although the development is required to meet all federal, state, and local permitting requirements for air and water impacts, compliance with Oregon Water Resources Department rules and regulations may not supplant findings to show compliance with a local standard or comprehensive plan policy such as here.~~

The parcel is located within the Lower Umatilla Basin Groundwater Management Area (LUBGWMA) an area designated based on drinking water levels that exceed the 10pp/m federal drinking water standard. The subject parcel is just north of the Ella Butte Classified Groundwater Management Area. A Critical Groundwater Area designation is a “Significant Goal 5 Resource” that would require mitigation. The attached map includes both the LUBGWMA and the GWA areas in county. The subject parcel is not located in a “Critical Groundwater Area.”<sup>5</sup>

Initially, when Applicant was considering groundwater as an option for the project’s water supply, staff had a concern over the project potentially having an impact on water quantity where groundwater supplies in the basin are limited. Since the submission of the application, Applicant has worked with the Port of Morrow to secure an LOI for the supply of potable water to the project parcel thereby avoiding use of groundwater for the project’s water needs. Given this project modification, the County finds that the application is consistent with Policy M.

Land Resource Policy A “[c]ounty shall conserve land resources in the manner most supportive of the county’s economic base” and Land Resource Policy B, “[c]ounty shall recognize the predominant need for the maximum preservation of land for agricultural and forestry uses” apply to this exception and rezone application. The Applicant did not address this policy in their application but did conclude that the subject parcel “should be considered non-productive” and has no value for agricultural use. Water Resources Policy F discusses the need to evaluate the quality and quantity of groundwater prior to approving projects or developments that would impact those resources. Water quality and quantity is regulated by the Oregon Department of Water Resources (OWRD) and water quality is regulated by the Oregon Department of

<sup>5</sup>[https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/15301/cgwa\\_area\\_2021.pdf](https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/15301/cgwa_area_2021.pdf).

Environmental Quality. While development-related approvals will be obtained, ~~county may~~the County could require the ~~applicant~~Applicant to show further analysis to evaluate the impacts to water supply. However, given that Applicant has refined its water supply sourcing, the County does not believe further analysis is necessary and Water Resource Policy 5 has been adequately addressed.

### ***Goal 9 (Economic Element)***

A number of economic goals and policies apply to this proposed plan amendment. Most of these goals and policies are aspirational or directory to the County, rather than mandatory to an ~~applicant~~Applicant.

Economic Goal 1 provides direction to Morrow County relating to economical housing facilities and affordability to meet housing needs. While not directly relevant, the impact of construction workers and housing needs is important to consider.

Economic Goal 2 and its various economic policies directs Morrow County to reduce unemployment, as well as promote various factors to decrease outmigration of the County's youth through growth of the County's workforce. The application meets this goal with this plan amendment request as it seeks to optimize the County's industrial zoning to attract development and jobs in an emerging field and technology (data center).

Economic Goals 2 and 3 seek to diversify local business, industry, and commercial activity. ~~This plan~~While this plan amendment application cannot ensure diversification of job opportunities, locating industrial zoning in an area where a natural industrial corridor is organically happening, due to the current land base and land use and zoning designations, could lead to diversification of new and existing job opportunities in the County. This plan amendment application appears to foster diversification of job opportunities.

Economic Goal 4 encourages compatible land uses throughout Morrow County. The proposed amendments further these goals by providing new industrial development opportunities on land that is only marginally suitable for farming and because of its location between and adjacent to existing industrial uses, such as the Carty site and several commercial dairy operations. There is established compatibility between agriculture and industrial uses.

Economic Goal 5 seeks to minimize noise levels and heavy traffic volumes, as well as other undesirable effects of heavy commercial and industrial developments. This plan amendment meets the goal of minimizing noise as the remote location would be a fair distance away from residences. The increased traffic volumes could prove problematic based on the already high traffic volumes and overall condition of Tower Road and the congestion at the Interstate 84 and Tower Road intersection. This can be addressed and mitigated with a Road Maintenance Agreement between Applicant and the County. The County proposes a condition of approval to require Applicant to enter into a Road Use Agreement with the County prior to construction.

Economic Goal 6 seeks to maintain a balance between economic and environmental activities. The proposed parcel to be rezoned for industrial use is located in an area with other industrial zoning and uses and will not negatively impact adjacent agricultural or industrial uses. As stated throughout ~~this document~~these Findings, the ~~subject~~project parcel has never been farmed. The

proposed development ~~mayis not anticipated to~~ have an impact on water supply, ~~an important environmental consideration as noted above in discussion about impacts to Goal 5 resources because Applicant will source water from the Port of Morrow.~~ The parcel contains limited habitat for threatened or endangered species, contains one wetland and one stream, both of which will be avoided, and no known cultural resources. The proposed rezone to industrial zoning appears to have only minimal impact to environment ~~except for water supply.~~

Economic Goal 7 requires the ~~county~~County ensure adequate water supplies to meet all needs associated with economic development. Applicant is coordinating with the Port of Morrow to ensure adequate water supply for the Project, avoiding use of a high-volume groundwater well and potential impacts to surrounding water users. ~~However, where~~Therefore, the County does not see any impacts to water supply ~~is not certain, specific Findings to show compliance with the and~~ Economic Goal 7 ~~cannot yet be written. That is, additional detail is warranted in order to make conclusive findings with this Goal~~has been addressed.

### ***Goal 11 (Public Facilities and Services Element)***

Applicant is seeking a Goal 11 exception. Nonetheless, ~~applicant~~Applicant addressed the application's consistency with the MCCP's Goal 11 policies to demonstrate how the project furthers other Goal 11 policies.

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. The ~~application seeks the flexibility~~Applicant is requesting an Goal 11 exception to extend public water services to avoid using limited groundwater. Applicant ~~doesis~~ ~~seek~~seeking the extension of public sanitation services at this time. The Port MOU ~~helps and LOI~~ demonstrate that such public water services may be provided. The development will utilize fire and law enforcement services, however ~~applicant~~Applicant does not expect that to be burdensome as the data center would be developed with a state-of-the-art fire suppression system and security systems, limiting the need and potential need for response by the county. The County Sheriff's office did review the application relative to potential impacts to law enforcement and emergency response and did note that response time to calls on or off Tower Road can be slow if Tower Road is blocked. ~~Further~~The County recommends further consultation with the County Sheriff's ~~Office and~~Office may be warranted to discuss emergency services ~~may be warranted and to ensure such coordination happens, the~~ County will impose a condition requiring further coordination prior to construction.

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. ~~Application~~The application indicates that a transmission line ROW already exists to the west, along Tower Road. ~~However, no evidence to this effect was noted~~Evidence of this is presented on the record in Application Appendix A that includes the Applicant's ALTA survey for the project parcel (Application, Appendix A). Tower Road ROW varies in width between 60 feet and 150 feet. An application for a new transmission line would be required prior to development, unless ~~applicant~~Applicant can provide evidence that there is capacity to serve the property with the existing transmission line or through an upgrade to the transmission line within the existing ROW.

General Policy G requires that public facilities and services not exceed the carrying capacity of the air, land, and water resources. ~~Application~~ The application notes that “through compliance with DEQ air quality regulations for industries, high air quality standards can be maintained and the County agrees. Similarly, water quality can be maintained through the permitting process and the water supply will be from a publicly available source through the Goal 11 exception. Finally, the land is both suitable for the Project proposed use and is proposed to be developed in an environmentally friendly and responsible manner with respect to slopes, soils, water resources, and wildlife.” ~~As noted above, compliance with a state agency permit is not, as a stand-alone matter, sufficient to demonstrate compliance~~ The application is consistent with a Plan General Policy. ~~Additional findings or details may be warranted here~~ G.

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. This policy may be satisfied because the development does not propose requesting or requiring the provision of additional county services and the project will provide economic benefits such as new employment, payroll, spending with vendors on construction and operations, and new tax revenue.

Utilities Policy F calls for coordination of development with utilities providing electrical, natural gas, cable television, and telephone services. The Project project will coordinate with and use local services available to serve the data center.

Water and Sewer Policy A provides that when development occurs in unincorporated areas, minimum state sanitation and health requirements are required. The proposed development will require permits for subsurface sewage disposal system, and waste water permitting.

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 County, which is typically with a contract for solid waste services or direct hauling of waste to Finley Buttes Landfill.

### ***Goal 12 (Transportation Element)***

While most of the county County's Goal 12 objectives are general in nature and directly 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:

- This application may be consistent with Objective #2, as the proposed land use amendment can be accommodated by the existing transportation infrastructure network, a single county roadway connecting the land to Interstate 84. However, as noted elsewhere, the conditions and traffic volume on Tower Road may warrant additional ~~analysis and/or~~ mitigation. This concern can be addressed and mitigated with an Road Maintenance Agreement between Applicant and the County. The County proposes a condition of approval to require Applicant to enter into a Road Use Agreement with the County prior to construction.
- This application may be consistent with Objective #5, as the proposed land use amendment will have some impact to the existing county's roadway system. This development as a stand-alone matter will not necessarily result in a reclassification of Tower Road. Where some impacts to the roadway will occur ~~county may~~, the County will require a Road Use

Agreement. ~~This was recommended by county Public Works Director~~ and proposes a condition of approval to this effect as mentioned above.

- This application is generally consistent with Objective #14, however the proposed land development will have some impact to Tower Road. One remedy for this impact is to require a Road Use Agreement to repair Tower Road and ~~for~~ agree to fund a chip seal of the northerly eight (8) miles of Tower Road. The County will impose a condition of approval requiring the County and Applicant to negotiate a Road Use Agreement prior to construction.
- This application is consistent with Objective #15, as the proposed land use amendment will not require nor will it prevent expansion of the County's transportation system.

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).
- No modifications or updates are needed to the Morrow County Transportation System Plan (Policy 2).
- 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).
- Traffic impacts may require ~~ROW modification and/or roadway facility upgrades~~ maintenance and repairs (Policy 6). ~~The application may demonstrate compliance with this standard with~~ County will impose a condition of approval requiring the County and Applicant to negotiate a Road Use Agreement where ~~applicant~~ Applicant agrees to pay costs to ~~improve a portion~~ chip seal the first 9 miles of Tower Road ~~and also agrees to help PGE maintain the southerly portion of Tower Road~~ following construction of the facility.
- Traffic generation will be compatible with the function of the applicable roadway network (Policy 7).
- ~~Traffic generation may not meet 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 the limited movement of the data center employees and personnel. After construction, the Project estimates only 252 (138 weekday a.m., 114 weekday p.m.) peak hour trips, which represent a nominal increase in traffic along Tower Road. Construction traffic impacts will be mitigated through the Road Use Agreement.

### **Goal 13 (Energy Conservation Element)**

Energy Conservation Policies 1 and 14 are applicable to this application. As with many other MCCP policies identified, these policies are directory or aspirational in nature, rather than mandatory to an ~~appheant~~ 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. The data center

campus operations are anticipated to be supported with 100% renewable energy, with procurement structure and approach to be finalized prior to operations.

Energy Conservation Policy 14 encourages the County to combine increasing density gradients along high-capacity transportation corridors to achieve greater energy efficiency. This proposal is consistent with this policy by consolidating lands for industrial development in an area bordering a minor collector, Tower Road, which should encourage greater utilization of appropriate industrial infrastructure by industry in the County.

#### ***Goal 14 (Urbanization Element)***

Applicant is seeking a Goal 14 exception to allow for the siting flexibility to build an urban-level facility and extend public water service to the ~~Project Parcel~~project parcel to avoid using limited groundwater resources.

## **VI COMPLIANCE WITH APPLICABLE STATEWIDE PLANNING GOALS.**

The County ~~will be required to adopt~~makes findings ~~to show that the request complies with~~under its own Comprehensive Plan and also make findings under applicable Statewide Planning Goals (SWPG). ~~This application includes an exception to three Statewide Planning Goals, 3, 11 and 14. The goals are presented below in bold print with responses in regular print.~~

#### ***Statewide Planning Goal 1: Citizen Involvement***

Goal 1 requires a citizen involvement program that is widespread, allows two-way communication, allows for citizen involvement through all planning phases and is understandable, responsive and funded.

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 DLCDC 35 days prior to the first evidentiary hearing.

#### ***Statewide Planning Goal 2: General Land Use***

~~General Land Use Policy 9 requires that all plan and zone changes comply with all applicable state wide planning goals and County policies and procedures. This policy~~

Goal 2, Part I, requires that actions related to land use be consistent with acknowledged Comprehensive Plans of cities and counties. The proposed amendments' consistency with applicable provisions in the MCCP is demonstrated in this document.

Goal 2, Part I, also requires coordination with affected governments and agencies, evaluation of alternatives, and an adequate factual base. In preparing the application, Applicant consulted with agencies and stakeholders, as discussed in Section 4 of the Application. In part, Applicant

consulted with the Morrow County Planning Department, planning director, and contacted representatives of the United State Navy (Bombing Range Rep.) and Oregon Department of Transportation (ODOT) for feedback on the proposed Project and conceptual layout. See Application Appendix I (Navy Correspondence). The goal exceptions, together with the supporting documents and evidence submitted in support of the exceptions, provide an adequate factual base to support the proposed plan and land use regulation amendments required to adopt these exceptions. For these reasons, Goal 2, Part I is met.

Goal 2, Part II, sets out the standards for goal exceptions. Goal 2, Part II, is implemented through OAR 660, Division 4, and referenced administrative rules. Goal 2, Part II, is satisfied for the reasons set out in the goal exceptions analysis of compliance with the state wide goals and applicable County zoning provisions that are contained included in this application.

### ***Statewide Planning Goal 3: Farmland***

~~Applicant is seeking a Goal 3 exception. Applicant provided the following analysis to show consistency with MCCP's Goal 3 policies.~~

~~“Agricultural Land Objective 3 seeks to minimize and prevent conflict between farm and nonfarm uses. The Project is consistent with this policy because, as demonstrated by over decades of ongoing use, the existing industrial operations (Carty site) and existing agricultural operations (Threemile Canyon Farms) are compatible.~~

~~Agricultural Land Policy 1 is an aspirational policy that seeks to balance economic and environmental considerations, limit incompatible non-agricultural development, and maintain a high level of livability in the county. While not a mandatory review criterion, this policy is met because this application will not impact or remove productive agricultural land from existence and because industrial uses are not incompatible with adjoining or adjacent agricultural uses.~~

~~Agriculture Policy 2 permits development outside of UGBs only where conflicts with productive agricultural areas are minimal and where the development complies with the Comprehensive Plan. As described above, conflicts between industrial and agricultural uses are minimal. Industrial development in the proposed location is consistent with the Comprehensive Plan, as reflected by the existence of several approved MG and (SAI zoning and land use designations immediately adjacent to the proposed Project Parcel.~~

~~Agriculture Policy 6 provides for the County to consider the needs of the farming community in evaluating future development projects in other sectors of the economy. This policy is satisfied because the land proposed for conversion from agriculture to industrial is not productive and the lease or sale of the land to the Applicant (and associated payments) may allow for the expansion of agricultural activities on productive irrigated lands by the landowner, thereby benefitting the agricultural community.~~

~~Agriculture Policy 10 states that the County should support energy generating projects offering to release water from their reservoirs for irrigation purposes and provide Morrow County farmers with surface water. The Project will likely not be able to provide industrial wastewater to farmers due to the high salinity levels.”~~

Goal 3 requires counties to preserve and maintain agricultural lands for farm use. Goal 3 does not allow nonfarm uses like industrial development on EFU zoned land unless a local government adopts findings justifying an exception to Goal 3. The project parcel is unique in that it is designated as agriculture and zoned EFU, but all available evidence suggests that it has never been farmed, irrigated, or grazed. For these reasons it should be considered “non-productive farmland” and should not be afforded the protections applicable to “agricultural lands.” The redesignation and rezoning of land from Agricultural (EFU) to Industrial (MG) is consistent with the purpose and intent of Goal 3 for the protection of farmland because no productive farmland will be impacted by the proposed Project. Therefore, the re-designation and rezoning is appropriate given the project parcel-specific conditions and the project parcel’s proximity to existing industrial development and transmission.

**~~Statewide Planning Goal 5: Cultural, Natural Resources, Scenic and Historic Resources Areas, and Statewide Planning Goal 6: Air, Land & Water Quality~~** (Note: Morrow County Comprehensive Plan has these goals combined into a single chapter.)

~~Morrow County Comprehensive Plan Goal 5 Natural Resources Element provides an overview and inventory of all natural resources of “significance” in 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.~~

~~The parcel is located within the Lower Umatilla Basin Groundwater Management Area (LUBGWMA) an area designated based on drinking water levels that exceed the 10pp/m federal drinking water standard. The subject parcel is just north of the Ella Butte Classified Groundwater Management Area. A Critical Groundwater Area designation is a “Significant Goal 5 Resource” that would require mitigation. The attached map includes both the LUBGWMA and the GWA areas in county. The subject parcel is not located in a “Critical Groundwater Area.”~~

~~[https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/15301/cgwa\\_area\\_2021.pdf](https://www.co.morrow.or.us/sites/default/files/fileattachments/planning/page/15301/cgwa_area_2021.pdf)~~

~~**General Policy M** (page 27 of 31 (10-1-13) states that county should “establish a policy of analysis of requests for zone changes, use permits and the like to determine their affect on air, water and land quality.” County has not promulgated such a policy and relies instead on individual, site specific and project specific circumstances and conditions. The applicant concludes that this policy is met because the project will have a limited impact on air quality, water, and land quality. Given that the applicant has provided only tentative solutions for water supply county may not yet conclude that the project will have no negative impacts to water supply, particularly where the region has demonstrated declines in water supply and the property is in proximity to Critical Groundwater Areas and Limited Groundwater Management Area. However, as noted in the application, the development will be required to meet all federal, state, and local permitting requirements for air and water impacts, which will include a guaranteed water supply and water right adequate to serve the data center.~~

~~**Land Resource Policy A** “[c]ounty shall conserve land resources in the manner most supportive of the county’s economic base” and Land Resource Policy B, “[c]ounty shall recognize the~~

~~predominant need for the maximum preservation of land for agricultural and forestry uses” apply to this exception and rezone application. Applicant did not address these Policy in their application but did conclude that the subject parcel “should be considered non-productive.”~~

~~**Water Resources Policy F** “[w]here information is available, county shall take into consideration the quality and quantity of groundwater resources, prior to approving projects or developments that would impact those resources.” Application notes that water quality and quantity of water and groundwater is regulated primarily by the Oregon Department of Water Resources (OWRD) and Oregon Department of Environmental Quality (DEQ) and that “all project related approvals will be obtained, should this application be approved.” Deferring to a state agency regulatory function may not substitute for demonstrating compliance with a Plan Policy. Additional information from the applicant is warranted to show that the project meets the intent of this policy:~~

~~Although OWRD has responsibility to regulate water use, OWRD does not actively plan for future water supply. Securing a water right as a stand-alone matter is not sufficient to demonstrate that the project will not have a negative impact on water supply or comply with Water Policy F as noted above. It is well documented that the region has multiple declining water aquifers. Should the project be able to secure water from Port of Morrow, and provide Findings to show compliance with Water Policy F, county may be able to make reasonable Findings that the rezone and plan amendment and new development will have minimal negative impacts to water supply.~~

~~In terms of water quality, data centers do not appear to have negative water quality impacts. Rather, the data centers produce wastewater that is relatively clean but for higher than normal salinity content. Saline can be diluted and put to beneficial farm use.~~

~~The application includes documentation that the parcel is sited and designed to minimize impacts to the natural environment and appears to create minimal, if any negative impacts to soils, wildlife, geology, and water quality. However, additional and specific evidence relative to water is warranted Open Space~~

~~Goal 5 addresses the preservation of natural resources, scenic and historic areas, and open spaces. In the context of the application’s proposed amendments, the Applicant reviewed Morrow County’s existing inventories for wetlands, wildlife habitat, and cultural resources and areas, as well as conducting its own due diligence for project parcel resource inventories.~~

~~Desktop and field verified wetlands delineations for the Project took place on October 14, 2021 and March 31, 2022, and were submitted to Oregon DSL. The results, included in the Wetland Delineation Report and DSL Concurrence, attached as Application Appendix L, indicate one wetland and one intermittent stream located within the project parcel, as shown on Application Figure 4, both are avoided by the project footprint.~~

~~According to the US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) online report, there are no federally protected, Endangered Species Act (ESA)-listed threatened or endangered species documented as occurring on or in the immediate vicinity of the Project Parcel and no designated critical habitats mapped within the parcel. See Application Appendix K (Threatened and Endangered Species Habitat Assessment). According to ODFW, state-listed threatened, endangered, and/or candidate wildlife species with the~~

potential to occur in the Project Parcel include the WGS (*Uroditellus washingtoni*), which is listed as a state-endangered species. According to the USFWS, the WGS are found in the Columbia plateau of both Washington and Oregon. Their preferred habitat consists of sagebrush and bunchgrasses. They nest and burrow in sandy or silt-loam textured soils that are conducive for their burrow structures. Applicant conducted presence/absence protocol surveys for the WGS in March to May 2023. No active WGS colonies were identified. See Application Appendix H (WGS Protocol Survey Results). However, should active WGS colonies be identified, Applicant will address presence accordingly through avoidance, mitigation, and/or take permits in coordination with ODFW.

Based on the Applicant's review of publicly available records, no known cultural resources have been documented within or adjacent to the project parcel. However, the project parcel has not been previously surveyed for cultural resources. No report has been submitted to SHPO. Despite the undeveloped nature of the project parcel, a low potential for buried archaeological sites exists. Although the project parcel and immediate vicinity have not been previously surveyed for cultural resources, Oregon SHPO records indicate a low archaeological site density on parcels of land that have been previously surveyed within approximately one mile of the Project Parcel. See Application Appendix M (Cultural Resources Desktop Report).

Goal 6 (Air, Water, and Land Resources Quality) addresses the quality of air, water, and land resources. In the context of Comprehensive Plan Amendments, a local government complies with Goal 6 by explaining why it is reasonable to expect that the proposed uses authorized by the plan amendment will be able to satisfy applicable federal and state environmental standards, including air and water quality standards. The project will require air and wastewater permits from the Oregon DEQ and must meet applicable state and federal permitting requirements prior to construction and operation.

The uses authorized by the requested plan amendments should not create noise that differs from the types of energy facility- and farm-related noise already in the area. The project would contribute to ambient noise levels with similar equipment such as, generators, cooling towers, and transformers. The location of these industrial uses in very close proximity to each other is appropriate and are not anticipated to a significant adverse impact noise sensitive receptors. Notably, there are no "Noise Sensitive Properties" or "Quiet Areas" pursuant to OAR 340-035-0015, in the vicinity of the project parcel.

### ***Statewide Planning Goal 9 Economy***

~~A number of economic goals and policies apply to this proposed plan amendment. Most of these goals and policies are aspirational rather than mandatory to an applicant.~~

~~**Economic Goal 1** provides direction to Morrow County relating to economical housing facilities and affordability to meet housing needs and is not directly germane to this plan amendment request, as this plan amendment is relating to industrial development.~~

~~**Economic Goal 2** and its various economic policies directs Morrow County to reduce unemployment and decrease outmigration of the county's youth through growth of the county's workforce. This plan amendment request seeks to create new industrial zoning to attract~~

development and jobs in an emerging field and technology (data center). Although data centers are allowed in other types of zoning, the availability of suitable land meeting the needs of data centers is now more limited. With this new development county may attract similar emerging and higher salary type jobs to a new area within Morrow County.

~~Economic Goals 2 and 3~~ seek to diversify local business, industry, and commercial activity. ~~While this plan amendment application cannot ensure diversification of job opportunities, as stated under Goal 2 above, locating industrial zoning in an area where a natural industrial corridor is organically happening, due to the current land base and land use and zoning designations, could lead to diversification of new and existing job opportunities in the County.~~

~~Economic Goal 4~~ encourages compatible land uses throughout Morrow County. The amendments further these goals by providing new industrial development opportunities on land that is not high value farmland and may be more suitable for industrial development because of its location between and adjacent to existing industrial uses, such as the Carty site and several commercial dairy operations. There is established compatibility between agriculture and industrial uses.

~~Economic Goal 5~~ seeks to minimize noise levels and heavy traffic volumes, as well as other undesirable effects of heavy commercial and industrial developments. This plan amendment may meet this goal as it proposes to use an existing county roadway that is already accustomed to higher traffic volumes and noises associated with the operation of commercial dairy and other farming uses, as well as traffic for the generation station. However, as noted by the Public Works Director, the high traffic volume creates safety concerns and excess congestion which may require mitigation. The noise and traffic attributable to the Project Parcel would produce a nominal impact to the area.

~~Economic Goal 6~~ seeks to maintain a balance between economic and environmental activities. The Project Parcel proposed to be rezoned for industrial use is located in an area with other industrial zoning and uses and will not impact adjacent agricultural or industrial uses. As stated throughout this document, the Project Parcel has never been farmed or used for productive agricultural activities. Additionally, the proposed Project Parcel will have limited impact on the natural environment, as the parcel contains limited habitat for threatened or endangered species, contains one wetland and one stream, both of which will be avoided, and ~~no known cultural resources~~. Based on this, the proposed industrial zoning appears to be in a good location to accommodate industrial activity with minimal impact to the environment and farming.

~~Economic Goal 7~~ requires the County ensure adequate water supplies to meet all needs associated with economic development. Applicant is coordinating with the Port of Morrow to ensure adequate water supply for the Project, avoiding use of a high volume groundwater well and potential impacts to surrounding water users. See comments above under Water Resources Policy. In summary, until applicant can provide further documentation, county cannot consider Findings to demonstrate compliance.

Goal 9 requires local governments to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens to adopt comprehensive plans and policies. Goal 9 is a directive to the County to ensure that the local plans address economic development opportunities, land supply for industrial and

commercial uses, and address economic projections among other things. As discussed above, the project promotes and furthers the County's Goal 9 policies

### ***Statewide Planning Goal 11 Public Facilities and Services***

~~Applicant is seeking a Goal 11 exception. Nonetheless, Applicant addresses the Project's consistency with the MCCP's Goal 11 policies to the extent the Project furthers the County's policies.~~

~~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. The Project seeks the flexibility to extend public water services to avoid using limited groundwater. Applicant does not seek the extension of public sanitation services. The Port MOU may provide reliable water service to the development and at little to no cost to the county. According to the application, the Project "utilization of fire and police services is not expected to place a burden on existing county capacity, as the data center would be developed with a state-of-the-art fire suppression system and security systems, limiting the need and potential need for response by the county." A copy of the Public Notice was provided to Morrow County Sheriff's Office for review. The Sheriff's Office noted that when accidents occur, access can be very limited. Given that Tower Road is the only major ingress and egress to Interstate 84, alternative safety routes may be a consideration. Safety and evacuation routes could be addressed in the traffic study.~~

~~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. The application indicates that "a transmission line ROW necessary for the extension of service to the project already exists to the west, along Tower Road." However, application did not include evidence that existing line will be used for the proposed development or if there is adequate ROW to provide a second transmission line.~~

~~General Policy G requires that public facilities and services not exceed the carrying capacity of the air, land, and water resources. The application claims that "[t]hrough compliance with DEQ air quality regulations for industries, high air quality standards can be maintained. Similarly, water quality can be maintained through the permitting process. The land appears to be suitable for the proposed development to transpire in an environmentally friendly and responsible manner with respect to slopes, soils, and wildlife." Where this is a summary statement and not actual proof, application would be enhanced with a more detailed and secure source of water supply.~~

~~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. This policy may be satisfied because the project does not propose requesting or requiring the provision of additional county services but does provide economic benefits. The impacts include new employment, payroll, spending with vendors on construction and operations, and new tax revenue.~~

~~**Utilities Policy F** calls for coordination of development with utilities providing electrical, natural gas, cable television, and telephone services. The development will coordinate with and use local services available to serve the data center. Project is located within the Pacific Power Service Territory. Application indicates the developer is in consultation with Pacific Power to provide service.~~

~~**Water and Sewer Policy A** provides that when development occurs in unincorporated areas, minimum state sanitation and health requirements be met, including an approved subsurface sewage disposal system. The proposed development will require a source of drinking water and onsite sewer system. The parcel includes ample space for the installation and maintenance of a septic system to serve the project. Drinking water supply is not clarified in the application.~~

~~**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 by signing up for garbage collection service and hauling larger types of waste to Finley Buttes Landfill~~

Goal 11 requires local governments to plan and develop a timely, orderly, and efficient arrangement of public facilities and services. The goal provides that urban and rural development "be guided and supported by types and levels of services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served." The Public Facilities Planning Rule, OAR 660, Division 11, implements Goal 11. Applicant seeks an exception to Goal 11 to allow the possible extension of water service from the Port of Morrow to the project parcel. No extension of public sewer services or facilities are proposed.

### *Statewide Planning Goal 12: Transportation*

~~Application appears to comply with Goal 1 Coordination/Process as coordination has taken place as part of the application review process.~~

~~**Goal 2 Policy 2.5 Require new development to identify transportation impacts and provide appropriate mitigation.** Applicant provided a traffic impact analysis. Based on review of the Public Works Director, a Road Use Agreement and/or mitigation may be warranted.~~

~~**Goal 2 Policy 2.6 Require new development to dedicate right-of-way for transportation system improvements where appropriate. Establish procedures for the dedication of right of way necessary for the transportation system.** New right of way was not recommended in the TIA.~~

~~**Goal 3 Economic Development Enhance economic development through transportation improvements. Policy 3.1 Support transportation system improvements that contribute to economic development opportunities.** Although the TIA did not recommend improvements except for a new driveway and a stop sign, increased traffic volume on Tower Road is generating mobility and safety constraints. Emergency response can be limited if an accident occurs on Tower Road. A Road Use Agreement or traffic or other mitigation may be warranted in order to demonstrate compliance with this standard.~~

~~**Goal 5 Roadway System Provide and maintain a safe, efficient roadway system to provide mobility throughout the county.** County provides maintenance on Tower Road~~

Objective #5 requires that the existing roadway will not be significantly impacted or require reclassification of the system. Tower Road, a county, two-lane roadway is the only public roadway that connects the property to Interstate 84 to the north. That roadway has a high volume of traffic, especially during farm harvest season. There is no other ingress and egress suitable for emergency purposes. Tower Road will have a measurable impact and may require mitigation. County Public Works is reviewing the traffic analysis. County may refer the traffic analysis to engineer of record for further review to better quantify the impact and to determine whether the new development will result in a new classification. County may also consider a Road Use Agreement or other mitigation to offset commensurate impacts to the roadway.

The application may or may not comply with this objective. A condition of approval requiring a Road Use Agreement may be a suitable tool to mitigate impacts.

■ The application claims that the application is consistent with Objective #14, “as the proposed land use amendment will not impact the existing overall roadway network in a way that would require modification or further coordination with other agency infrastructure.” However, based on the above, traffic impacts may warrant further analysis.

■ This application does appear to be consistent with Objective #15, as the proposed land use amendment will not require nor will it prevent expansion of the County’s transportation system.

The applicable Transportation Policies are Policies 1, 2, 4, 5, 6, 7, 9, 10, and 11. The application concludes that “the proposed land use amendment is consistent with each of these policies.”

■ **Policy 1 The overall transportation network is capable of adequately accommodating the overall transportation-related demands on the multi-modal network.** Public Works review is pending, however, generally, Tower Road is a well-maintained access to the proposed site as well as other numerous farm and industrial uses.

■ **Policy 2 No modifications or updates are needed to the Morrow County Transportation System Plan (Policy 2).**

Goal 12 requires local governments to "provide and encourage a safe, convenient and economic transportation system." Goal 12 is implemented through the Transportation Planning Rule, OAR 660, Division 12. Goal 12 requires, among other things, that the County’s Transportation Plan facilitate the flow of goods and services, so as to strengthen the local and regional economy. The Project supports this goal and will produce substantial economic benefits, see Application Appendix G for an analysis of economic impacts. Other requirements include the encouragement of multi-modal transportation, avoidance, and minimization of reliance on one mode of transportation, and consideration of the transportation disadvantages and justification for the project’s compliance and requests are set out in the goal exceptions analysis included in this application.

OAR 660-012-0060 provides that where a plan amendment would significantly affect an existing or planned transportation facility, measures must be taken to assure that the allowed land uses are consistent with the identified function, capacity, and performance standards of the facility. The Applicant completed a Traffic Impact Analysis (TIA) in July 2022. The TIA provides

guidance on traffic impacts and mitigation measures (if applicable) associated with Project-related impacts, see Application Appendix I.

The following project-specific results, as identified in the TIA, address criteria outlined in the Transportation Planning Rule:

- ~~Policy 4 No~~ The proposed MG Zone will not require or result in any changes ~~are required~~ to the ~~roadway~~ functional classification ~~system (Policy 4)~~ of any transportation facility in the vicinity of the Project Parcel.
- ~~No~~ The proposed MG Zone will not require changes to the standards that implement the ~~management and maintenance of the~~ functional classification system ~~(Policy 5).~~
  - ~~No traffic impacts that would require ROW modification and roadway facility upgrades (Policy 6).~~
- ~~All forecast traffic generation will be compatible with the function and carrying capacity of the applicable roadway network (Policies 7 and 11). The increased volume and truck traffic will generate impacts to Tower Road that may warrant mitigation. The proposed MG Zone would result in future traffic volumes that remain consistent with the functional~~ classifications of the roadways in the study area.
- ~~No traffic impacts that would impact roadway function or require modifications to roadway classifications (Policies 9 and 10). The classification of Tower Road is particularly appropriate to accommodate the limited movement of the data center employees and personnel. After construction, the Project estimates 252 (138 weekday a.m., 114 weekday p.m.) peak hour trips, which represent a nominal increase in traffic along Tower Road. Nonetheless, construction and post construction traffic will impact Tower Road and industrial and farming operation sin the area and may warrant mitigation as noted above. The proposed MG Zone would not degrade operations of the study intersections below adopted performance targets.~~

Based on the results of the TIA, the proposed project and MG zone change are not expected to result in a significant effect on the surrounding transportation network or require offsite mitigation.

### ***Statewide Planning Goal 13 Energy Conservation***

~~Energy Conservation Policies 1 and 14 are applicable to this application. As with many other MCCP 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. According to the application, “[T]he data center campus operations are anticipated to be supported with 100% renewable energy, with procurement structure and approach to be finalized prior to operations.” Documentation was not included to support the desire to rely on 100% renewable energy 365 days per year.~~

~~Energy Conservation Policy 14 encourages the county to combine increasing density gradients along high-capacity transportation corridors to achieve greater energy efficiency. The application concludes that this development “is consistent with this policy by consolidating lands for industrial development in an area bordering a minor collector, Tower Road.” However, county believes that where Tower Road is the only north-south collector provided access to the industrial area, it may require mitigation to guarantee quality and capacity to serve additional density such as the proposed industrial development~~

Goal 13 directs cities and counties to manage and control land and uses developed on the land to maximize the conservation of all forms of energy, based on sound economic principles. The proposed amendments will help conserve energy by consolidating and co-locating the proposed industrial use area near an existing industrial use (the Carty site) and existing transmission infrastructure, thereby reducing the amount of automobile and truck trips required to serve and maintain the area.

#### **Statewide Planning Goal 14 Urbanization**

~~Applicant is seeking an exception to Goal 14 in order to allow for the siting of a large-scale industrial development. Application requires an exception to Goal 14 where the size of the buildings and scope of development is a high-density or urban scale. The application includes an exception to Goal 14. See also attached OAR 660-014-0040 Establishment of New Urban Development on Undeveloped Rural Lands.~~

Goal 14 requires counties and cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. Specific to this application, Goal 14 prohibits urban uses on rural lands and in order to locate urban uses on rural lands, local governments either must expand their UGBs to include the subject property or take a Goal 14 exception. Applicant seeks a Goal 14 exception to allow the industrial use of the Project Parcel.

**VII AGENCIES NOTIFIED:** Dawn HERT, Hilary Foote, Department of Land Conservation and Development; Teresa Penninger, Oregon Department of Transportation; Department of Environmental Quality, Bend Region Office and Eastern Region Office, Pendleton, , Air Quality Specialist; Mike Gorman, Morrow County Assessor; Eric Imes, Morrow County Public Works; Ione Rural Fire Protection District; Boardman Rural Fire Protection District, Kimberly Peacher, Community Planning & Liaison Officer, US NAS Whidbey Island, Jessica Salgado, Jurisdiction Coordinator, DS, State Historic Preservation Office; Teara Farrow, Director, CTUIR Cultural Resources Protection Program. Chris Kowitz and Greg Silbernagel, OWRD, Lisa Mittelsdorf and Mark Patton, Port of Morrow, City of Boardman, Glenn McIntire, Building Official, Kevin Payne, Morrow SWCD, Paul Gray, Morrow County Emergency Management.

#### **VIII ATTACHMENTS:**

Conceptual Example Layout, Partition Plat Map, Zoning Map  
Vicinity Map and adjacent landowners  
Soils Map

Critical Groundwater and Groundwater Management Area Map  
 Soils Analysis by David Weymann, P.E., ERM International  
 Alternatives Analysis by ERM International  
 Wetland Delineation approval, Peter Ryan SPWS, Department of State Lands  
 Transportation Planning Rule Analysis by Kittelson & Associates  
 MOA with Port of Morrow  
 Geotech report by Kristopher Hauck, P.E., Terracon  
 OAR 660-014-0040 Establishment of New Urban Developed on Undeveloped Rural Lands  
 Letters of support from City of Heppner and Boardman Chamber of Commerce

**IX HEARING DATES:**  
 North Morrow Government Building

Planning Commission  
 June 27, 2023  
 North Morrow Government Center  
 215 NE Main Street  
 Irrigon, OR 97844

HEARING MAY BE CONTINUED TO JULY 25, 2023

Board of Commissioners  
 August 16, 2023  
 North Morrow Government Center  
 215 NE Main Street  
 Irrigon, OR 97844

**X RECOMMENDATION OF THE MORROW COUNTY PLANNING COMMISSION:**

Options for Planning Commission consideration.

1. Accept the Findings [as amended] and recommend Board of Commissioners approve the application.
2. Vote to recommend Board of Commissioners not approve based on application and Findings as presented.

**Conditions of Approval**

~~Applicant anticipates, based on the preliminary Project design, that~~ The County imposes the following conditions as conditions of approval:

1. Prior to construction, Applicant shall enter into a Road Use Agreement with the Morrow County Public Works department to fund \$267,000 to pay for chip seal on the first nine (9) miles of Tower Road.
  2. Prior to construction, Applicant shall provide notice to Threemile Canyon Farm, the area farming operator, of its construction traffic schedule and coordinate with Threemile Canyon Farm to minimize any potential impacts to farm traffic during harvest.
  3. Applicant shall obtain all local, state-level and federal permits ~~may be required for~~ and approvals for the data center campus construction and operation including but not limited to:
- a. ~~■~~ Oregon Department of Environmental Quality (DEQ), National Pollutant Discharge Elimination System (NPDES) 1200-C Permit
  - b. ~~■~~ DEQ, Onsite Septic Permit
  - c. ~~■~~ DEQ, Basic Air Contaminant Discharge Permit (ACDP)
- ~~■ DSL, Removal/Fill Permit (if doing wetland enhancement, which is not anticipated~~
  - ~~■ Identify alternative or secondary access to and from data center location.~~
  - ~~■ Sign and record a Road Use Agreement with Morrow County Public Works~~

MORROW COUNTY BOARD OF COMMISSIONERS

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David Sykes, Chair

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Jeff Wenholz, Commissioner

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Roy Drago, Commissioner

[./planning/amendments/2023/Rowan-Green-Data-Percheron/BOC-Findings](#)



Document comparison by Workshare Compare on Monday, June 26, 2023  
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Description	Rowan Percheron_June 16 Draft Findings_Rowan Redline CLEAN
Rendering set	Standard

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Format change	
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Padding cell	

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Moved to	18
Style changes	0
Format changes	0
Total changes	908

Attachment 2

## Applicant's Response to DLCD Email

(original text from DLCD email is shown in italics)

*DLCD has reviewed the application materials and wanted to provide you with comments as well as identify inconsistencies.*

*First, it appears that the appendices documents that you shared with DLCD staff was not included in the PAPA Download. The application stated, "SEE PACKAGE OF APPENDICES UNDER SEPARATE COVER." If you or Stephanie could please download those onto our PAPA database, that would be great and ensure that we have all the application materials.*

**Applicant's Response:**

*Overall staff is concerned with the deficiencies in the application submittal and do not believe this application submittal is complete. As promised, we wanted to provide you with some specifics:*

*Goal 14 exception criteria in OAR 660-014-0040(3)(A) and (B) do not appear to have been addressed. The text in the application incorrectly cites a different section of rule.*

*OAR 660-014-0040(3) To approve an exception under section (2) of this rule, a county must also show:*

*\* \* \**

*(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.*

**Applicant's Response:** Applicant reviewed its application materials and believes this information has been addressed. In response to DLCD's comments, Applicant proposed revised and supplemental findings to bolster those found in the Staff Report. Specifically, Applicant updated the compatibility analysis for Goal 14 on page 25-26 of the Supplemental Findings (Attachment 1).

*Details on water resources is minimal. Additional information and analysis needs provided. The applicant indicates that they are evaluating options for sourcing water supply to the site for both potable water and industrial processing water that will amount to between 20 and 60 million gallons of total annual water use. Applicant states that water may be provided by the Port of Morrow through a water service line extension for which a Goal 11 exception is being requested, or through transfer of water rights from existing nearby water rights holders. The application indicates that the latter option may have impacts to the ground and surface water conditions in the immediate vicinity of the Project and that groundwater is becoming more restricted in use. If the latter option is pursued, what are the anticipated impacts to ground and surface water conditions in the vicinity of the project and how will such anticipated impacts effect agricultural operations in the vicinity? If water service is provided by the Port of Morrow, will such service detract from the utility's ability to serve urban uses within their district?*

**Applicant's Response:** After further evaluating its options, Applicant eliminated using existing or nearby water rights for its water supply thereby eliminating the need for a new groundwater well. Based on this project modification, Applicant does not anticipate any surface or groundwater impacts from the project, either on the groundwater supply or agricultural operators in the vicinity.

*Compatibility of this proposed use on the adjacent site uses. This is a very urban-large-scale use being proposed in a rural area, the application does not identify assurances that the proposed use will not negatively impact the adjacent properties/uses. The application indicates that there are surrounding 'ongoing agricultural operations' and 'pivots', but it is unclear from the narrative what farm uses are occurring in the vicinity of the project site or what the potential impacts to such agricultural uses might be during construction or operation of the proposed facility. Potential impacts from such things as traffic impacts on farm equipment, noise impacts on livestock, and dust and litter impacts on crops, as well as changes to air quality and water quality and quantity are commonly addressed in assessing the compatibility of a proposed use with nearby agricultural operations.*

**Applicant's Response:** The Project Parcel is mostly surrounded by Threemile Canyon's farming operations, the Boardman Bombing Range, and PGE's Carty power generation facility and water reservoir. Threemile Canyon supports the project and does not anticipate impacts to its agricultural operations. To respond to DLCD's concern, Applicant proposed a condition of approval requiring coordination Threemile during construction to avoid and minimize impacts to harvest farm traffic. See page 46 of Supplemental Findings ([Attachment 1](#)).

*Goal 14 Exception criteria in OAR 660-014-0040(2). The application claims that a Goal 14 exception is warranted because the use is an "economic activity that is dependent upon an adjacent or nearby natural resource." The application does not clearly explain what the "dependance on a natural resource is." This needs to be better defined. The application appears to assert that the "natural resource" is land protected for farm use and that the use is "dependent" on the subject property because the establishment of the use will provide a revenue stream that could help the other farmland remain in production. We do not understand the rule to operate in this way.*

**Applicant's Response:** Applicant appreciates DLCD's comment and provided supplemental findings to better define the required analysis and evidence to support Applicant's compliance with the rule language. See pages 16-20 and page 25 of Supplemental Findings (Attachment 1).

*Goal 14 exception. Concerns that exception criteria in OAR 660-014-0040(3) are not adequately met, including:*

*(a) Alternative area analysis – Insufficient detail regarding all other candidate lands, both within and adjacent to existing UGBs within Morrow and Umatilla Counties. Only four sites mapped, others categorically excluded. No sites in Umatilla County at all?*

*(b) EESE analysis does not consider impacts relative to other candidate sites.*

*(c) Managing stormwater and wastewater onsite through “evaporation and retention ponds” requires more explanation in relation to potential impacts to air, water, energy, and land resources.*

*(d) Water service discussions with the Port of Morrow does not meet the criterion for “likely to be provided in a timely and efficient manner.”*

*(e) Criterion (e) is not addressed.*

**Applicant's Response:** With respect to (a), Applicant addresses DLCD's comments on the alternatives analysis above. With respect to (b), Applicant maintains that it does not need to address EESE consequences for other alternative sites because no other site was reasonable for the project location. With respect to (c), Applicant is unclear what impacts DLCD is concerned about – the onsite stormwater and wastewater management systems will be subject to DEQ permitting and ongoing regulatory compliance. The operation of these systems is not anticipated to require significant energy inputs or result in offsite impacts. With respect to (d), Applicant provided a new Letter of Intent with Port of Morrow into the record that addresses the timely and efficient manner requirement. Finally, with respect to (e), Applicant maintains that this standard was addressed by the very fact that the County is undertaking a coordinated comprehensive plan amendment for the urban development on rural land; regardless, Applicant provides supplemental findings to respond to DLCD's comment. See page 27 of Supplemental Findings (Attachment 1).

*The alternative analysis pursuant to OAR 660-004-0020(b) and OAR 660-014-0040(3)(a) needs to recognize that:*

*1. There are large amounts of lands nearby the subject property that are not protected for resource use. These areas include lands zoned for General industrial and Space Age Industrial, lands at the former Umatilla Chemical Depot, as well as lands at, or owned by, the Ports of Morrow and Umatilla.*

*2. There are large amounts of vacant lands inside existing Urban Growth Boundaries, Hermiston and Umatilla in particular.*

3. *The application doesn't appear to consider the expansion of an existing UGB as contemplated by OAR 660-014-0040(3)(a).*

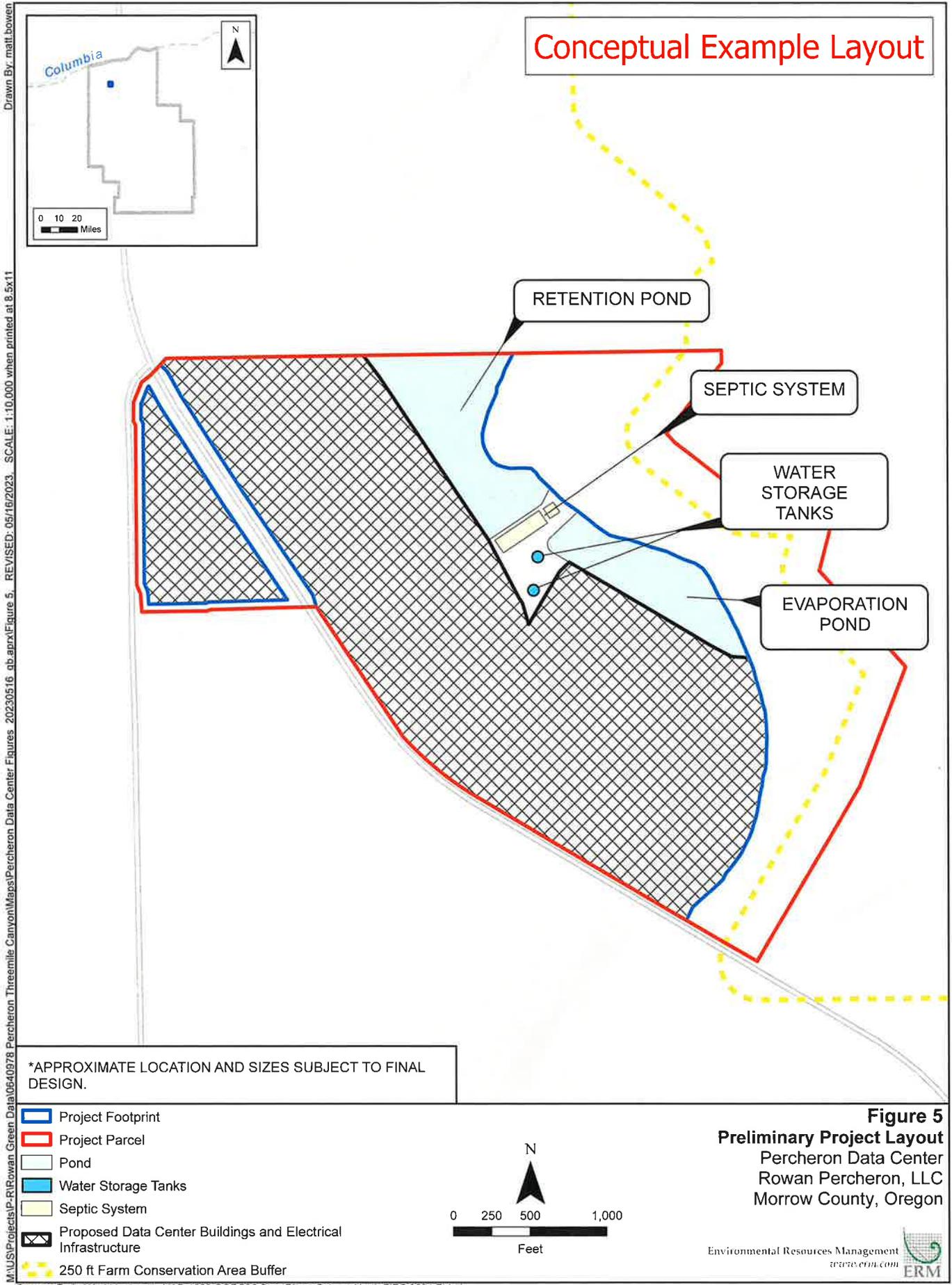
*All of these areas listed above would seem to be able to meet the identified siting criteria. The application must explain the other possible areas are not suitable to accommodate the use.*

**Applicant's Response:** It is unclear whether DLCD was able to review Applicant's Alternatives Analysis provided as Appendix D to the application. Applicant sought to confirm with DLCD that it had received the Appendices and to date has yet to receive confirmation. Applicant maintains that these comments concerning the alternatives analysis are addressed in the supplemental and revised supplemental findings along with the email from the City of Hermiston in the record. See page 25 of the Supplemental Findings (Attachment 1).

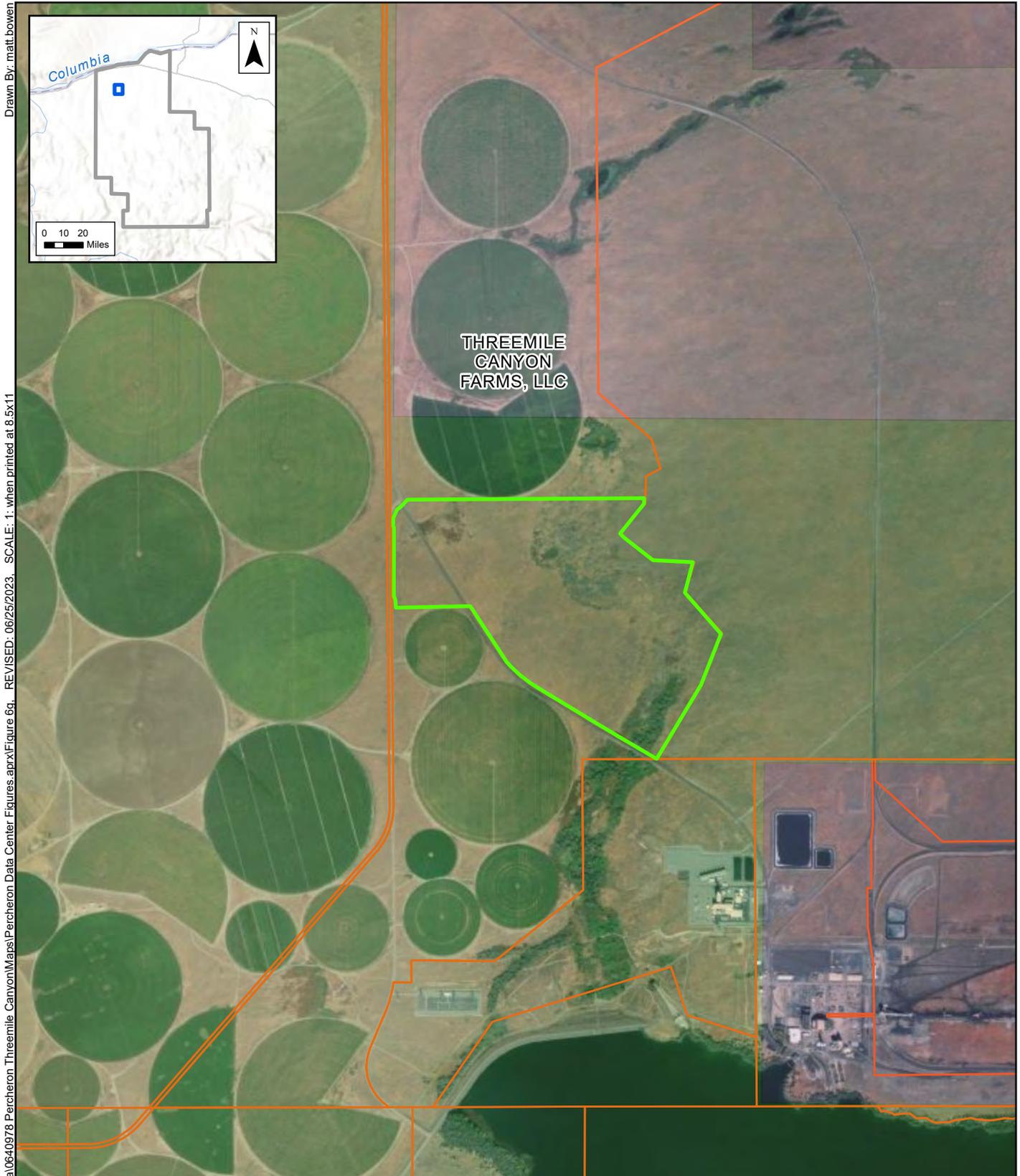
*Goal 11 exception case law:*

*Per Foland v. Jackson County, an exception to Goal 11 is needed when proposing to provide water service to serve an urban use on rural land. However, the consideration of alternative sites is not sufficiently detailed to demonstrate that the proposed site makes the most sense for this data center, especially when considering that the source of necessary water to this site has not been clearly established (there is a reference to potential service from the Port of Morrow, but no firm commitment as far as we can tell)*

**Applicant's Response:** Applicant confirmed its water source for the Project Parcel. Applicant will provide further information to address this comment if requested.

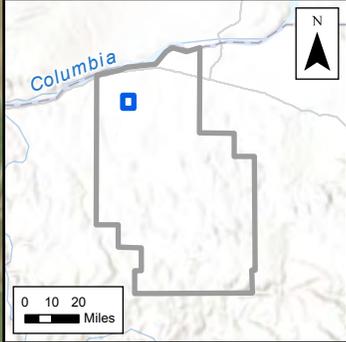


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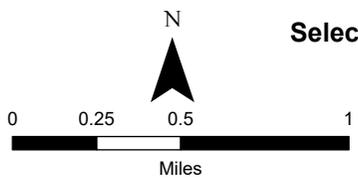
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THREEMILE CANYON FARMS, LLC

- Project Site
  - Urban Growth Boundary (Nearest - 13.0 miles)
- Zoning**
- Exclusive Farm Use
  - General Industrial
  - Space Age Industrial



**Figure 6g**  
**Alternative Sites Considered**  
**Selected Site: Threemile Canyon Farms**  
 Percheron Data Center  
 Rowan Green Data, LLC  
 Morrow County, Oregon

Source: Esri - World Topographic Map; WGS 1984 Web Mercator Auxiliary Sphere

Jurisdiction Name	Pop	DLCD #	Received	Adopted	Acres EFU	Notes
Morrow County	11630	<a href="#">001-87B</a>		11/4/1987	14,000	This seems to have happened right after acknowledgement. Correction of oversight?
Morrow County	11630	<a href="#">002-89</a>		7/19/1989	71	
Morrow County	11630	<a href="#">001-93</a>		4/14/1993	6	
Morrow County	11630	<a href="#">002-93</a>		3/16/1994	10	
Morrow County	11630	<a href="#">001-94</a>		5/18/1994		Involves an exception - unclear to which goals.
Morrow County	11630	<a href="#">004-94</a>		10/5/1994		Unzoned land. Unclear if exception was required. No documents.
Morrow County	11630	<a href="#">003-94</a>		10/5/1994		Unzoned land. Unclear if exception was required. No documents.
Morrow County	11630	<a href="#">007-96</a>		3/5/1997		Unzoned land. Unclear if exception was required. No documents.
Morrow County	11630	<a href="#">003-97</a>		7/9/1997	0	
Morrow County	11630	<a href="#">003-07</a>		9/26/2007	20	
Morrow County	11630	<a href="#">008-07</a>		1/9/2008	49	
Morrow County	11630	<a href="#">001-09</a>		1/7/2009	49	
Morrow County	11630	<a href="#">008-10</a>		1/19/2011	swap	514 removed EFU, 515 added EFU.
Morrow County	11630	<a href="#">001-14</a>	3/25/2014	7/11/2014		Unzoned land. Unclear if exception was required. Involved sale of military land to civilian ownership.
Morrow County	11630	<a href="#">001-16</a>	2/22/2016	5/26/2016	1,897	

### Proposal Summary

Amend the comprehensive plan and zoning from Exclusive Farm Use (EFU) to General Industrial/with Limited Use Overlay limiting uses to electronics, aerospace, aircraft or space vehicle research and for development (M-G) for approximately 14,000 acres located southwest of Boardman. AMENDED: LIMITING USES TO ELECTRONICS, AEROSPACE, AIRCRAFT OR SPACE VEHICLE RESEARCH AND DEVELOPMENT (M-G). INCLUDES AN

Amend the comprehensive plan and zoning from Small Farm 40 to General Commercial for 71 acres located south of the Port of Morrow Interchange within Boardman's UGB. This proposal did not include the complete text and may require an exception.

Amend the zoning from EFU (Exclusive Farm Use) to RR-1 (Rural Residential-1) for 5.62 acres bordered by the West Division Irrigational Canal. AMENDED: EFU to RR-1.

Amend the zoning from Small Farm 40 to Rural Service Center for 9.65 acres located off the Columbia River Highway near the city of Boardman.

Amend the comprehensive plan to apply land use designations and establish administrative, political and legal criteria for the area know as the Umatilla Army Depot. This area includes 8,500 acres and is presently under the control of the US Government. This proposal includes an exception. AMENDED: Apply Rural Residential-1 (RR-1) to 7.93 acres that was inadvertently not zoned on the the zoning map and bring this area into conformance with surrounding properties. The subject property is on Slaughter Road, three miles southwest of Irigon.

Apply Suburban Residential-1 (SR-1) zoning for 132.53 acres which was inadvertently not zoned. The subject area is bordered on the east by Paul Smith Road, Kunze Road, Skoubo Road, within the Boardman ugb.

Amend the comprehensive plan map and zoning map from unzoned to Farm Residential Two Acre (FR-2) on 92.17 acres located between Kunze Road, Paul Smith Road, and the West Extension Irrigation District Canal in the West Boardman area.

Amend the comprehensive plan and zoning map to take an exception to Goal 3 to allow a new road to provide access to parcels located in the Exclusive Farm Use zone. The proposed road will extend the existing county road. AMENDED: Amend the comprehensive plan and zoning map to take an exception to Goal 3 to allow a new road to provide access to parcels located in the Exclusive Farm Use zone. The proposed road will extend the existing county road.

Amend the Comprehensive Plan Map and (Zoning Map) from Agriculture/Exclusive Farm Use (EFU) to Rural Industrial (Rural Light Industrial) for 20 acres located south of U.S. Interstate 84, west of County Line Road. An Exception to Statewide Planning Goal 3 - Agriculture Land will be taken. Proposal

Amend the Land Use Regulations to add a new zone, Resource Related Industrial. Amend the Zoning Map from Exclusive Farm Use (EFU) to the new zoning Resource Related Industrial for 48.60 acres located on Pole Line Road. Proposal received 43 days prior to First Evidentiary Hearing. Revised Notice received 9/5/2008. AMENDED: Additional language was added addressing setbacks, traffic and permit expiration dates.

Amend the zoning map from EFU, Exclusive Farm Use to RRI, Resource Related Industrial for 48.60 acres, located on Pole Line Road near Heppner. This Adoption was not proposed before adoption. Adopted on 02/04/2009. AMENDED: Amend the Zoning Map from Exclusive Farm Use (EFU) to Resource

Amend the Comprehensive Map from Exclusive Farm Use (EFU) to Industrial land zoned Port Industrial (PI); and the Zoning Map from Farm to Industrial for 513.86 acres located on the east of Boardman; north of I-84 & Highway 730 by Port of Morrow Industrial Park. This requires an Exception to Statewide Planning Goals 3, 11 and 14. Amend the Comprehensive Plan map from MG to EFU; and the Zoning Map from Industrial to Farm for 515.00 acres located South of Boardman, West of Bombing Range Road, Souht of I-84. This proposal was received 43 days before the first evidentiary hearing.

Exceptions to Statewide Planning Goals 11 and 14. Amend the Comprehensive Plan Map from None to Agriculture, Industrial, Military and Wildlife Habitat; and the Zoning Map from None to Exclusive Farm Use (EFU), Port Industrial (PI LU OZ) Overlay; Port Industrial (PI); Umatilla Depot Wildlife Habitat Zone (UDWH); Umatilla Depot Transition Zone (UADT) for 8384.00 acres located at T4N R26 TL 100 & 200; T4N R27 TL 100.

Exception to Statewide Planning Goal 3. Amend the Comprehensive Plan and Development Code to add the Airport Light Industrial use zone. Amend the Zoning Map from Air Industrial Park to Air Light Industrial for 1897.00 acres located at 4N 24 TL 110 and portion of TL 131.

Appendix 2, Table 18, Farmland zone changes, not including urban changes, 1989–2021

Year	Acres to Commercial*	Acres to Industrial**	Acres to Residential	Acres to Forest or Natural Resource	Total Acres EFU Zone Change	Acres to EFU from Other Zone
1989-2000	614	1,370	5,986	2,410	10,380	944,670
2001	11	31	283	67	392	148
2002	18	69	147	202	436	10
2003	21	2	283	90	396	77
2004	25	1,681	220	269	2,195	52
2005	479	772	414	988	2,653	21
2006	31	539	1,468	311	2,349	777
2007	2	342	1,704	1,115	3,163	2,020
2008	79	10	1,011	73	1,173	0
2009	6	375	396	459	1,236	53
2010	30	439	402	546	1,417	41
2011	0	288	270	199	757	0
2012	57	1,075	42	517	1,691	0
2013	0	0	380	1,316	1,696	0
2014	22	55	2,987	6	3,070	916
2015	640	569	10	204	1,423	8
2016	103	167	206	0	476	93
2017	8	157	184	432	781	54
2018	106	505	674	498	1,784	263
2019	0	248	728	166	1,142	0
2020	0	19	21	211	251	90
2021	38	407	1	265	711	0
TOTAL	2,290	9,120	17,817	10,344	39,572	949,293
TOTAL 2001-2021	1,676	7,750	11,831	7,934	29,192	4,623

\*Public zones are counted as commercial; \*\* Mineral and aggregate zones are counted as industrial.

Appendix 2, Table 19, Forest and mixed farm-forest zone changes, not including urban changes, 1989–2021

Year	Acres To Commercial*	Acres To Industrial **	Acres To Residential	Acres to EFU or Natural Resource	Total Forest Zone Change Acres	Acres to Forest from Other Zone
1989-2000	16	275	3,692	8,517	12,500	36,854
2001	0	0	232	0	232	0
2002	0	0	113	109	222	0
2003	0	0	520	113	633	0
2004	0	82	95	50	227	0
2005	0	31	101	44	176	50
2006	0	3	292	0	295	163
2007	2	5	1,269	0	1,276	90
2008	3	212	5	131	351	509
2009	0	56	2,451	0	2,507	27
2010	215	185	489	10	899	378
2011	2	0	53	162	217	0
2012	0	5	74	0	79	80
2013	18	129	0	288	435	0
2014	4	0	159	0	163	11
2015	0	197	164	0	361	204
2016	0	32	120	35	187	0
2017	16	136	32	41	225	432
2018	0	151	107	263	521	120
2019	0	165	0	0	165	83
2020	0	0	0	0	0	265
2021	0	46	0	0	46	211
TOTAL	276	1,710	9,968	9,763	21,717	39,477
TOTAL 2001-2021	260	1,435	6,276	1,246	9,217	2,623

\*Public zones are counted as commercial; \*\* Mineral and aggregate zones are counted as industrial.

## Appendix 2, Table 20, USDA NASS Acres in Farm Use by County 1997 - 2017

Table: USDA NASS 2017 Census of Agriculture: Oregon Land In Farms by County 1997-2017

County	2017	2012	2007	2002	1997	2017 to 2012	2017 to 1997	Acreage
COLUMBIA	43,379	56,668	57,758	62,398	72,700	77%	60%	-29,321
GRANT	628,895	656,410	761,541	892,400	1,041,463	96%	60%	-412,568
CLATSOP	15,070	16,382	21,198	22,234	24,341	92%	62%	-9,271
JACKSON	170,298	214,079	244,055	252,185	254,607	80%	67%	-84,309
KLAMATH	482,999	650,416	675,127	702,951	713,255	74%	68%	-230,256
MULTNOMAH	25,435	29,983	28,506	34,329	36,503	85%	70%	-11,068
UNION	385,152	411,671	487,584	478,411	544,720	94%	71%	-159,568
WASHINGTON	104,715	135,733	127,984	130,683	140,884	77%	74%	-36,169
JOSEPHINE	27,866	28,256	37,706	32,370	37,170	99%	75%	-9,304
LINN	314,947	331,316	376,483	385,589	416,737	95%	76%	-101,790
CURRY	70,338	63,342	74,336	70,459	90,090	111%	78%	-19,752
BAKER	754,585	710,789	711,809	869,523	953,771	106%	79%	-199,186
WHEELER	556,967	649,086	757,780	738,207	694,696	86%	80%	-137,729
CLACKAMAS	157,426	162,667	182,743	215,210	195,602	97%	80%	-38,176
POLK	148,905	144,748	166,663	168,881	184,323	103%	81%	-35,418
LINCOLN	29,017	30,225	31,179	32,791	35,780	96%	81%	-6,763
GILLIAM	611,920	723,405	733,387	642,996	752,067	85%	81%	-140,147
YAMHILL	169,357	177,365	180,846	196,298	204,739	95%	83%	-35,382
COOS	138,171	157,496	145,675	144,077	166,082	88%	83%	-27,911
LANE	203,148	219,625	245,531	234,807	238,014	92%	85%	-34,866
WALLOWA	520,213	452,559	527,957	518,110	606,259	115%	86%	-86,046
MALHEUR	1,093,362	1,076,768	1,170,664	1,175,280	1,252,746	102%	87%	-159,384
CROOK	799,845	822,676	761,548	937,628	904,794	97%	88%	-104,949
MARION	288,671	286,194	307,647	341,051	325,048	101%	89%	-36,377
TILLAMOOK	32,936	36,551	37,780	39,526	36,551	90%	90%	-3,615
HOOD RIVER	28,451	25,817	26,952	29,064	30,834	110%	92%	-2,383
BENTON	127,626	123,975	114,558	130,203	137,465	103%	93%	-9,839
DOUGLAS	400,179	382,386	396,984	390,140	422,605	105%	95%	-22,426
UMATILLA	1,352,241	1,308,312	1,447,321	1,330,932	1,403,598	103%	96%	-51,357
MORROW	1,126,101	1,165,126	1,104,250	1,124,593	1,165,678	97%	97%	-39,577
JEFFERSON	792,920	817,051	708,974	701,440	793,525	97%	100%	-605
DESCHUTES	134,600	131,036	129,369	138,226	131,734	103%	102%	2,866
LAKE	755,639	657,055	692,778	747,888	737,531	115%	102%	18,108
SHERMAN	524,857	513,649	514,004	507,705	451,769	102%	116%	73,088
HARNEY	1,557,103	1,505,437	1,461,508	1,575,020	1,319,828	103%	118%	237,275
WASCO	1,388,988	1,427,324	949,462	1,086,817	1,140,704	97%	122%	248,284
						Percent Change	Percent Change	Change
STATE LEVEL	15,962,322	16,301,578	16,399,647	17,080,422	17,658,213	98%	90%	-1,695,891



# Letter of Intent

Dated: June 21, 2023

Port of Morrow, an Oregon Municipal Corporation  
P.O Box 200  
Boardman, Oregon 97818

Rowan Percheron LLC  
1330 Post Oak Boulevard, Suite 1350,  
Houston, Texas 77056

This letter of intent is between Port of Morrow (POM) and Rowan Percheron LLC

POM agrees to supply and sell up to 22 million gallons of water to Rowan annually for the purpose of operating Data facility located on or under the Latitude: 45.425479, Longitude: - 119495556 in Morrow County, Oregon (the "Property")

Water will be used for drinking, cleaning, flushing, cooling, potable drinking and any other purpose required to operate the data facility. Water will be available on a year-round basis for a length of time to be determined by Rowan and Port of Morrow.

Rowan will be responsible for all costs as agreed to by POM and Rowan Percheron LLC for construction and delivery of water from the POM source to Data Center facility. but in no event shall such costs be borne by the Port of Morrow

Dated this 21<sup>st</sup> day of June 2023.

Port of Morrow

Rowan Percheron LLC

DocuSigned by:

*Lisa Mittelsdorf*

063140D82B2E4AC...

Lisa Mittelsdorf, Executive Director

DocuSigned by:

*Bobby Hollis*

625DDEE61BE3465...

Bobby Hollis, Chief Commercial Officer

**Michaela Ramirez**

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**From:** Tamra Mabbott  
**Sent:** Tuesday, June 27, 2023 5:00 PM  
**To:** Devin Kesner  
**Cc:** Michaela Ramirez  
**Subject:** RE: Comments on AC-145-23, AC(Z)-146-22, and AZM-147-23

Thank you David. We will add your comments to the record this evening during the hearing. We do plan to continue the hearing to the July 25, 2023 meeting to be held in Heppner at the Bartholomew Building.

Tamra

**From:** Devin Kesner <devin@friends.org>  
**Sent:** Tuesday, June 27, 2023 3:45 PM  
**To:** Tamra Mabbott <tmabbott@co.morrow.or.us>  
**Subject:** Comments on AC-145-23, AC(Z)-146-22, and AZM-147-23

***STOP and VERIFY This message came from outside of Morrow County Gov***

Hi Tamra,

On behalf of 1000 Friends of Oregon, please accept the following comments as part of the record in Application Nos. AC-145-23, AC(Z)-146-22, and AZM-147-23, a comprehensive plan amendment from EFU to MG on behalf of applicant Rowan Percheron, LLC. Please include me in any notice related to this application, including notice of decision and any future hearings. **Please confirm receipt.**

**1000 Friends additionally requests that the June 27 Planning Commission hearing be continued to allow additional review of this extensive application involving three separate goal exceptions.**

The applicant has not made an adequate showing to justify a Goal 3, 11, or 14 exception for the proposed use.

**Soils.** The proposed use will have irreversible impacts on valuable soils and surrounding agricultural uses. The subject properties include 20% Class IV soils, farmland of statewide importance, and almost 50 acres of Columbia Valley American Viticultural Area soils. Additionally, the remaining soil classes are based on non-irrigated classification and do not address capability with irrigation.

Although the application indicates that the project footprint will avoid some of these soils, it does not address how those soils will nonetheless be impacted by the proposed development. Even if the project footprint is not directly sited on those soils, the soils will still be limited in terms of future agricultural use and impacted by activities on the subject property. They also will no longer be protected under Goal 3 and EFU designation from future development. Nothing will prevent the applicant or future landowners from developing those higher value soils—applicant even indicates flexibility in its design plans and that exact locations and scale may change.

Additionally, the applicant has not adequately addressed impacts to surrounding agricultural activities or demonstrated that the proposed use is compatible with adjacent uses. OAR 660-004-0020(2)(d); MCZO 8.040.C. The surrounding land use is primarily agricultural. The proposed activities may, for example, impact agricultural operations dependent on Tower Road. The proposed use may also impact groundwater and water access for surrounding farms.

The applicant has also not adequately demonstrated that the property cannot be put to any farm use. ORS 215.203(2)(a). That the current owners have not utilized the parcel is not sufficient evidence that the parcel is not agriculturally viable under any of the many farm uses listed in ORS 215.203(2)(a). This is a necessary showing to demonstrate that reasons justify the location of the proposed use despite surrounding farm uses and EFU designation. OAR 660-004-0020.

**Water.** The applicant notes that it will require 20 to 60 million gallons of water annually for the proposed use, but that it has not yet secured a water source. It is not possible to adequately evaluate the proposed use's impact under MCZO 8.040 and Goal 3 without an identified water source. Both of the options proposed by applicant (securing water rights from surrounding properties or receiving a water supply from the Port of Morrow) would have significant impacts on surrounding agricultural properties. The applicant has not addressed the impact of either of those options on agricultural operations surrounding the property, including impacts related to infrastructure required for a Port of Morrow water supply and impacts to water availability for agricultural uses in the area.

**Goal 14.** The application has failed to demonstrate reasons to justify the introduction of a dense urban industrial use onto resource land located many miles from the nearest urban center. OAR 660-004-0020, 660-014-0040. Providing economic benefit to the property owners, regardless of their status as farm operators, is not sufficient reason to deviate from the policy of Goal 14 and other statewide planning goals. The use is not dependent on a nearby natural resource and the applicant has not provided adequate justification to deviate from the policy against urbanization of rural lands.

**Goal 11.** The applicant relatedly fails to demonstrate why it is appropriate to utilize urban water services over 9 miles from the nearest urban area. Reasons cannot justify an exception for an unconfirmed use that does not include analysis of impacts related to transporting water over 9 miles from the Port of Morrow for the proposed use.

For these reasons, the applicant has not demonstrated compliance with the applicable criteria and should not be approved.

Best,

Devin Kesner  
Associate Attorney  
[devin@friends.org](mailto:devin@friends.org)  
Phone: 971.420.0922

[she/her/hers](#)



***Support a beautiful, bountiful Oregon for generations to come...[join us today!](#)***

Subject: Concerns Regarding the Proposed Change of Exclusive Farm Use to General Industrial for the Past Amazon Site

Dear Morrow County Planning Commission,

I hope this letter finds you well. I am writing to express my deep concerns regarding the proposed change of land designation from Exclusive Farm Use to General Industrial for the past Amazon site. While I understand the potential economic benefits that may come with such a change, it is crucial that we thoroughly consider the long-term implications for the community and the environment.

First and foremost, one of the pressing issues is the availability of water for the site. With the conversion to general industrial use, it is essential to conduct comprehensive studies to ensure that the increased demands for water can be met sustainably without negatively impacting local water sources, neighboring communities, or existing agricultural operations.

Additionally, adequate transportation studies should be conducted to assess the potential impact of increased traffic and logistical challenges associated with the proposed change. It is imperative to thoroughly evaluate the infrastructure requirements and the potential burden it may place on existing roadways, public services, and the overall quality of life for residents in the area.

One concern that has been raised by many in the community is the apparent disparity between the treatment of large corporations like Amazon and small businesses or individual property owners. It often feels as though major corporations receive preferential treatment and are granted leniency on various regulatory details, while small businesses or property owners face significant challenges and bureaucratic hurdles. It is crucial that equal justice and fairness prevail in matters like these, ensuring that all stakeholders have an equal opportunity to be heard and considered.

I strongly believe that we must not turn a blind eye to these concerns and instead prioritize the importance of due diligence and thorough vetting of the proposed land use change. It is our responsibility to ensure that the decision made regarding this site aligns with the best interests of the community, both in terms of economic growth and the preservation of our natural resources.

In conclusion, I respectfully urge the Morrow County Planning Commission to conduct further studies on water availability and transportation impacts before making a final decision on the change of land designation. We owe it to our community to approach this matter with transparency, fairness, and a

commitment to the long-term well-being of our region.

75

Thank you for your attention to this matter. I trust that you will carefully consider these concerns and take appropriate action to ensure the proper evaluation of the proposed changes.

Sincerely,

Jonathan Tallman

February 21, 2022

Please place this comments into the record for ZP 2956-22

To the Morrow County Planning Commission,  
It's unusual that we see this particular piece of land again in such a short period of time. If you recall this property was first introduced in a land swap application from the Port of Morrow. Where it was deemed to be isolated from industrial infrastructure including roadways, rail, water and sewer, utilities and industrial process lines and deemed un-feasible for any industrial purpose. In fact the application was justified, processed and approved by this Planning Commission to return this industrial land back into EFU.

Further the "Port" retained the right to convert the zoning from industrial to agricultural (Exhibit 1) this document was adopted into the Morrow County Comprehensive plan dated Oct 12, 2010. This land was never intended to be anything but a place holder of inventoried industrial land that could be exchanged at a later date. The land was intended to remain EFU. A zone that complements the surrounding area.

The zoning ownership has not been conveyed to the current property owner of record. Any permit at this time by this applicant is out of compliance with Morrow County Comprehensive Plan. A plan amendment must be completed before any permit is in order. The Port could remove the zoning at anytime leaving the application frustrated. This permit should be denied until that lift has been accomplished.

An urban use is defined as any residential, commercial, industrial, transit, transportation passenger facility, or retail use, or any combination of those uses. Urban uses are intended to be placed in urban areas for good reason. Is there any reasonable expectation for urbanization here? What is the future Public benefit? Amazon is asking for public facilities to be placed in a rural agricultural setting, and not only is this setting rural it is located adjacent to a subdivision.

The proposed 5 acre waste water plant is not something that should be located adjacent to a housing subdivision, building a fence around it does not minimize the stench, nor the stench it

will produce when applied to the surrounding agricultural areas. It is these undisclosed amounts of applied water that are contaminating wells and poisoning our unborn and children with nitrates and heavy metals. That particular area is a hot spot according to the testing Lab and realtors alike.

Our Planning commission stumbles routinely on the difference between waste water and sewage. Nowhere in this application is there any reference to sewage disposal.

Morrow county does not support sewage treatment facilities according to Plan. Pg 183 MC ( Exhibit 2)

MC 3.070 A ) Uses permitted outright and accessory uses.

I do not believe that we can stretch the definition of a accessory use to include a security building. Nothing precludes this building to be located off shore.

3.070. C (1)

If our planning commission sees it fitting to place a large scale urban industrial plant next to a rural residential area and in the heart of agriculture. Clearly planning has gone out the window. The approval of this permit will violate our " County Plan", 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. This is supported by OAR 660-015-0000(11). It is also supported in the Industrial Element of our plan. " Industrial uses should not encroach on our residential or agricultural uses" Page 37 MC Comprehensive plan.( Exhibit 3) The reasons, or justifications do not support the fact that we as a county have limited the size of a facility to 2 acres. The applicant has asked us approve this large scale urban facility on 120 plus acres, slightly over two.

You can't put enough lipstick on a pig to call it anything but a pig. The applicant has failed to give any substantial reasons to permit this size and scale next to a residentially zoned neighborhood and subdivision.

- 1.) Applicant states it meets the development criteria for M-G standards, however it does not meet the requirements of MC 3.070 C. Those M-G requirements can be met inside the urban growth boundary or within in the Port areas where this type of large scale facility should be sited.
- 2.) Applicant suggests the buildings or "primary data center use" will be near the west end of the project, however nothing precludes them from building on the entire premises or dividing

off another parcel. Nothing provides evidence that the proposed accessory dwellings, security building or sewer ponds won't be located next to the residential area. As we know in land use a **map** is a mere suggestion. Nothing in the text supports this concept. And the map that was provided is so small its un readable.

A perimeter slatted fence and some shrubbery will not minimize acoustical or roof top mechanical equipment and lighting. This was the same song and dance that PDX 90 supported, bet you can't see or hear that eye- sore and its associated uses.

Data Centers operate 24/ 7 families and children sleep. The Zellers family that lives closest to PDX 90 can tell you about the volumes of traffic that flows day and night from workers and security. They are forced to live with the constant hum and the constant light that pierces their windows. These large scale facilities should be located in designed areas and not on islands that abut residential sites.

3.) The applicant points to the fact that access is from Bombing Range, but what precludes them from another access point off Miller. I believe PDX 90 was required to have both an entrance and exit for emergency service providers, not a turn around as proposed.

4.) Applicant states they "**may**" design it to minimize adverse impacts. That does not say shall or will. What does minimize mean anyway. In my humble opinion no dust, glare, traffic ,odor, vapor or blasting is what our Morrow County plan provides to our residential areas. Not some minimized amount.

5.) Again lipstick, lipstick, lipstick!!!! You cannot hide a 126.92 acre data center campus.

The conditions of approval do not address odor, dust, water quality or quantity , sewer service or sewer facilities. Provides for **minimal** fencing and landscape and suggest **should** be designed and not will be. How will a goal 11 exception be met for water and sewer ?

Timing and planning go hand in hand. Can we warrant the need for this development? Do we need more jobs? Can it be located elsewhere? Is it site specific? Does it meet our goals in our "Plan" Consideration needs to be applied our resources and public facilities. Water for this project is from municipalities, What are our reserves? How much Agricultural land will be condemned by UEC.

Here is what our plan says. " promote public health, safety and general welfare based on these considerations. MC plan pg 2 (

#### Exhibit 4)

1. The various characteristics of the various areas in the county, the suitability of the area for a particular land uses and improvements, the land uses and improvements in the area, property values, the needs of economic enterprises in the future development of the area, needed access to particular sites in the area, natural resources of the county and prospective needs for development thereof, and the public need for healthful, safe, aesthetic surroundings and conditions. (Page 2 MC Comp Plan)  
Ask yourself how your Comprehensive Plan applies to this development.

1. Simply does not fit the character of the surrounding area.
2. There is better suitability in Oregon's 2nd largest port industrial area, shovel ready with all wet and dry utilities already provided.
3. No room for improvements as all other surrounding land is EFU.
4. Will drive property values of Ag lands up and residential properties down.
5. There is no future development of MG planned in the future of the area.
6. Several Data centers exist currently and none have contributed to our poverty level.
7. This project is in or near the critical ground water area and a known area of high nitrates.
8. And there isn't enough lipstick in the world to make this Data Center aesthetically pleasing.

#### 3070.E. Traffic Impacts

A TIA is required for trips generated over 400. To simply compare an existing Data Center that may not have security buildings, storage tanks, water treatment facilities, data storage, and waste water holding ponds is not sufficient evidence that a TIA is not required. A traffic Impact study should be completed prior to the development, to factually assess the level of service, intersection project areas, peak levels and to address any mitigation that will be needed.

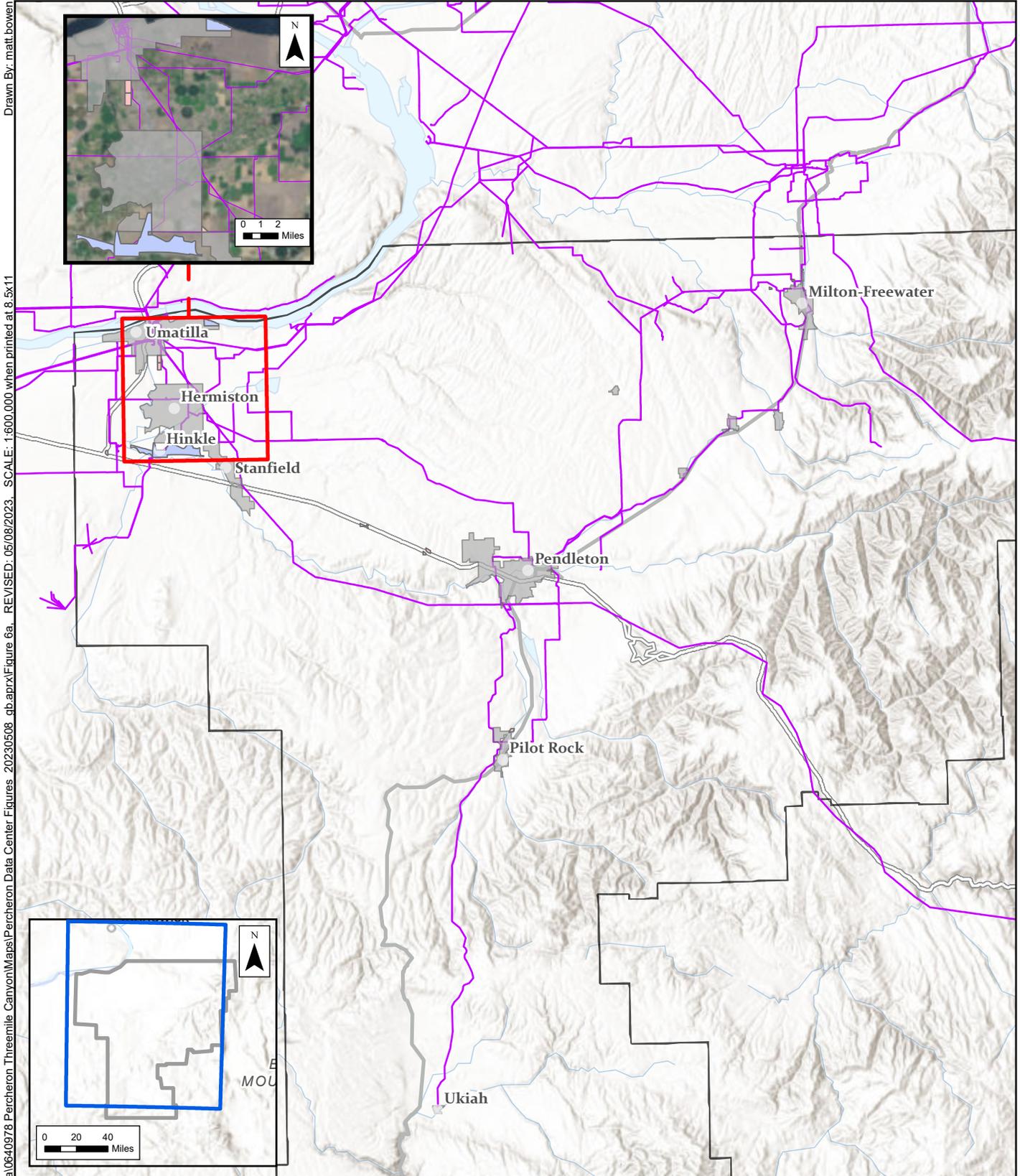
Clearly this permit application is premature and needs to be denied, given the fact that the applicant does not hold the ownership rights to the MG zoning that has been applied to this parcel. As stated above, an amendment to the comprehensive

plan will be required before further action can be taken.

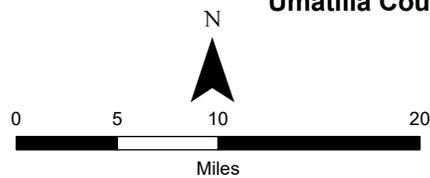
That is not the only reason this permit should be denied. Assess the damages to your neighbor, the condemnations of Ag land required for 230 KV lines, the resources consumed for what social value, property values, quality of life, and uphold the " Plan " that was crafted and put in place to eliminate what very permit would destroy. Flavor of the month planning results in unfavorable issues that remain for decades and become the struggles of future generations.

I'm sorry I cannot attend tonight, due to the fallout from the previous Amazon permitting process, I have to defend my property rights in a hearing being held at the same time in the City of Boardman.

Jonathan Tallman



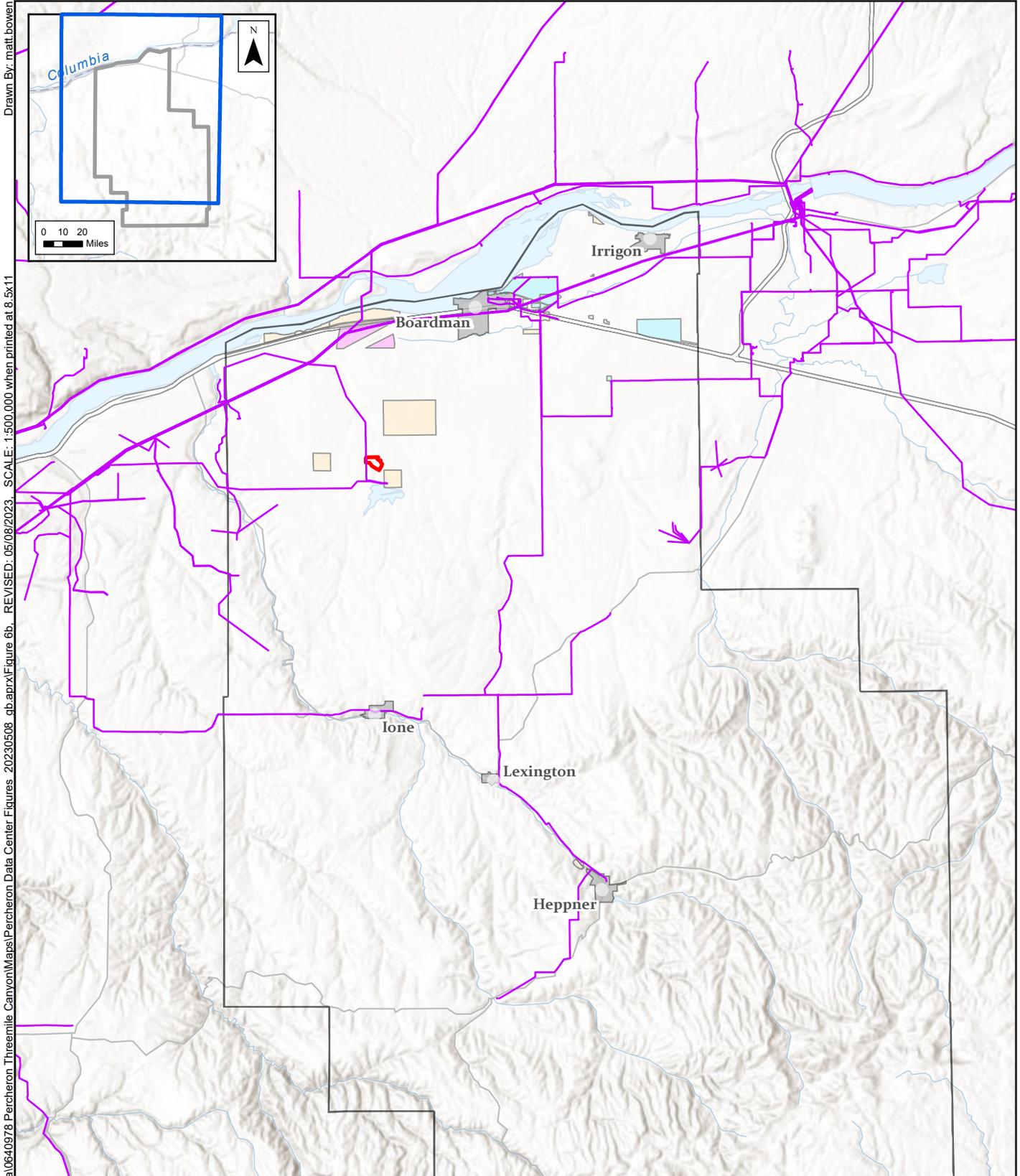
-  Existing Transmission Infrastructure
-  Umatilla County Boundary
-  Urban Growth Boundary
- Zoning**
-  Rural Light Industrial Zone
-  Limited Rural Light Industrial Zone
-  Heavy Industrial



**Figure 6a**  
**Umatilla County UGB and Permittable Zones**  
 Percheron Data Center  
 Rowan Green Data, LLC  
 Umatilla County, Oregon

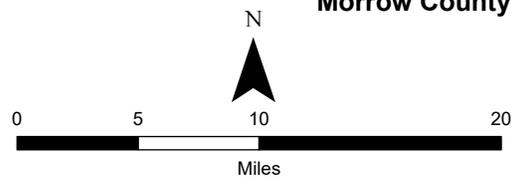
Drawn By: matt.bowen  
 M:\US\Projects\P-R\Rowan Green Data\0640978 Percheron Three Mile Canyon\Maps\Percheron Data Center Figures\_20230508\_gb.aprx\Figure 6a\_REVISED\_05/08/2023\_SCALE:1:600,000 when printed at 8.5x11

Source: Esri - World Topographic Map; NAD 1983 2011 StatePlane Oregon North FIPS 3601 Ft Intl



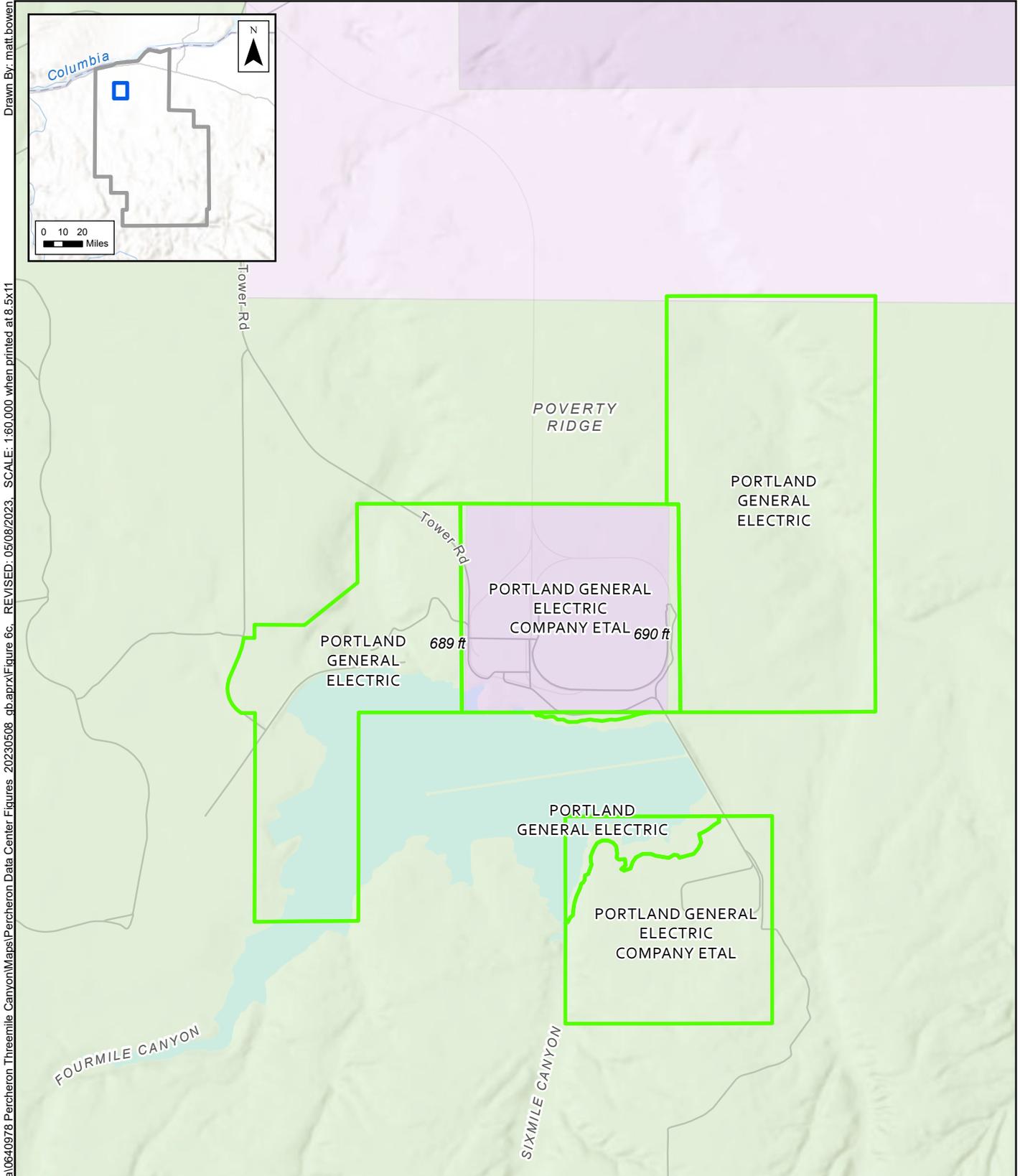
Drawn By: matt.bowen  
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-  Existing Transmission Infrastructure
-  Project Parcel
-  Morrow County Boundary
-  Urban Growth Boundary
-  Boardman Bombing Range
- Zoning**
-  General Industrial Zone
-  Port Industrial Zone
-  Airport Light Industrial Zone

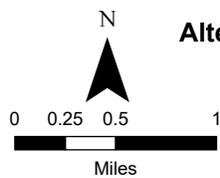


**Figure 6b**  
**Morrow County UGB and Permittable Zones**  
 Percheron Data Center  
 Rowan Green Data, LLC  
 Morrow County, Oregon

Source: Esri - World Topographic Map; NAD 1983 2011 StatePlane Oregon North FIPS 3601 Ft Int



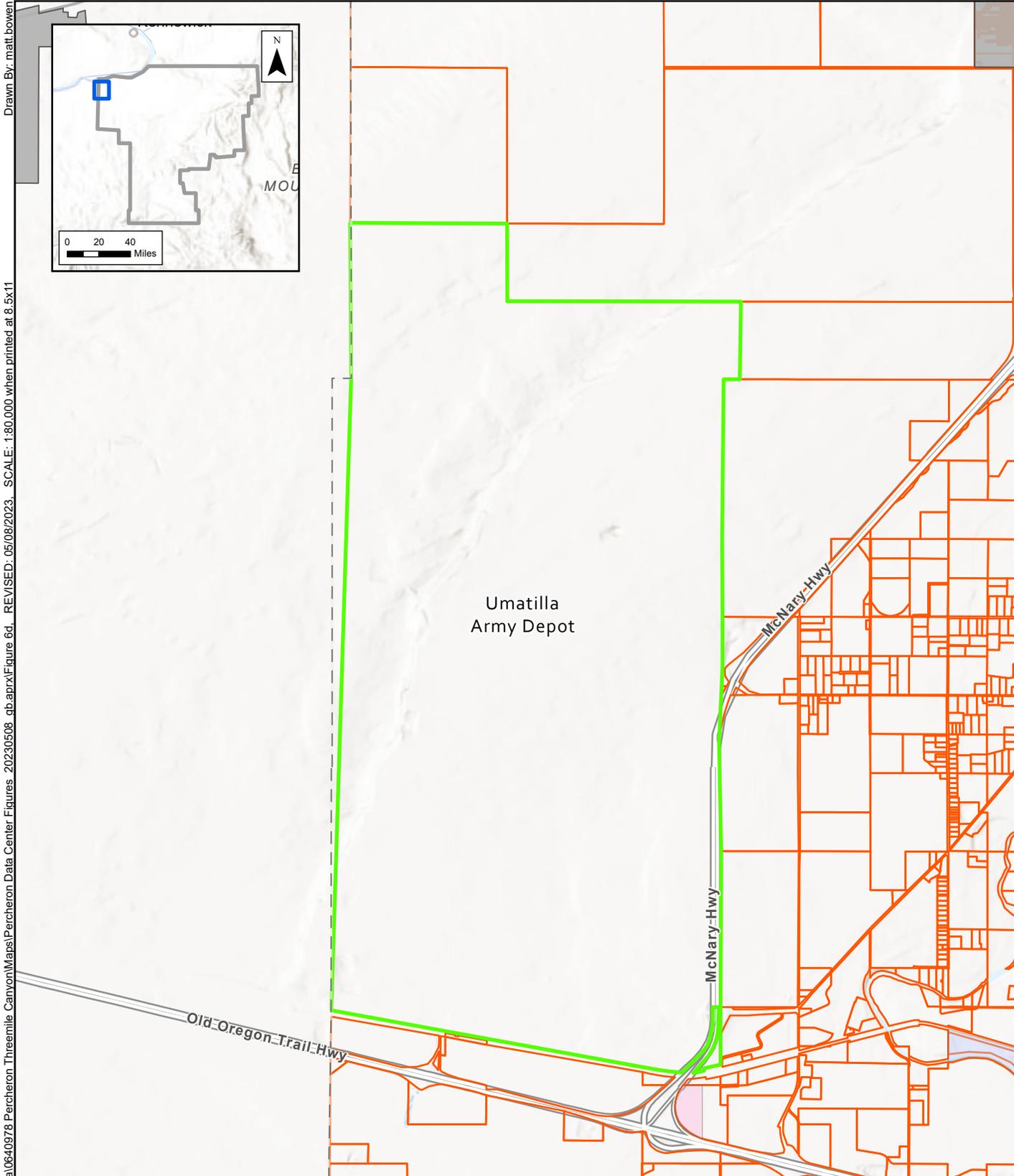
- Alternative Site 1
  - Urban Growth Boundary (Nearest - 12.7 miles)
- Zoning**
- Exclusive Farm Use
  - General Industrial
  - Space Age Industrial



**Figure 6c**  
**Alternative Sites Considered**  
**Alternative Site 1: Carty Generating Station**  
 Percheron Data Center  
 Rowan Green Data, LLC  
 Morrow County, Oregon

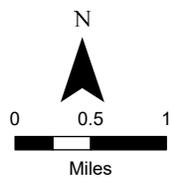
Drawn By: matt.bowen  
 M:\US1\Projects\P-R\Rowan Green Data\0640978 Percheron Threemile Canyon\Maps\Percheron Data Center Figures\_20230508\_gb.aprx\Figure 6c\_REVISED\_05/08/2023\_SCALE\_1:60,000\_when printed at 8.5x11

Source: Esri - World Topographic Map; WGS 1984 Web Mercator Auxiliary Sphere



Drawn By: matt.bowen  
M:\USJ\Projects\PR\Rowan.Green\Data\0640978 Percheron Threemile Canyon\Maps\Percheron Data Center Figures\_20230508\_gb.aprx\Figure 6d...REVISED\_05/08/2023...SCALE: 1:80,000 when printed at 8.5x11

- Alternative Site 2
  - Urban Growth Boundary (Nearest - 3.1 miles)
- Zoning**
- Limited Rural Light Industrial Zone
  - Heavy Industrial

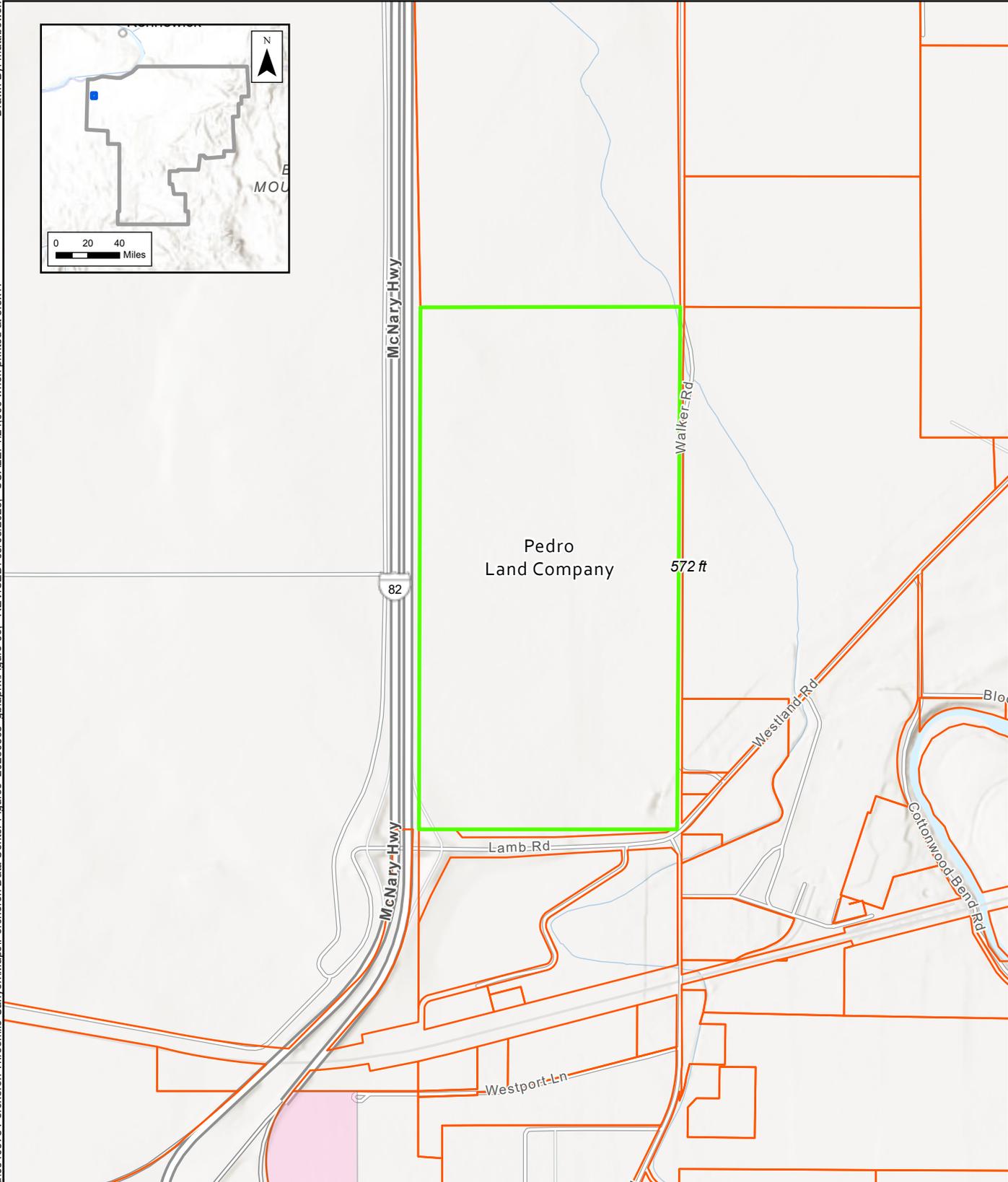
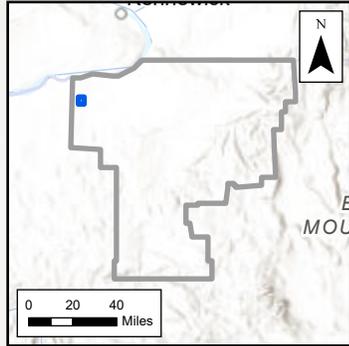


**Figure 6d**  
**Alternative Sites Considered**  
**Alternative Site 2: Umatilla Army Depot**  
 Percheron Data Center  
 Rowan Green Data, LLC  
 Umatilla County, Oregon

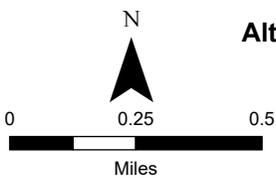
Source: Esri - World Topographic Map; WGS 1984 Web Mercator Auxiliary Sphere

M:\USJ\Projects\Percheron\Green Data\0640978 Percheron Threemile Canyon\Maps\Percheron Data Center Figures\_20230508\_gb.aprx\Figure 6e...\_REVISED\_05/08/2023...SCALE: 1:24,000 when printed at 8.5x11

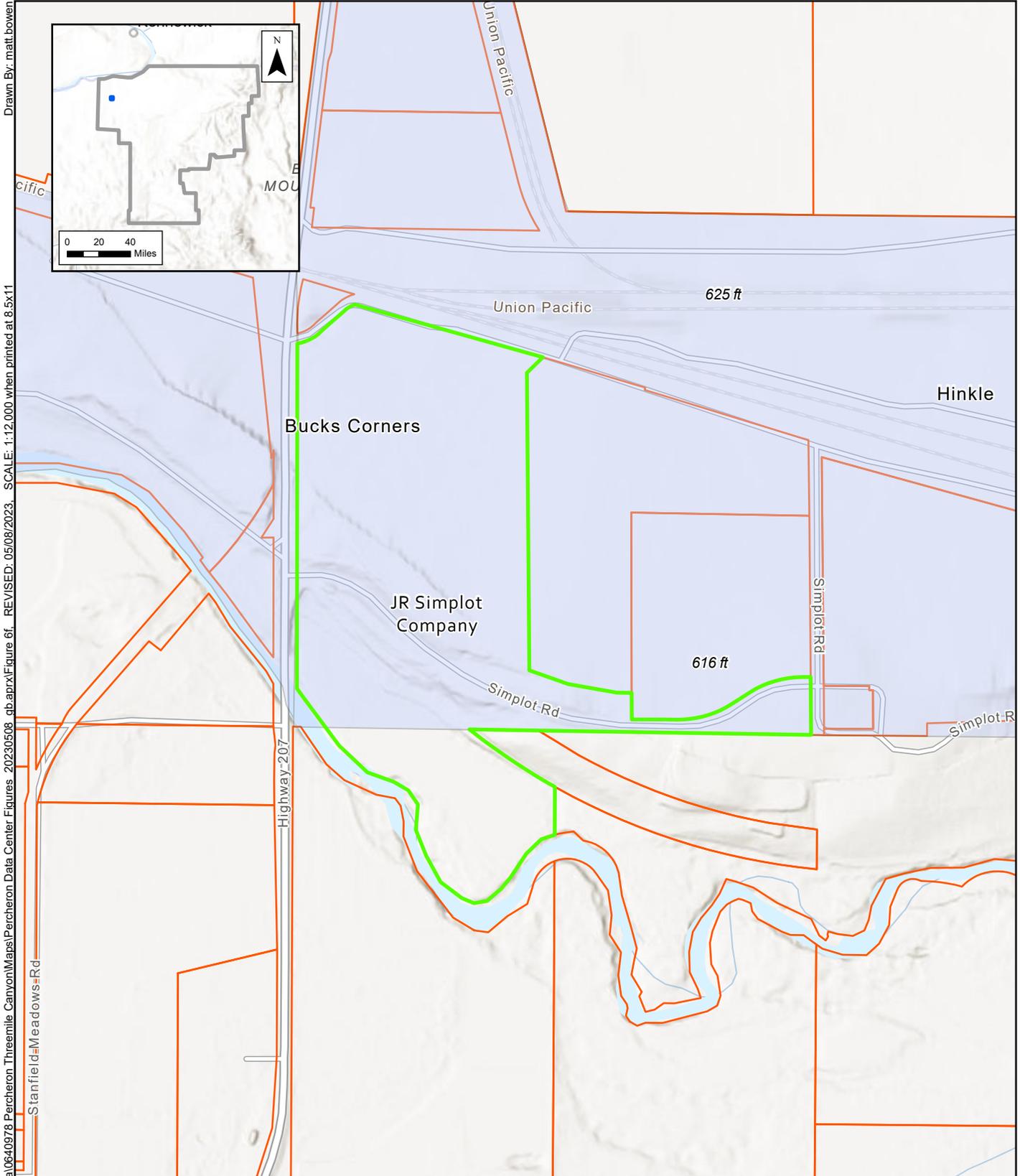
Drawn By: matt.bowen



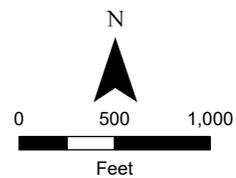
- Alternative Site 3
  - Urban Growth Boundary (Nearest - 2.8 miles)
- Zoning**
- Limited Rural Light Industrial Zone



**Figure 6e**  
**Alternative Sites Considered**  
**Alternative Site 3: Pedro Land Company**  
 Percheron Data Center  
 Rowan Green Data, LLC  
 Umatilla County, Oregon



- Alternative Site 4
  - Urban Growth Boundary (Nearest - 0.9 miles)
- Zoning**
- Heavy Industrial



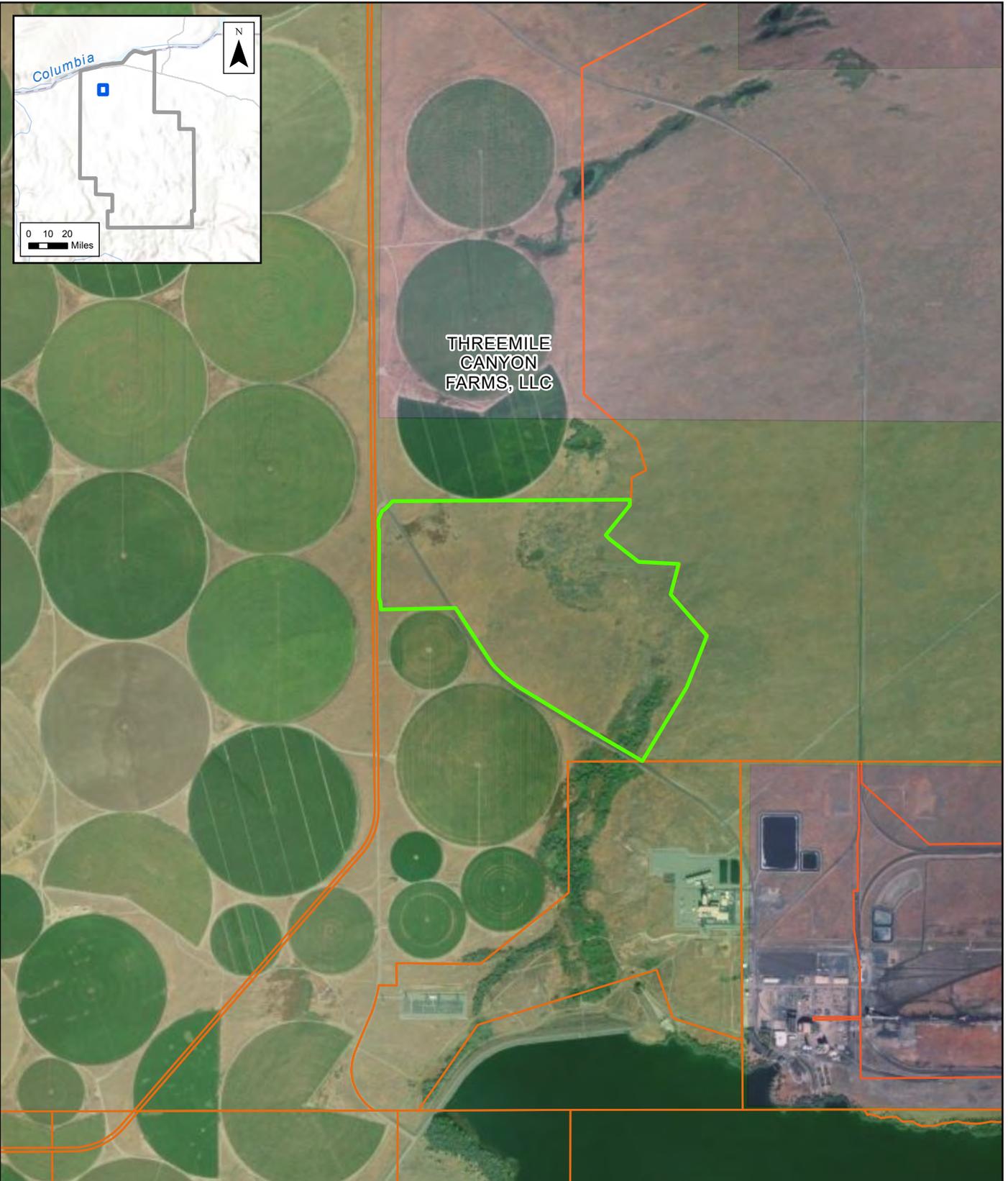
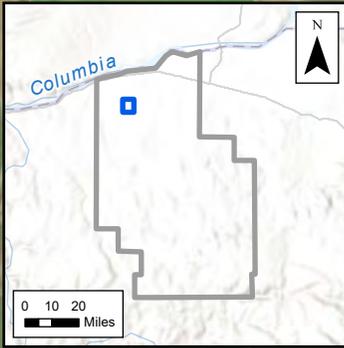
**Figure 6e**  
**Alternative Sites Considered**  
**Alternative Site 4: JR Simplot Property**  
 Percheron Data Center  
 Rowan Green Data, LLC  
 Umatilla County, Oregon

Drawn By: matt.bowen  
 M:\US\Projects\P-R\Rowan Green Data\0640978 Percheron Threemile Canyon\Maps\Percheron Data Center Figures - 20230508\_db.aprx\Figure 6f\_REVISED\_05/08/2023\_SCALE: 1:12,000 when printed at 8.5x11

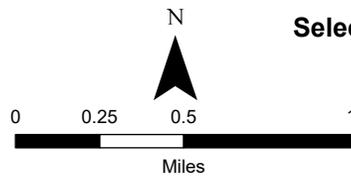
Source: Esri - World Topographic Map; WGS 1984 Web Mercator Auxiliary Sphere

Drawn By: matt.bowen

M:\US\Projects\P-R\Rowan Green Data\0640978 Percheron Threemile Canyon\Maps\Percheron Data Center Figures.aprx\Figure 6g... REVISED: 06/25/2023... SCALE: 1: when printed at 8.5x11



- Project Site
  - Urban Growth Boundary (Nearest - 13.0 miles)
- Zoning**
- Exclusive Farm Use
  - General Industrial
  - Space Age Industrial



**Figure 6f**  
**Alternative Sites Considered**  
**Selected Site: Threemile Canyon Farms**  
 Percheron Data Center  
 Rowan Green Data, LLC  
 Morrow County, Oregon

**Table 1 Alternatives Analysis**

Alternatives Sites Considered	Distance from Selected Site (miles)	Jurisdiction	Zoning	Within or Distance to UGB	Zoning of Adjacent Lands	Criteria Assessment	Conclusion
Overarching Assessment: Umatilla County UGBs	25-30	Umatilla County	Various	Within	Various	As shown on Figure 1a, UGBs within Umatilla County are either already occupied or lack suitable electrical infrastructure. Specifically, Hermiston and Hinkle are already saturated with developments, whereas Stanfield lacks available transmission capacity and Pendleton is too far to be a commercially viable (e.g., no market) fiber network.	Criteria 1, 3, and 6 not met
Overarching Assessment: Umatilla County RLIZ, LRLIZ, HI Zones	25	Umatilla County	RLIZ, LRLIZ, HI	0-1 miles	Various	Figure 1a shows the limited areas that fall within the zones that allow data centers to be permitted outright. All of these zoned areas are already occupied with existing infrastructure.	Criteria 3 not met
Overarching Assessment: Umatilla County Non-resource Lands	20+	Umatilla County	Various	Various	Various	Areas outside of the UGBs and permitted zones, but not requiring a Goal 3 exception, were analyzed and deemed not to have available electrical infrastructure or meet the landowner and land requirements of Criteria 4.	Criteria 1 and 3 not met
Overarching Assessment: Morrow County UGBs	12 -20+	Morrow County	Various	Within	Various	As shown on Figure 1b, UGBs to the north within Boardman and Irrigon, Oregon, are already occupied. UGBs to the south do not meet requirements related to available transmission capacity and topography.	Criteria 1 and 3 not met
Overarching Assessment: Morrow County MG, PI, ALI Zones	0.27 - 20	Morrow County	MG, PI, ALI	0 – 20 miles	Various	No undeveloped, vacant land available that meets the size requirements of Criteria 3. See relevant zones on Figure 1b.	Criteria 3 not met
Overarching Assessment: Morrow County Non-resource Lands	5+	Morrow County	Various	Various	Various	Areas outside of the UGBs and permitted zones, but not requiring a Goal 3 exception, were analyzed and deemed not to have available electrical infrastructure or meet the landowner and land requirements of Criteria 4.	Criteria 1 and 3 not met
Alternative 1a: Carty Generating Station	0.24	Morrow County	MG	12 miles	MG	Land already occupied by a generating station.	Criteria 3 not met
Alternative 1b: Carty Open Space/BCA	0.40	Morrow County	EFU	10 miles	EFU, MG	Landowner not interested in selling or leasing property and partially within the BCA or slated for future 50-megawatt solar development.	Criteria 3 not met
Alternative 2: Umatilla Army Depot	20	Umatilla County	UDM, DI-U	3 miles	EFU, LI	No available power capacity within criteria distance. Also, concern with prior uses and potential contamination.	Criteria 1 and 3 not met
Alternative 3: Pedro Land Company	28	Umatilla County	EFU-40	3 miles	LI	Site was previously under control with landowner in 2020/2021, though power analysis determined that interconnection would be too costly and not arrive within the Project's schedule. Also zoned agriculture.	Criteria 1 and 8 not met
Alternative 4: JR Simplot Property	28	Umatilla County, Hinkle area	HI, EFU	Directly adjacent	DI-U, EFU, LI	Adjacent to the Calpine Power Facility in Hinkle, and it was assumed power would be available. However, the owner was not interested in selling or leasing the parcels. There were also substantial wetlands and floodplains encumbering the site.	Criteria 3 and 4 not met
Proposed Sites: Selected Alternative	0	Morrow County	EFU	12 miles	EFU, MG, SAI	Adjacent to electrical infrastructure that meets all elements of Criteria 1 and 2. Threemile Canyon Farms is willing to sell land. Land was never farmed, grazed, or irrigated. Outside of the BCA and able to meet sizing criteria, while avoiding wetlands and floodplain. Existing fiber back haul accessible from site. Access to site through Tower Road. Parcel zoned EFU though surrounded by MG and SAI uses, including the Carty Generating Station.	Meets all siting criteria except for 7 (the subject of this application)

**Notes:**

Airport Light Industrial Zone (ALI)  
 Boardman Conservation Area (BCA)  
 Depot Industrial (DI-U)  
 Heavy Industrial (HI)  
 Exclusive Farm Use (EFU)  
 General Industrial (MG)  
 Light Industrial (LI)  
 Limited Rural Light Industrial Zone (LRLIZ)  
 Port Industrial Zone (PI)  
 Rural Light Industrial Zone (RLIZ)  
 Military (UDM)  
 Urban Growth Boundaries (UGBs)