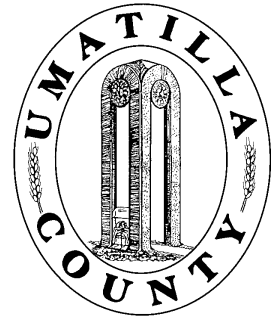


Umatilla County

Board of County Commissioners



A G E N D A UMATILLA COUNTY BOARD OF COMMISSIONERS

Meeting of Wednesday, August 22nd, 2018 at 9:00 AM

Umatilla County Courthouse, 216 SE 4th St., Room 130, Pendleton, Oregon

.....

A. CALL TO ORDER

B. NEW HEARING

Umatilla County Development Code Text Amendment #T-18-076 **City of Hermiston, Applicant**

The applicant requests a Post-Acknowledgment Plan Amendment to amend the text of the Future Urban (FU-10) Zoning Ordinance to permit creation of a parcel or lot smaller than the minimum parcel/lot size; and allow for the purchase of a one-acre parcel or lot for installation of the City or public or private utility provider-owned water tower. Additionally, the amendment would allow a water tower to exceed the FU-10 height limitation.

The Hermiston Joint Management Agreement (JMA) provides that amendments of the implementing ordinances applicable to the FU-10 Zone in the Hermiston Urban Growth Area (UGA) are the County's responsibility to maintain and implement. UCDC 152.751 requires an amendment to the text of the UCDC and shall comply with provisions of the Umatilla County Comprehensive Plan, the Oregon Transportation Planning Rule, OAR Chapter 660, division 12, and the Umatilla County Transportation Plan and Statewide Planning Goals 1, 2 and 14.

C. ADJOURN

**CITY OF HERMISTON
TEXT AMENDMENT, #T-18-076
HERMISTON URBAN GROWTH AREA
FUTURE URBAN ZONE (FU-10)
AUGUST 22, 2018, BOARD OF COMMISSIONERS HEARING
PACKET LIST**

1. Memo, page 1
2. Vicinity Map, page 2
3. Draft Findings, pages 3 - 8
4. FU-10 Zone New Text Language, pages 9 - 14

Umatilla County

Department of Land Use Planning



August 15, 2018

**DIRECTOR
ROBERT
WALDHER**

**LAND USE
PLANNING,
ZONING AND
PERMITTING**

**CODE
ENFORCEMENT**

**SOLID WASTE
COMMITTEE**


**SMOKE
MANAGEMENT**

**GIS AND
MAPPING**

**RURAL
ADDRESSING**

**LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT**

MEMO

To: Umatilla County Board of Commissioners
From: Carol Johnson, Senior Planner 
Re: August 22, 2018, Planning Commission Hearing
City of Hermiston, Applicant
Comprehensive Plan Text Amendment, #T-18-076,
City of Hermiston Urban Growth Area, Zone FU-10
cc: Doug Olsen, County Counsel
Robert Waldher, Planning Director

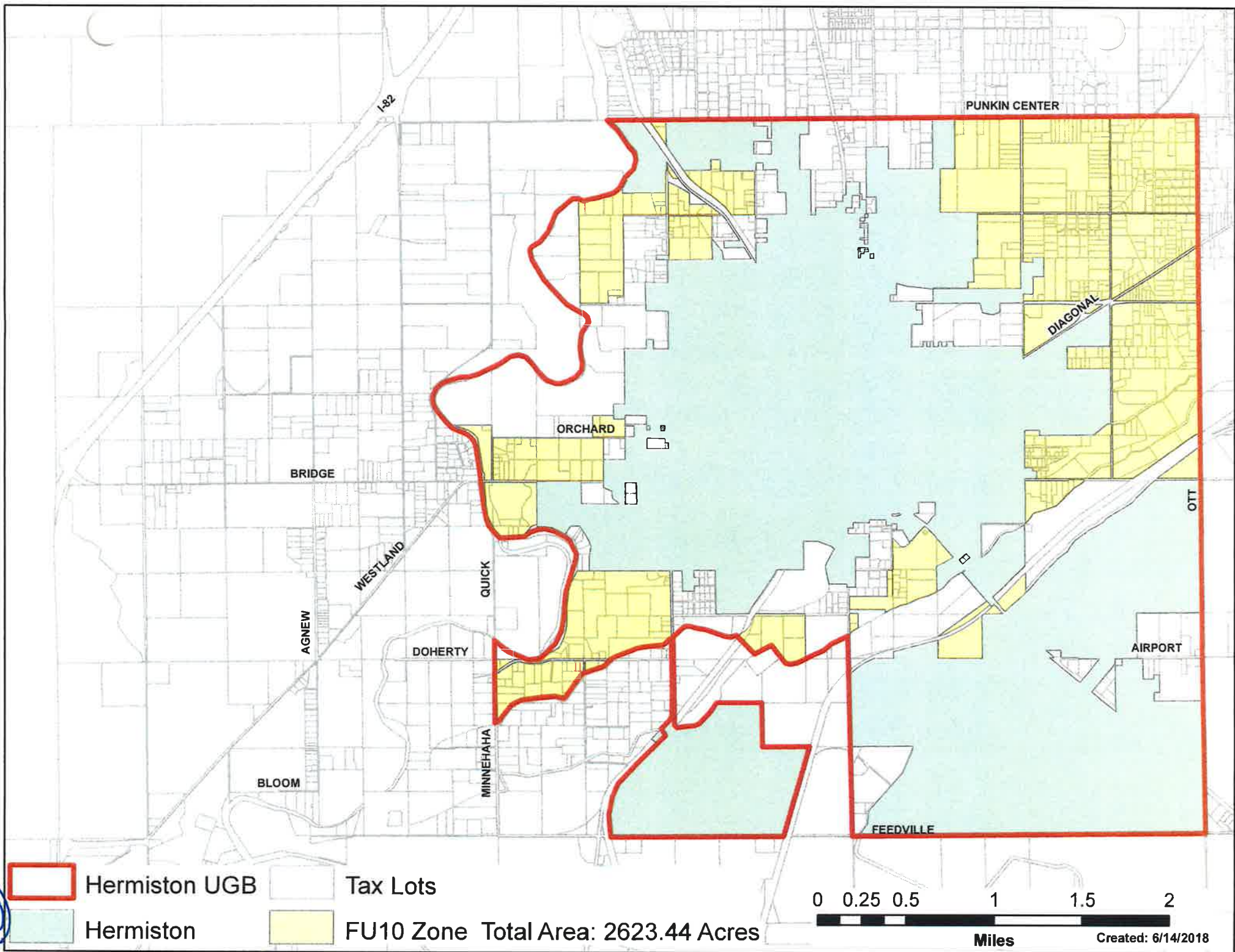
The City of Hermiston proposes a Text Amendment affecting land within the City's Urban Growth Area. The scope of the Text Amendment is narrow and the changes only apply to properties in the Hermiston Urban Growth Area zoned "Future Urban Zone, ("FU-10)". The attached map shows Hermiston's FU-10 Zoned properties.

The City's water services require a new water tower for water storage. The site of the water tower requires that the tower be located in the service area at a certain elevation. The area selected to best accommodate the new water tower is located outside of the City Limit's boundary and in the City's Future Urban Zone.

The FU-10 Zone currently prohibits creation of parcels and lots smaller than 10 acres in size and limits the height of all structures. The City wishes to purchase and maintain land for the City's new water tower and proposes new language to allow the creation of a parcel or lot of less than 10 acres. The smaller parcel or lot would be created for siting the new water tower and allow the water tower facility to exceed the FU-10 Zoning height limitation of 25-feet. The proposed amendment has minimal effect and would only apply to a City utility provider-owned water tower in the FU-10 Zone.

Provided are draft findings for your consideration along with the proposed language to FU-10 Zone Section 152.339 (E). The Planning Commission has recommended approval of the amendment to the Board of Commissioners with one change. This change removed, inclusion of *public or private utility provider* from the list of allowed water tower owners. This change was in agreement with the City of Hermiston. The Amendment approval results in the adoption of a County Ordinance approving changes to the FU-10 text. The County Ordinance would then be forwarded to the City of Hermiston for City co-adoption.





**UMATILLA COUNTY BOARD OF COMMISSIONERS
DRAFT FINDINGS OF FACT AND CONCLUSIONS OF LAW
FU-10 ZONE LEGISLATIVE TEXT AMENDMENT, #T-18-076
HERMISTON URBAN GROWTH BOUNDARY**

1. Introduction

The Hermiston Joint Management Agreement (JMA) provides that “[a]mendments to the Comprehensive Plan and sections of the implementing ordinances applicable to the Hermiston Urban Growth Area (UGA) may be initiated by the City, the County or an affected person. The JMA further provides as follows: “County Planning Commission and Board of Commissioners will hold public hearings on all proposed amendments following receipt of City recommendations or co-adoption referrals.” (JMA Section E. Areas within the UGB, Overall Provisions, paragraph 10, pages 6 and 7.)

Based upon the County agreement with the City, the County has responsibility to maintain and implement the FU-10 Zoning Ordinance for the Hermiston Urban Growth Area. The County coordinates with the City on this proposed text amendment and the procedure is consistent with the purpose and intent of the JMA, including Section E. Therefore, the County has the authority to consider and approve the text amendment.

2. Procedural Matters

A. Categorization of this Matter

This matter is a legislative matter because it proposes to amend the text of the County Zoning Ordinance in a manner that will affect all County properties located in the FU-10 zoning within the Hermiston Urban Growth Area.

B. Post-Acknowledgment Amendment

This legislative amendment is an amendment to the County's acknowledged 1983 Zoning Ordinance. ORS 197.610(1) and OAR 660-018-0020(1) require that the County provide notice to the Director of the Oregon Department of Land Conservation and Development ("DLCD") at least 35 days prior to the initial evidentiary hearing. The County provided the 35-day notice to DLCD on DLCD's Form 1, June 21, 2018. The County has satisfied ORS 197.610(1) and OAR 660-018-0020(1) by mailing the post-acknowledgement amendment notice so that it arrived at the office of the Director of DLCD at least 35 days prior to the initial evidentiary hearing.

UCDC 152.771(B) requires the County provide a legal notice for the Planning Commission hearing July 26, 2018 and Board of Commissioners August 22, 2018 hearing by publication in a newspaper of general circulation in the County at least ten (10) days prior to the date of the first hearing. The notice was published in the *East Oregonian* newspaper on July 14, 2018.

The County has satisfied the post-acknowledgement amendment notice required by ORS 197.610(1) and OAR Chapter 660-018-0020(1) and the legal notice of hearing publication in UCDC 152.771(B).

C. Procedure

UCDC 152.752 is entitled "Public Hearings on Amendments." This section provides, in relevant part:

"The Planning Commission shall conduct a public hearing on the proposed amendment according to the procedures in section 152.771 of this Chapter at its earliest practicable meeting after it is proposed. The decision of the Planning Commission shall be final unless appealed, except in the case where the amendment is to the text of this Chapter, then the Planning Commission shall forward its recommendation to the Board of Commissioners for final action."

Notwithstanding, the JMA requires a public hearing before the Planning Commission and the Board of Commissioners. Therefore, the County will hold two (2) hearings for this legislative amendment, one (1) before the Planning Commission and another before the Board of Commissioners.

Additionally, UCDC 152.771(A)(1) provides that a public hearing is required for legislative amendments. The procedures and requirements for a quasi-judicial hearing are not applicable to this hearing. Therefore, UCDC 152.772, which applies to quasi-judicial hearings, is not applicable to this legislative proceeding.

3. Description of Amendment

The City of Hermiston, Oregon ("City") is an Oregon municipality. The City's municipal services include the provision of domestic water service to city residents and businesses. The City's water services require a new water tower for water storage. The location of the water tower requires that it be located outside of the City's boundary and in an area zoned FU-10, "Future Urban Zone" ("FU-10"). However, the FU-10 zone prohibits parcels or lots smaller than 10 acres in size and the City does not require a 10-acre parcel/lot for the new water tower.

The City intends to enter into a Purchase and Sale Agreement with a property owner in the FU-10 zone to sell a one-acre lot to the City for the construction of a water tower. Pursuant to UCDC 152.750 (A), the City, as a property owner, is authorized to initiate this amendment to the FU-10 zone to allow the creation of a one-acre parcel or lot for the installation of the City ~~or other public or private~~ utility provider-owned water tower on a one-acre parcel or lot. Pursuant to the FU-10 Zone Section 152.339 (E), attached.

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4. Approval Criteria

UCDC 152.751 requires that an amendment to the text of the UCDC shall comply with provisions of the Umatilla County Comprehensive Plan (the "Plan"), the Oregon Transportation Planning Rule (the "TPR"), OAR Chapter 660, division 12, and the Umatilla County Transportation Plan ("Transportation Plan"). The County also finds that because this text amendment is a post-acknowledgment amendment, ORS 197.175(1) requires that the Plan and Map amendment satisfy applicable Statewide Planning Goals (the "Goals") and other applicable administrative rules. The County finds that the UCDC does not contain substantive standards for an amendment to the UCDC text. The remainder of this section addresses the applicable approval criteria.

This UCDC provision sets forth the approval requirements for amendment to the text of the UCDC. This section requires that an amendment satisfy the Plan and the Oregon Transportation Planning Rule (the "TPR"), OAR 660, Division 12, as well as the Umatilla County Transportation Plan.

The County finds the TPR, OAR 660-012-0060 (1)-(3), is not implicated by this text amendment. The text amendment will not create any more vehicle trips than would a development of a 10-acre parcel or lot for residential purposes in the FU-10 zone and a water tower does not require daily vehicle trips. Because the TPR is not implicated, the County finds the Umatilla County Transportation Plan is not implicated by the amendment.

The County finds that UCDC 152.751 is satisfied.

A. Applicable Statewide Planning Goals

There are 19 Goals. The Board of Commissioners finds that Goal 1, "Citizen Involvement," Goal 2, "Land Use Planning," and Goal 14 "Urbanization" are relevant to this application.

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

Finding: The County has an acknowledged citizen involvement program. The citizen involvement program is implemented through UCDC Chapter 152. The public has two (2) *de novo* opportunities to testify on this text amendment. By following the post-acknowledgment amendment process, the County will satisfy Goal 1.

The County finds that Goal 1 is satisfied.

(b) ***Goal 2. "Land Use Planning: To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to ensure an adequate factual basis for such decisions and actions."***

Finding: Goal 2 requires that County land use actions be consistent with the County's comprehensive plan. Goal 2 also requires that the County's action on this text amendment be coordinated with affected governmental entities, as coordination is defined in ORS 197.015(5). Further, Goal 2, Guideline C.1 requires that the County have an adequate factual base for its decision adopting the text amendment.

The County finds as follows on each requirement of Goal 2. The County has given notice of the application to affected governmental entities including, but not limited to, the City and County Public Works Department. Coordination requires that the affected governmental entities be provided with the proposed text amendment, given a reasonable opportunity to comment, and that the County incorporate comments as much as is reasonable. The County has followed coordination requirements.

The County finds that Goal 2 is satisfied.

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

The County finds that the City and County have mutually agreed to plan for growth inside the Urban Growth Area by the terms set forth in the JMA, updated and signed on April, 2017. This proposed adoption of the text amendment is consistent with the terms of the JMA.

The County finds that this Goal is satisfied.

(d) **Conclusion.**

The other sixteen Goals are not applicable to this application request. The County finds the three applicable Goals are satisfied.

B. Applicable Oregon Administrative Rules

The County finds that there are no administrative rules implementing Goals applicable to the application.

C. Applicable Plan Policies

The County finds there are three (3) relevant plan chapters, Chapter 4, "The Planning Process", Chapter 5, "Citizen Involvement," and Chapter 17 "Urbanization."

(a) **Chapter 4, "The Planning Process"**

Finding 2: *“Under present laws County jurisdiction over unincorporated urbanizing lands cannot be transferred to cities.”*

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Policy 2: "Cities' plans for unincorporated urbanizable areas are by reference part of this plan."

Finding: The County finds this policy is satisfied where the County and City have mutually agreed to the JMA and this legislative amendment is consistent with the JMA for plan and map amendments within the Urban Growth Area.

The County finds that this policy is satisfied.

(b) Chapter 5, "Citizen Involvement"

(1) Policy 1: "Provide information to the public on planning issues and programs, and encourage citizen input to planning efforts."

Finding: The County finds Chapter 5, Policy 1, is satisfied because notice of the Planning Commission and Board of Commissioners' hearings are in a newspaper of County-wide circulation and there are two (2) *de novo* hearings where the public may testify on the proposed text amendment.

The County finds that this policy is satisfied.

(2) Policy 5: "Through appropriate media, encourage those County residents' participation during both city and County deliberation proceedings."

Finding: The County finds, as explained above, the publication of notice of the Planning Commission hearing and the Board of Commissioners' hearing in a newspaper of County-wide circulation fulfills this requirement.

The County finds that this policy is satisfied.

(c) Chapter 17, "Urbanization"

Policy 1. "Adopt and enforce city plans and substantive standards for unincorporated areas within urban growth boundaries."

Finding: The County finds the proposed text amendment has the effect of upholding the substantive standards for zoning and development of FU-10 Zoned parcels in the Hermiston Urban Growth Area.

The County finds that this policy is satisfied.

Policy 3. Specify by agreement with the cities the processes for amendments to unincorporated urban growth plans.

Finding: The County finds the legislative action is consistent with the JMA.

The County finds that this policy is satisfied.

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5. CONCLUSION

For the reasons contained herein, the County finds the applicable approval criteria for the text amendment have been satisfied and the proposed text amendment to the FU-10 zone to allow creation of a one-acre parcel/lot to establish a City utility provider-owned water tower can be approved.

UMATILLA COUNTY BOARD OF COMMISSIONERS

W. Lawrence Givens, Commissioner

William J. Elfering, Commissioner

George L. Murdock, Commissioner

Date: _____

8

FU-10, FUTURE URBAN ZONE

Sub-Sections

<u>152.335</u>	<u>Purpose</u>
<u>152.336</u>	<u>Uses permitted</u>
<u>152.337</u>	<u>Conditional uses permitted</u>
<u>152.338</u>	<u>Limitations on use</u>
<u>152.339</u>	<u>Dimensional standards</u>

§ 152.335 PURPOSE.

The FU-10 Future Urban Zone is designed to implement the growth management policies around the Hermiston Urban Growth Boundary; to provide for interim uses consistent with the plan policies until conversion to urban uses; to retain the land suitable for future urban development in large parcels which will enable more cost effective urban redevelopment of the land. Lots are kept large as urban services are not yet available to these areas and development is limited to the land capability of accepting septic tanks and drainfields while still providing safe drinking water. (Ord. [83-4](#), passed 5-9-83)

§ 152.336 USES PERMITTED.

(A) *Uses permitted outright.* In a FU-10 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in [ORS 215.203](#) and set out in § [152.003](#), except livestock feed yards and sales yards, hog or poultry farms and the raising of fur-bearing animals; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily

provided in conjunction with farm uses referred to in [ORS 215.203\(2\)\(a\)](#).

(2) Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.

(3) Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.

(4) Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.

(5) Landscaping as part of a transportation facility.

(6) Emergency measures necessary for the safety and protection of property

(7) Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan.

(8) Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.

(B) *Uses permitted with a zoning permit.* In a FU-10 Zone, the following uses and their accessory uses are permitted upon the issuance of a zoning permit, pursuant to § [152.025](#);

(1) Dwelling, single-family;

(2) Mobile home as provided in § [152.013](#);

(3) Non-commercial greenhouse or nursery;

- (4) Public or semi-public use;
- (5) Signs: Type 2, 4, 5, 6 as defined in § [152.546](#);
- (6) Residential Home (Adult Foster Care);
- (7) Day Care or Nursery.
(Ord. [83-4](#), passed 5-9-83; Ord. [2002-08](#), passed 8-14-02; Ord. [2009-09](#), passed 12-8-09; Ord. [2012-02](#) passed 1-26-12; Ord. [2015-07](#), passed 9-22-15)

§ 152.337 CONDITIONAL USES PERMITTED.

In a FU-10 Zone, the following uses and their accessory uses are permitted conditionally subject to the requirements of §§ [152.610](#) through [152.616](#) of this chapter:

- (A) Church as provided in § [152.616 \(K\)](#);
- (B) Commercial greenhouse or nursery as provided in § [152.616 \(R\)](#);
- (C) Roadside stand for the sale of agricultural products grown by the owner or owner as provided in § [152.616 \(WW\)](#);
- (D) Grange hall or community center, park, playground or recreational facility owned and operated by a government agency or non-profit community agency as provided in § [152.616 \(EE\)](#);
- (E) Rest home, home for the aged, nursing home, or convalescent home as provided in § [152.616 \(UU\)](#);
- (F) Utility facility as provided in

§ [152.616 \(CCC\)](#);

(G) Special exemption as provided in §§ [152.575](#) and [152.576](#);

(H) Cemetery as provided in § [152.616 \(J\)](#);

(I) Home occupations /cottage industry as provided in § [152.616 \(II\)](#);

(J) Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are: (1) not improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or EA (Environmental Assessment), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:

(1) The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.

(2) The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.

(3) The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.



(4) Project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.

(K) Construction of rest areas, weigh stations, temporary storage, and processing sites.

(L) If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a comprehensive plan amendment shall be undertaken prior to or in conjunction with the conditional permit review.

(Ord. [83-4](#), passed 5-9-83; Ord. [2002-08](#), passed 8-14-02; Ord. [2009-09](#), passed 12-8-09)

§ 152.338 LIMITATIONS ON USE.

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

(A) Cows, horses, goats or sheep or similar sized animals shall not be kept on lots having an area less than 20,000 square feet. The total number of all such animals over the age of six months allowed on a lot shall be limited to the acreage of the lot divided by the minimum area required for each animal. The minimum area required for horses, cows, goats and sheep is two per acre. For the purposes of this section, the two per acre requirement shall be cumulative. In other words, on two acres only four animals listed above could be kept.

(B) The number of chickens, fowl, rabbits, or similar sized fowl or fur-bearing animal shall be confined on not more than 25% of the total lot area;

(C) Adequate fences and corrals shall be required of the animal owner to keep animals off adjacent lands;

(D) Barns, sheds, and other structures sheltering animals shall be located a minimum of 35 feet from a side or rear property line and 75 feet from the front property line;

(E) All structures and enclosures designed for animals shall be kept reasonably free and clean of flies, and accumulated animal waste materials, and shall be subject to health regulations (county, state or federal) as may be now hereafter established.

(F) Market Hog Exemption: A student resident who is a member of FFA (Future Farmers of America) or 4-H may raise hogs under the conditions listed below and may be subject to yearly reviews;

(1) The owner of the market/feeder hog must be an active member currently enrolled in a local FFA or 4-H program. A letter from the FFA or 4-H leader may be required to verify enrollment.

(2) The boarding and raising of hogs shall be for educational purposes only.

(3) Only market/feeder hogs raised as an FFA or 4-H market animal project shall be allowed. Breeding stock such as sows and boars are excluded from this exemption status.

(4) The market/feeder hogs shall be raised for FFA or 4-H sale only.

(5) The boarding and raising of market/feeder hogs shall not be allowed for

the purposes of profit only, except when sold as a project.

(6) Market/feeder hogs must be kept in a well maintained environment, with no rodents or pests allowed. Odor and other nuisance factors must be reasonably controlled.

(7) Market/feeder hogs shall not be allowed on a year round basis. Market/feeder hogs shall only be allowed on the premises for the duration of time required to complete the project and prepare the hogs for the designated youth livestock show.

(8) The total number of hogs allowed per FFA or 4-H member shall be one (1) for each show attended by the FFA or 4-H member, per student resident. (Ord. [83-4](#), passed 5-9-83; Ord. [2013-02](#), passed 1-29-13)

§ 152.339 DIMENSIONAL STANDARDS.

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

(A) *Minimum lot size.*

(1) For all “uses permitted with a zoning permit” and “conditional uses permitted” except as modified in subdivisions (2) and (3) of this division, 10 acres;

(2) Pre-existing, non-conforming lots of record. Lots which were lawfully in existence prior to September 20, 1983 and which do not meet the 10 acre minimum parcel size stated in subdivision (1) above may be occupied only by a single-family

dwelling, mobile home or modular home upon approval by the DEQ, or other authorized agent which may succeed them, to place a septic tank and drainfield on the preexisting non-conforming lot.

(3) Pre-existing, habitable dwellings, including several single-family dwellings on a single tax lot, may be partitioned out on individual parcels as a Type II, III or IV Land Division, subject to the following standards:

(a) The proposed parcel(s) has frontage on or legal access to a county road, state highway, or public road, or can be provided with legal access as a condition of approval; and

(b) The proposed parcel(s) is already physically developed as a home site, including, but not limited to, the following improvements:

(1) An existing, habitable dwelling;

(2) Existing accessory building(s) provided for the dwelling;

(3) Existing and replacement sites for on-site septic systems;

(4) Domestic well; and

(c) The size of the proposed parcel(s) shall be the minimum necessary to accommodate the development features listed in subdivision (3)(b) of this division, with an absolute minimum of one-half acre and a maximum of two acres, excepting that the domestic well may be located beyond the parcel boundaries and connected to it by a utility easement; and

(d) The total number of parcels allowed to be partitioned from the original parcel shall be the total number of existing, developed homesites on the parcel, except as qualified in subdivision (3)(e) of this division; and

(e) The undeveloped (“vacant”) portion of an original parcel shall not be less than five acres following partitioning off of existing home sites. One of the existing home sites must remain with the original parcel if such would be the case (i.e. if there are two home sites on a six acre tract, one home site could be partitioned off, but the other would have to remain with the original tax lot).

(f) Once the existing developed home sites have been partitioned off from the original parcel, no new home sites are allowable on the remainder of the property as long as the property remains in FU-10 zoning. A covenant to this effect, complete with legal description, would be required to be signed and recorded in the Umatilla County Deed Records as a condition of partitioning approval.

(B) *Setback requirements.* No buildings shall be located closer than 20 feet from a lot line, except on the street side of a corner lot used for a side yard, the setback shall be 25 feet from the lot line.

(C) *Lot coverage and building heights.*

(1) *Lot coverage.* The main building and accessory buildings located on any building site or lot shall not cover more than 30% of the total lot area;

(2) *Building height.* No building or structure shall be erected or enlarged to exceed two stories or more than 25 feet in

height, except split level buildings, which may be increased in height to 30 feet.

(D) *Stream setback.* To permit better light, air, vision, stream or pollution control, protect fish and wildlife areas, and to preserve the natural scenic amenities and vistas along the streams and lakes, the following setback shall apply:

(1) All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the mean high-water line or mark along all streams or lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the Department of Environmental Quality finds that a closer location will not endanger health, the Planning Director may permit the location of these facilities closer to the stream or lake, but in no case closer than 50 feet.

(2) All structures, buildings or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 100 feet measured at right angles to the high-water line or mark.
(Ord. 83-4, passed 5-9-83; Ord. 89-02, passed 5-18-89)

(E) *Water Tower on Less Than a 10 Acre Lot.*

(1) *Notwithstanding Section 152.339(A), a new lot less than 10 acres in size may be created from a pre-existing lot, subject to the following conditions:*

(a) *The new lot shall be no less than 1 acre in size;*

(b) *The pre-existing lot may be less than 10 acres after the creation of the new lot;*

(c) *The new lot shall be owned by an incorporated City, ~~or any public or private utility provider;~~*

(d) *The new lot shall be used for a City ~~or public or private utility provider~~-owned water tower and its accessory facilities including but not limited to necessary utility lines and structures; and*

(e) *The water tower shall be subject to other applicable requirements of the FU-10 zone, including Section 152.337(F), except Section 152.339(C)(2).*

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DRAFT MINUTES

PLANNING COMMISSION HEARING

Thursday, July 26, 2018

**Umatilla Co. Development Code Text Amendment #T-18-076
City of Hermiston, Applicant**

Post-Acknowledgment Plan Amendment to amend the text of the Future Urban (FU-10) Zoning Ordinance to permit creation of a tax lot smaller than the minimum parcel size; and allow for the purchase of a 1 acre parcel for installation of the City or public or private utility provider-owned water tower. The amendment would also allow a water tower to exceed the FU-10 height limitation.

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, July 26, 2018, 6:30 p.m.
Umatilla County Justice Center, Media Room, 4700 NW Pioneer Place, Pendleton, OR

** ** ** **

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Gary Rhinhart, Vice Chair, Don Wysocki, Tammie Williams, Hoot Royer, Molly Tucker Hasenbank
ABSENT: Cecil Thorne, Tami Green
STAFF: Bob Waldher, Planning Director, Carol Johnson, Senior Planner, Jacob Potterf, Planner/GIS, Tierney Dutcher, Administrative Assistant

** ** **

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. RECORDING IS AVAILABLE AT THE PLANNING OFFICE

CALL TO ORDER

Chair Danforth called the meeting to order at 6:30 p.m. and read the Opening Statement.

MINUTES

Chair Danforth asked the Planning Commission to review the minutes from the May 24, 2018 hearing. Commissioner Williams moved to adopt the minutes as written. The motion was seconded by Commissioner Royer. Motion carried by consensus.

NEW HEARING

UMATILLA COUNTY DEVELOPMENT CODE TEXT AMENDMENT, #T-18-076, CITY OF HERMISTON, APPLICANT

The applicant requests a Post-Acknowledgment Plan Amendment to amend the text of the Future Urban (FU-10) Zoning Ordinance to permit **creation of a parcel or lot smaller than the minimum parcel/lot size; and allow for the purchase of a one-acre parcel or lot for installation of the City or public or private utility provider-owned water tower. Additionally, the amendment would allow a water tower to exceed the FU-10 height limitation.**

The Hermiston Joint Management Agreement (JMA) provides that amendments of the implementing ordinances applicable to the FU-10 Zone in the Hermiston Urban Growth Area (UGA) are the County's responsibility to maintain and implement. UCDC 152.751 requires an amendment to the text of the UCDC and shall comply with provisions of the Umatilla County Comprehensive Plan, the Oregon Transportation Planning Rule, OAR Chapter 660, division 12, and the Umatilla County Transportation Plan and Statewide Planning Goals 1, 2 and 14.

Chair Danforth called for any abstentions, bias, conflict of interest, declaration of ex-parte contact or objections to jurisdiction. There were none.

STAFF REPORT

Carol Johnson, Senior Planner, stated that the City of Hermiston is proposing a Text Amendment that affects lands only within the City's UGA zoned Future Urban, FU-10. She stated that the City is most interested in a specific parcel of land within the FU-10 Zone. Mark Morgan, Assistant City Manager for the City of Hermiston is in attendance and will provide more details about the parcel during his testimony.

Ms. Johnson stated that approval of the request would allow for the City's new water storage project to be constructed in the FU-10 Zone in excess of the current 25 foot (ft.) height limitation. It will also divide the acreage around the water tower for City ownership. On June 21st, 2018 the County sent the required 35-day notice to the Department of Land Conservation and Development (DLCD), and legal notice was published in the *East Oregonian* newspaper on July 14, 2018.

Ms. Johnson stated that the Commissioners packets include Draft Findings and new language for the FU-10 Zoning Ordinance in UCDC 152.339. Because this is a Legislative decision, the Planning Commission is tasked with making a recommendation to the Board of County Commissioners to approve or deny the request. A subsequent Public Hearing is scheduled before the Umatilla County Board of Commissioners for Wednesday, August 22, 2018 at 9:00 AM in Room 130 of the Umatilla County Courthouse, 216 SE Fourth Street, Pendleton, OR.

Commissioner Rhinhart asked why the new language includes the term, "*or private utility provider-owned water tower*". Ms. Johnson stated that she is not sure, but thinks it may be because they do not want to limit it to just municipalities in case they were working with other providers. She added that Mr. Morgan will explain more during his testimony.

TESTIMONY

Applicant Testimony: Mark Morgan, Assistant City Manager, City of Hermiston, 180 NE 2nd Street, Hermiston, Oregon. Mr. Morgan represents the applicant, City of Hermiston. He stated that the project is in conjunction with Umatilla County to solve a major issue, which is the need to stimulate housing development across the County. They identified the need for affordable developable residential land inside the City and located a developable area in the northeast quadrant. The challenge with this area is a sloping hillside and water is supported by a booster pump station. When a parcel of land is developed in the area, the owner is charged a rate of \$1,200 to add toward a fund to upgrade the booster pump station. Upgrades are necessary to provide adequate pressure as development spreads in the area. However, without adding back up power generation water will be unavailable in the event of a power outage.

Mr. Morgan stated that they started updating the Water System Master Plan for the City last year. The last update was made in 1996. The primary need that was identified was for additional water storage capacity. At this time they can provide 36 hours of storage capacity during peak summer demands. This could cause major problems down the road because peak water usage occurs overnight during the

summer months and if a power outage were to occur early in the morning while they are replenishing the storage tanks, they would have far less time before the water is depleted. The last time stored water capacity as added to the City was in 2002 and since then they have grown about 25% in population.

Mr. Morgan stated that the City partnered with Umatilla County to provide \$2 million over a course of 4 years to accomplish the necessary upgrades to the system. As part of the project, there is a specific parcel of land where the tower must be located to achieve the elevation necessary to provide adequate gravitational pressure to the area. This would ensure that in the event of a power outage there would be enough pressure to fight a fire in the area. Additionally, the location of the next elementary school is slated to be at the intersection of Theater Lane and 10th. This proposed tower will be located near the corner of 10th and Punkin Center and will store 1 million gallons that will be able to accommodate future residential development out to the Eastern Urban Growth Boundary. This site is large enough to acquire 1.5 acres which will allow for the proposed 1 million gallon storage tank to be constructed as well has potential to build another tank on the site in the future to take advantage of the existing piping.

Mr. Morgan stated that this project will achieve the City's need for additional storage capacity as well as added pressure in the area. Additionally, it will run large scale water facilities past approximately 300 acres of developable residential land. He believes these efforts will help stimulate a substantial amount of future residential growth.

Commissioner Williams asked how much storage time 1 million gallons of water will provide. Mr. Morgan stated that he estimates right now the 4 million gallons would last at worst 36 hours during peak summer demand. The additional 1 million gallon tank would increase the City's storage capacity by 20% which is an additional 9 hours of water reserve for a total of 45 hours during peak summer demand.

Commissioner Rhinhart asked what the total cost of the project is. Mr. Morgan stated that right now it's budgeted at \$4,516,000 and the County will provide \$2 million. Commissioner Rhinhart asked if it is standard practice for the County to provide almost half of the funding for a City project. Mr. Morgan stated that this is a unique situation.

Commissioner Williams stated that she thinks this is a good deal. She acknowledged that the County was able to benefit financially from the new development with Amazon. She feels the joint effort of the water expansion will allow for the City to benefit as well by providing housing for the new workers to live. She sees this project as a win-win. Mr. Morgan stated that there are 300 acres of parcels that will be touched by the new water system. Without the new water system, the projected growth in the area would be affected with approximately 20 fewer homes developed annually. Therefore, with the new system over a course of 15 years there will be approximately 500 additional homes in the area. In terms of property tax revenue, the project comes out to a net positive over time. Commissioner Rhinhart asked if the houses will pay more taxes than the industrial properties in the area. Mr. Morgan stated that is true.

Commissioner Rhinhart stated that he is concerned about the County spending money for this project when there are other areas that could use assistance, like Hermiston. He feels the Hermiston area has some of the best industrial developable land in the country and he doesn't understand why we are giving the tax dollars away. He added that Pendleton has over 480 houses for sale right now.

Mr. Morgan stated that the new language including, "private utility provider" is a surprise to him as well because there are no private water providers inside the Urban Growth Boundary. Commissioner Rhinhart asked if the word *private* can be removed. Mr. Morgan stated he would be fine with eliminating the word from the request.

Commissioner Royer asked about timeframes on when they plan to develop the area. Mr. Morgan stated that they are currently in the design phase and plan to get it out to bid by the winter of 2018 with a goal of completing the project in early 2020.

Public Agencies: No Comments.

Chair Danforth closed the hearing for deliberation.

DELIBERATION

Commissioner Williams made a motion to recommend approval to the Board of Commissioners of Umatilla County Development Code Text Amendment #T-18-076, City of Hermiston, applicant amending the language to remove the word *private* so approval only applies to City or public utility municipalities. The motion was seconded by Commissioner Wysocki. Motion passed with a vote of 6:0.

ADJOURNMENT

Chair Danforth Adjourned the meeting at 7:04 p.m.

Respectfully submitted,

Tierney Dutcher
Administrative Assistant