

# Umatilla County

Department of Land Use Planning



## AGENDA

Umatilla County Planning Commission  
Public Hearing  
Thursday, June 23, 2016, 6:30 p.m.  
Stafford Hansell Government Center  
Hermiston, OR

### Members of Planning Commission

Randy Randall, Chair  
Gary Rhinhart, Vice-Chair  
Tammie Williams  
Don Wysocki  
Don Marlatt  
Suni Danforth  
Cecil Thorne  
Tami Green  
Clive Kaiser

### Members of Planning Staff

Tamra Mabbott, Planning Director  
Carol Johnson, Senior Planner  
Bob Waldher, Senior Planner  
Brandon Seitz, Assistant Planner  
Julie Alford, GIS  
Gina Miller, Code Enforcement  
Tierney Dutcher, Administrative Assistant

1. **Call to order**
2. **Adopt minutes** (February 25, 2016 & March 24, 2016)
3. **New Hearing:**

**LAND DIVISION REQUEST, #LD-5N-850-16, VADATA, INC APPLICANT, VADATA, INC. AND PORT OF UMATILLA OWNERS.**

The applicant requests approval to replat approximately 55.28 acres in the Port of Umatilla Subdivision consisting of Lots 5, 6, 9 and adjusted Lot 8. The property is split between the City of Umatilla and County jurisdiction. The County will process the application subject to coordination with the City. The criteria of approval are found in Sections 152.695 through 152.698 of the Umatilla County Development Code, Section 3.146 of the Umatilla County Zoning Ordinance, and Sections 11-2-6 and 11-4-5 of the City of Umatilla Land Division Ordinance.

4. **New Hearing:**

**CONDITIONAL USE PERMIT REQUEST, #C-1264-16, RODNEY J. RAINEY APPLICANT, MICHAEL ATKINSON, OWNER.**

The applicant requests approval for a residential adult care facility for alcohol and drug treatment for up to 15 clients. The application is being processed as a Conditional Use Request for a convalescent home. The criteria of approval are found in the Umatilla County Development Code 152.616 (UU), 152.615 and 152.560.

5. **Other Business:**  
None
6. **Adjournment**

### Next Scheduled Meeting:

Thursday, July 28, 2016, 6:30 p.m., Justice Center Media Room, Pendleton, OR.

**DRAFT MINUTES  
UMATILLA COUNTY PLANNING COMMISSION  
Meeting of Thursday, February 25, 2016  
6:30 p.m., Umatilla County Justice Center, Media Room  
Pendleton, Oregon**

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**COMMISSIONERS**

**PRESENT:** Vice Chair, Gary Rhinhart, David Lee, Suni Danforth, Don Marlatt, Don Wysocki, Tami Green, Cecil Thorne  
**ABSENT:** Chair, Randy Randall, Tammie Williams  
**STAFF:** Tamra Mabbott, Carol Johnson, Bob Waldher, Brandon Seitz, Tierney Dutcher

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

**CALL TO ORDER:**

Vice Chair Gary Rhinhart called the meeting to order at 6:30 p.m. and read the opening statement.

**MINUTES:**

Vice Chair Rhinhart asked the Planning Commission to review the minutes from January 28, 2016 and moved for adoption. Motion carried by consensus.

**CONTINUED HEARING:**

**REQUEST FOR A PUBLIC HEARING FOR CONDITIONAL USE REQUEST #C-1249-15, RODNEY J. RAINEY APPLICANT, KEVIN GRAY OWNER.** During the public comment period, a “Request for a Public Hearing” was submitted on September 30, 2015. The property is located on the north side of Diagonal Road (State Highway No. 207) on Tax Lot #2401, in Township 04N, Range 29E, Section 06A. The request is to develop a residential adult care facility for alcohol and drug treatment for up to 15 clients. The application is being processed as a Conditional Use Request for a convalescent home. The criteria of approval are found in the Umatilla County Development Code 152.616 (UU), 152.615 and 152.560.

Vice Chair Rhinhart called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions from any member of the Planning Commission and there were none.

**Staff Report:** Brandon Seitz, Assistant Planner, presented the staff report. He stated that Conditional Use Permit #C-1249-15 is for a drug treatment facility for up to 15 patients and is being processed as a convalescent home. A Conditional Use Permit application was submitted on August 17, 2015 and deemed complete on September 4, 2015. A public notice was sent to surrounding property owners and public agencies on September 9, 2015. A request for public hearing was submitted by James Carmack on September 30, 2015 and the first hearing was held before the Planning Commission on December 17<sup>th</sup>, 2015. Due to issues raised by Mr. Carmack, as well as concerns with the access easement and its location in relation to the property line, the applicant requested a continuance to allow for more time to resolve the issues. The three main issues needing to be addressed at this time are access, onsite septic and the well. Criteria of approval is found in County Code sections 152.616 (UU), 152.615 and 152.560.

Mr. Seitz referred to a picture projected on the screen and it was also included in the Planning Commission's packets. He pointed out that the applicant has widened the existing access road to provide access on their own side of the property line. The other pictures show additional improvements that have been made. The Planning Department received an email from Tom Lapp, Oregon Department of Transportation (ODOT), District 12 Permit Specialist, indicating that the improvements made to the access road meet ODOT standards. The Planning Department has received a copy of the receipt from Department of Environmental Quality (DEQ). They have started the process towards working on obtaining a new permit and updating the septic system. There are a couple options depending on the results of the soil survey and possibly a boundary line adjustment. Mr. Seitz has been in touch with Bill Goss, Oregon Health Authority (OHA), and was told some repairs and improvements will need to be made to the existing well, or a new well will need to be put in.

Staff recommends that some conditions of approval be added to the permit. The applicant would be required to obtain an onsite permit from the DEQ, or a water pollution control facility permit for the proposed facility and provide a copy to county planning. They would be also be expected to comply with all applicable requirements from OHA for state regulated water systems and provide verification of compliance to Umatilla County Planning. These conditions directly address the comments raised by DEQ and OHA.

**Applicant Testimony:** Kevin Gray, PO Box 928, Hermiston, OR. Mr. Gray stated that he did some work to improve several neighbors' driveways and removed a row of stumps for Mr. Carmack. He and Mr. Carmack have solved the driveway issue and have much better relations now. Regarding the DEQ issue and the well, he has discussed options with the Carmacks, including purchasing an acre of their property to put in a drain field. He is in the process of purchasing at least an acre from Mr. Carmack and possibly more with the intention to build a home. Mr. Carmack has signed the permission slips to dig the test holes for the septic system. Brady Rettkowski from Done-Rite Septic has finished digging 6 large test holes. Bernie Duffy, DEQ, finished the soil samples that day and reported that everything looks great and is on track to move forward. Mr. Rettkowski has a plan for the septic system and will move forward when he gets the

official approval from Mr. Duffy. They hope to have the septic completed in the next 30-45 days, weather permitting.

Regarding the well, the water was tested and meets standards. He hired Chad from Zollman's Larry Bird Well Drilling, LLC to camera the well and they pulled the pump out to check everything. They thought everything looked great. Erik Thomasser with Oregon Water Resources Department (OWRD) came out to review the site. Mr. Gray provided a DVD to Bill Goss, OHA, who reviewed the material and forwarded it to the geologist. The geologist and Mr. Thomasser discussed the project and decided to accept payment and move forward. They are expecting to get final approval tomorrow. He has been working hard to resolve neighborly issues and feels like this hearing was a blessing in disguise. The relationship is positive between neighbors moving forward.

**Applicant Testimony:** Rob Rainey, 19026 Couch St. Portland, OR. Mr. Rainey stated that they have a bid on another well as a backup plan, if they find issues with the current well. It would only take one day to drill, case and cement the well. If they have to do another well, they are prepared. If the property purchase with Mr. Carmack falls through they have discussed putting in a sand well and they have enough property to do that. He commended Mr. Gray for all the hard work he has put into resolving the issues presented at the first hearing.

**Applicant Testimony:** Melissa Homan, 32405 Diagonal Rd. Hermiston. Ms. Homan stated that Mr. Carmack made several accusations about the behavior of the clients in the last hearing. When she and Mr. Gray visited with Mr. Carmack after the hearing he said anything that was stolen off of his property was from a previous tenant, not their clients. Mr. Carmack toured the treatment facility, met with the clients, and seemed satisfied. Mr. Rainey said he and Mr. Carmack spoke about the possibility of something going wrong at the facility. After discussion, Mr. Carmack seemed to agree they are quieter and have less traffic than a family would. They have no night traffic and provide 24 hour surveillance. Ms. Homan noted that they have exchanged telephone numbers so they can address anything that may come up immediately.

**Neutral Testimony:** James & Jan Carmack, 32441 Diagonal Rd., Hermiston. Mr. Carmack stated that he and Mr. Gray have come to a personal agreement allowing him access to the road. In the future he may need to sell the property and the access with it, but for now they have come to a neighborly agreement. They are discussing Mr. Gray purchasing a portion of his property.

Commissioner Danforth moved to approve Conditional Use Permit #C-1249-15 with additional conditions set forth by planning staff. Commissioner Green seconded the motion. Motion passed 6:0.

**NEW HEARING:**

**UPDATES OF THE UMATILLA COUNTY DEVELOPMENT CODE, #T-15-064.**  
**A summary of the updates include the following:**

1. Update UCDC 152.058 (F) (5) EFU and 152.083 (O) GF Replacement Dwelling
2. Modify UCDC 152.062 EFU Parcel Sizes to allow partitions of certain non-farm uses
3. Modify Kennel Definition UCDC 152.003
4. Modify Kennel UCDC 152.060 EFU & 152.085 GF Conditional Uses Permitted
5. Modify UCDC 152.058 EFU and UCDC 152.083 Uses allowed with a Zoning Permit to add Dog Training
6. Add Definition for Park Model Home UCDC 152.003
7. Modify UCDC 152.616 (X) Conditional Use Permits to add Park Model Homes as Accessory Dwellings
8. Modify UCDC 152.616 (VV) to include rural small and large Commercial Activities
9. Add Definition for Primary Processing of Forest Products UCDC 152.003
10. Add Temporary Primary Processing of Forest Products as Outright Use in GF Zone UCDC 152.081
11. Add Provisions in General Zoning Regulations Section UCDC 152.031
12. Add State Requirements on Property Line Adjustments for Measure 49 Waiver Properties UCDC 152.722
13. Modify Creation of EFU and GF Parcels UCDC 152.062 and 152.087
14. Add Land Division requirements allowing EFU and GF Zoned Parcels to be partitioned along an Urban Growth Boundary UCDC 152.710
15. Add Accessible Parking Requirement UCDC 152.562
16. Add Solar Projects as an EFU Conditional Use Permitted UCDC 152.060
17. Add Clarification to UCDC 152.616 (HHH) (6) Standards/Criteria of Approval for Commercial Wind Power Generation Facility Conditional Uses Permitted
18. Modify Property Line Adjustment Standards for Approval UCDC 152.722
19. Modify Permitting More Than One Principal Structure or Use UCDC 152.571
20. Modify Zoning Permit Exceptions for Small Structures UCDC 152.025
21. Clarify Residential Zone Setback Requirements UCDC 152.134, 152.159, 152.164, 152.173, 152.218 & 152.233
22. Modify EFU Land Use Decision Dwelling Approvals UCDC 152.059
23. Modify Canopy Definition UCDC 152.003
24. Modify Definitions of Zoning Permit and Development Permit UCDC 152.003
25. Modify Conditional Use Permits/Land Use Decision Procedure UCDC 152.612 & 152.613
26. Clarify Administrative Language UCDC 152.776 & 152.769
27. Clarify Decision Language and Final Approval Timeline UCDC 152.683, 152.685, 152.686, 152.669, 152.698 & 152.724
28. Update Numbering UCDC in Land Use Decision UCDC 152.617 (II) (7)

**Staff Report:** Carol Johnson, Senior Planner, presented the staff report. She stated that the code update is comprised of issues and suggestions the planning staff discovered in the code over the last year. The goal was to make it a better document as well as to comply with legislative updates and state law. The packet includes a summary for each proposed change for the Planning Commission's review. She included a PowerPoint presentation.

The first item Mrs. Johnson wanted to address was concerning the kennel code update, "#3, Modify Kennel Definition UCDC 152.003". Mr. David Hadley, Land Use Attorney, provided a comment letter after reviewing the proposed update. The letter is included in the Commissioners packets. Mr. Hadley was concerned about the definition of 'working dogs'. He suspected land owners will always consider their dogs to be working dogs, instead of obtaining a permit. Mrs. Johnson asked the Commissioners if they would like to better define the term. Vice Chair Rhinhart asked how this issue of working dogs came to light. Mrs. Johnson said the planning staff has been presented with situations where people are encouraged to obtain a permit for a kennel because they have more than 4 dogs, which is the maximum number allowed under the current definition. These people are frustrated because they feel they have working dogs which act as an integral part of their operation and should not have to be permitted for a kennel. Mrs. Tamra Mabbott, Planning Director, said there have been a few circumstances in the past when they have had conflicting issues. One situation included a land owner outside of Pilot Rock with 6 dogs he uses as working dogs. His neighbors did not like all the dogs and complained. The way the code is written today, he had more than 4 dogs and required a permit for a kennel, which staff was not able to issue on that piece of property. She noted that some of the larger ranches in the area have more than 4 dogs, and it's not uncommon for a single household to have more than 4 dogs. The intent of the new definition is to recognize that a working dog is part of a farming operation in EFU and GF zones and minimize subjectivity in the term.

Commissioner Marlatt stated that there is a definition of dog breeds for working dogs. Without a definition that says what their specific purpose is, one can say anything meets the standards of a working dog, even though they don't actually do anything on a farm or ranch. Mrs. Johnson stated that kennels are only allowed as a use in EFU and GF zone. The only other place a kennel is allowed as a use is in an Industrial zone, where it may be associated with a veterinary clinic or something of that nature. Rural Residential zoning does not allow a kennel as a use. Mrs. Mabbott said there is no option to get a Conditional Use Permit for a kennel if you are located in a Rural Residential zone and have more than 4 dogs. Commissioner Danforth said they need to consider uniformity in the language. For this purpose, the definition of kennel should have the word 'commercial' in it so they match and the definition offers more clarity. Mrs. Mabbott agreed and stated that the intent is to distinguish between a commercial kennel and an everyday kennel. Mrs. Johnson stated that this modification is from language that is new and taken from the Oregon Administrative Rules (OAR). The kennel definition we have had in our code currently has been used for a number of years. Mrs. Johnson said she modified the current kennel definition and added two new uses. She asked if it will make it clearer if they modify the term 'kennel' and replace with 'commercial dog

boarding kennel'. Commissioner Danforth agreed they need to be uniform across the definitions but didn't have a suggestion on how it should be worded. Mrs. Johnson agreed to change the definition to be uniform in wording.

Mrs. Johnson asked the Planning Commission to review the code update, "#11, Add Provisions in General Zoning Regulations Section UCDC 152.031". She asked if someone is knowingly misrepresenting themselves in a land use issue, should this be addressed. Commissioner Danforth asked how we would prove if they knowingly misrepresent themselves. Mrs. Johnson noted that we would only really find out after the fact. Commissioner Marlatt stated that it is probably not enforceable, but would likely encourage honesty. Commissioner Danforth stated she is aware of people who have testified in at Planning Commission hearings in the past and knowingly provided false information. Mrs. Johnson said it comes down to which set of facts you believe. Mrs. Mabbott said even if misleading facts are innocently presented, we approve what we approve based on the facts presented as truth. If the applicant does not comply with what they say they are going to do, it is always grounds for revoking the permit, depending on the severity. Mrs. Johnson said she thinks it is another tool that can be used in Code Enforcement. The question is whether to add the word 'knowingly' to the code. The Planning Commission agreed the original language is best.

Mrs. Johnson asked the Planning Commission to review the code language for update "#6, Add Definition for Park Model Home UCDC 152.003". She provided a definition for the Planning Commissions consideration, including the addition of a Park Model Home as an available use for a caretaker dwelling. The Planning Department approved such a dwelling this past year and it should be written in the code if we plan to use it that way. Vice Chair Rhinhart said he encourages the use as a caretaker dwelling as opposed to a mobile home. It is cheaper, smaller and easier to remove. Mrs. Johnson said in addition to allowing a Park Model Home as a caretaker dwelling, use of a Park Model Home as a temporary hardship home should be considered for the same reasons Vice Chair Rhinhart mentioned. She said Mr. Hadley suggested that the Park Model Homes should have a rotating date on them. This would serve to avoid the current situation we have with older manufactured homes, where as long as they are manufactured after 1976, or 1972 in some cases, they are still able to be placed on rural properties. Vice Chair Rhinhart said he disagrees with Mr. Hadley's suggestion. He would recommend 10 years, rather than 15 years. However, other Commissioners agreed with 15 years.

There was a discussion about Park Model Homes being used for longer term dwellings in other places across the United States. Commissioner Marlatt said he believes the code is fine as it's written. The Planning Commission agreed to move forward with presenting the issue to the Board of County Commissioners with 10 or 15 year options and have them make the final decision. Mrs. Mabbott stated that the original intent was to allow for a night watchman/caretaker in a Commercial zone. She asked the Commissioners if they intend to allow for use of a park model home as a medical hardship home in a residential area. Vice Chair Rhinhart said anywhere they permit a modular home they should also permit park model homes, strictly as a temporary solution for night watchman or medical hardship situation. Mrs. Johnson stated that a park model home is considered

by the state to be a recreational vehicle at this time. Mrs. Mabbott said it's difficult to get land owners to remove manufactured homes after the temporary hardship is over. They invest a lot of money in getting the home placed on the property and it costs quite a bit to get it removed. Park model homes are a more modest investment and encourage compliance with removal of the home.

Mrs. Johnson asked the Planning Commission if they had any other questions about the code updates. Commissioner Danforth had questions about code update "#16, Add Solar Projects as an EFU Conditional Use Permitted UCDC 152.060". She referred to OAR 660-033-0130(38)(a)(E), "...[P]hotovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's Comprehensive Plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local Comprehensive Plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures." She expressed concern for the bird migration in the area. The research she has done into solar projects shows they are vaporizing birds. Mike Denny, President of the Blue Mountain Audubon Society, has stated that we live in a migratory area, and he is an expert. The Audubon Society has recently completed a ten year study on raptors in the area, and the numbers show a decline. She suggested that we require applicants to overlay bird migration routes over maps of proposed project areas. If there is conflict with migration routes, we can have some mitigation measures. Commissioner Marlatt said photovoltaic energy does not harm birds. Directed energy uses a series of parabolic mirrors which direct the energy toward a source that boils water and generates energy through steam, and it is a different process. Solar panels simply collect sunlight without concentrating heat and do not use directed energy, and it is an entirely different category. Commissioner Danforth said she was confused about the type of solar panels used, and is pleased we are using solar panels that are safe for birds.

Commissioner Danforth asked to discuss code update "#17, Add Clarification to UCDC 152.616 (HHH) (6) Standards/Criteria of Approval for Commercial Wind Power Generation Facility Conditional Uses Permitted". She asked why transmission lines are subject to separate permits even though they are required to be submitted together for processing. Mrs. Johnson said there are different standards that apply. There is a Conditional Use Standard that is applied to the energy generating facility. The transmission falls under a separate set of guidelines and approval standards. In our code the transmission is found under the heading of a Land Use Decision. They are often tied together in one report and in one findings document and are processed together. In the past we have run into problems when they are reviewed separately. There have been instances when the state has allowed certain projects to move forward, one without the other. We saw a need to clarify and make certain that anyone who does business in



Umatilla County understands that we will process those together. Commissioner Danforth agrees with the update and wanted to be sure she understood it properly.

She asked if the Conditional Use Permit for a transmission line will ever expire if it not acted upon. Mrs. Johnson said our code states that there is a two year time limit to act on the permit. Commissioner Danforth pointed out a misspelled word under 152-003, as indicated, instead of as indicted. Mrs. Johnson agreed to make the correction.

Mrs. Johnson wanted to clarify that the Board of Commissioners hearing for the code update will be on March 16, 2016. She stated that the action that the Planning Commission will take is used as a recommendation to the Board of Commissioners. The Planning Commission moved forward the proposed code amendments to the Board of Commissioners with the changes discussed and the option of either 10 or 15 rotating years for the Park Model Homes.

Vice Chair Rhinhart asked if the Planning Commission had any other questions about the code updates. There were none. Commissioner Danforth made a motion to send the Updates to the Umatilla County Development Code, Text Amendment #T-15-064 with corrections and a recommendation of approval to the Board of County Commissioners. Commissioner Marlatt seconded the motion. Motion passed 6:0.

#### **OTHER BUSINESS:**

Vice Chair Rhinhart led a discussion about election of officers. He suggested they keep the Officers that same. The Planning Commission voted unanimously to keep the officers the same as before; Commissioner Randy Randall as Chair, and Commissioner Gary Rhinhart as Vice Chair.

Mrs. Mabbott commended the work of the Planning Commissioners in reviewing the Wheat Ridge Wind Project. She met with the developer, who said he was put to the test at the hearing. He recognized that Umatilla County correctly interpreted their code. He wants to be a good neighbor and is willing to submit a letter for the record that states if he moves forward with an alternative to put a transmission line in Umatilla County, he would be willing to forgo the use of condemnation.

Vice Chair Rhinhart asked Mr. Waldher, Senior Planner, for an update on the Boardman to Hemmingway transmission line project. Mr. Waldher announced that he and Mrs. Mabbott had a meeting with Carla McLane, Morrow County Planning Director and Jeff Maffucio, Project Manager for Idaho Power. Mr. Waldher noted that Idaho Power has met with many of the land owners along the Idaho Power Preferred Route; however, they are precluded from meeting with landowners along the "Umatilla South" route until the Agency Preferred Route is determined by the Bureau of Land Management. Mrs. Mabbott said we do not yet know what route they will choose as a final determination. The County continues to provide as much information to landowners that they are allowed but no final decision for a route has been made. Malheur County and Baker County recently made a recommendation for the "No-build" Alternative. The project has been ongoing for 8 years now and if it is approved, would likely be 6-7 years out before

Idaho Power commences construction.

Mrs. Johnson reminded the Planning Commission that the April Planning Commission hearing will be at the Stafford Hansell Government Center in Hermiston. There was a discussion about how we could possibly hold Planning Commission hearings at the Umatilla County Courthouse in Pendleton.

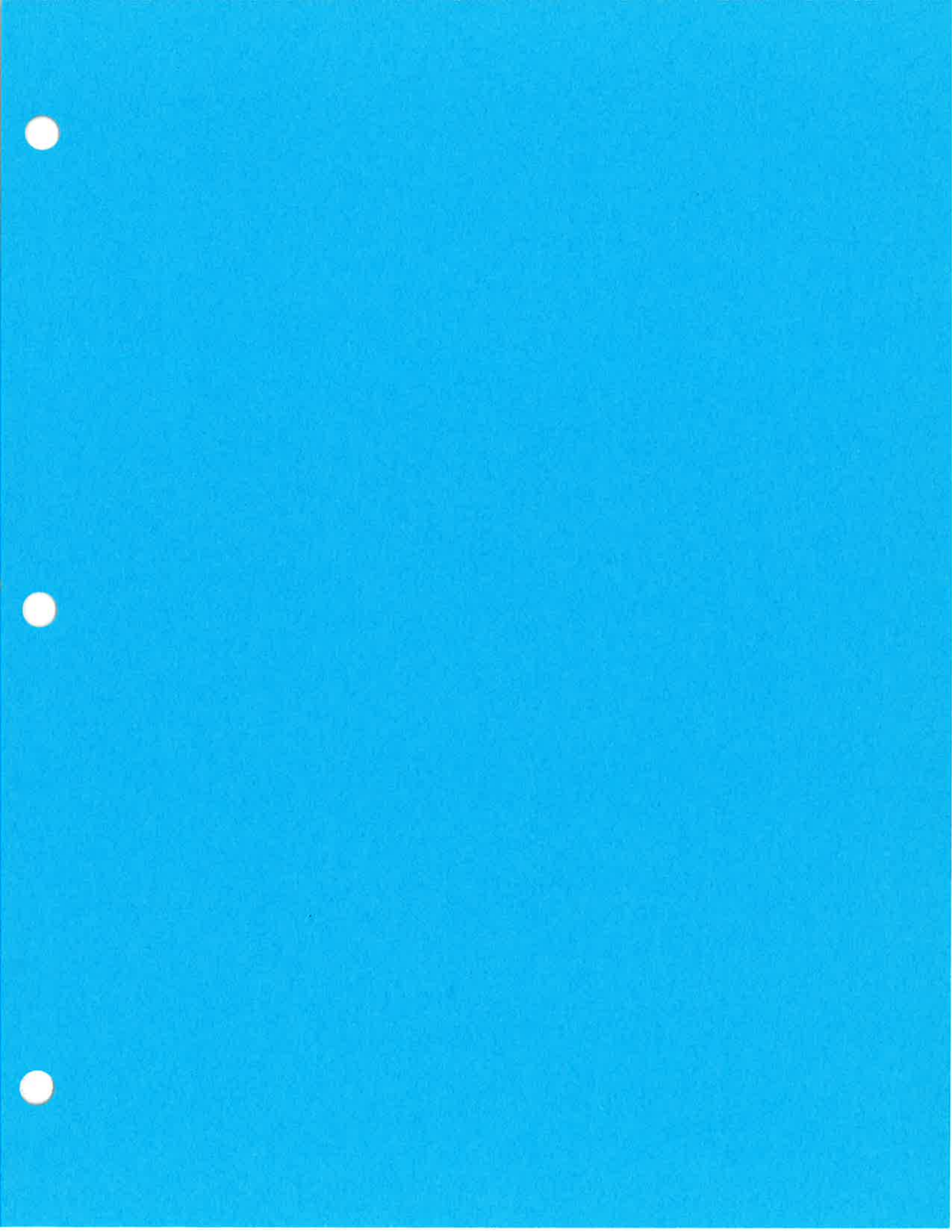
**ADJOURNMENT:**

Vice Chair Rhinhart adjourned the meeting at 8:10 p.m.

Respectfully submitted,

Tierney Dutcher  
Administrative Assistant

(Minutes adopted by the Planning Commission on \_\_\_\_\_)



**DRAFT MINUTES**  
**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, March 24, 2016**  
**6:30 p.m., Stafford Hansell Government Center**  
**Hermiston, Oregon**

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**COMMISSIONERS**

**PRESENT:** Randy Randall, Chair, Gary Rhinhart, Vice Chair, Suni Danforth,  
Don Marlatt, Don Wysocki, Cecil Thorne  
**ABSENT:** Tammie Williams, Tami Green  
**STAFF:** Tamra Mabbott, Bob Waldher, Brandon Seitz, Tierney Dutcher

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

**CALL TO ORDER:**

Vice Chair Gary Rhinhart called the meeting to order at 6:30 p.m. and read the opening statement.

**NEW HEARING**

**TEXT AMENDMENT, #T-16-065, PLAN AMENDMENT #P-116-16, ZONE MAP AMENDMENT, #Z-307-16 and CONDITIONAL USE REQUEST, #C-1254-16 application submitted by Pioneer Asphalt Inc.** The applicant requests to add an expansion of an existing quarry to the Umatilla County Comprehensive Plan list of Goal 5 protected Significant Sites and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site. The applicant is also requesting approval of Conditional Use Request to operate an asphalt batch plant and concrete manufacturing plant in the existing quarry. The property is located north of NW Livestock Road, described as Township 4 North, Range 28 East, Sections 30, 31, Tax Lot 300, 2200, 2202, 2203. The existing quarry is zoned Exclusive Farm Use (EFU) with Aggregate Resource Overlay. The proposed expansion area is currently zoned EFU. The criteria of approval are found in Oregon Administrative Rule (OAR) 660-023-040 – 050, 660-023-0180 (3), (5) and (7), and Umatilla County Development Code 152.487 – 488, 152.615 and 152.617(I)(A).

Vice Chair Rhinhart called for declarations of ex-parte` contact, biases, conflicts of interest or abstentions from any member of the Planning Commission. There were none. He called for the Staff Report.

**Staff Report:** Brandon Seitz, Assistant Planner, presented the staff report. He stated that the applicant is requesting to amend the Umatilla County Comprehensive Plan to add Tax Lots 2200, 2202 and 2203 to the Counties Goal 5 inventory as a significant aggregate

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resource and apply the Aggregate Resource Overlay Zone to the expansion area. There is an existing Goal 5 significant site on Tax Lot 300 protected by the AR overlay. The Application is a Plan Amendment #P-116-16, Text Amendment #T-16-065 and Zone Map Amendment #Z-307-16. The applicant is also requesting a Conditional Use Permit #C-1254-16 to allow operation of an asphalt and concrete batch plant in the existing quarry located on Tax Lot 300.

Mr. Seitz made a change to the memo he had included in the Commissioner's packets and wanted to make clear to the Planning Commission that they will be making a recommendation to the Board of County Commissioners on the Plan Amendment, Text Amendment and the Zone Map Amendment. The Planning Commission will be voting to approve or deny the Conditional Use Permit because it can be approved as an existing quarry, as it's located in the AR Overlay Zone. The Form 1 Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation was sent to Oregon Department of Land Conservation and Development (DLCD) on February 18th. Notice for tonight's hearing, as well as the Board of Commissioners hearing, was mailed on March 3rd. The Board of Commissioners hearing is tentatively scheduled for April 6th in room 130 at the Umatilla County Courthouse in Pendleton, Oregon. He asked the Commissioners if they had any questions.

Commissioner Danforth asked if the Oregon Department of Transportation (ODOT) was notified about the application, and if they responded. Mr. Seitz said both the LaGrande and Pendleton offices were notified and did not provide comment. The only response the Planning Staff received was from Granite Construction. Commissioner Danforth said she would assume since they did not respond, they have no problem with the increased truck traffic. Mr. Seitz said he would assume that is correct.

**Applicant Testimony:** Leslie Ann Hauer, 6100 Collins Rd, West Richland, WA and Terry Clarke, Vice President, Pioneer Asphalt Inc., 1325 NW Horn, Pendleton, OR. Ms. Hauer stated that they have the quality and quantity required by the county's Comprehensive Plan. The discussion should center on the question of whether mining should be allowed at the site. Mr. Clarke has been in the mining business for over 40 years. He knows how to meet the requirements and has a good track record of complying with the regulations. He has met with nearly all the neighbors surrounding the site, both businesses and residences, and nobody identified any issues of concern with the precedent operation or what has been proposed. With the previous application, ODOT indicated they were a little concerned about dust. She assumed that normal mitigating measures, similar to those outlined in the application, have taken care of their concerns because they did not have a response with this application.

Ms. Hauer wanted to address issues mentioned in the letter submitted for comment by Granite Construction. They allege Pioneer Asphalt has not proposed appropriate mitigating measures to deal with the significant impacts, and she claims this is simply not true. She has acknowledged that there could be dust and noise, and there are regulations and common sense measures which address those things. Mr. Clarke is quite aware of how to deal with those issues. Regarding noise, (she referred to the Granite Construction

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letter, page 2), it is asserted that, “without any noise analysis it is difficult to support the finding that there are no noise sensitive uses in the vicinity.” She argued that it is actually quite easy to make that claim. Noise sensitive uses are most commonly identified as residents and schools. She found 2 residences in the vicinity, and Planning Staff identified an additional residence. They are all preexisting and located at some distance from the site. It’s fairly unlikely that any new residence or businesses will relocate to the area since its zoned Exclusive Farm Use (EFU). She does not believe that noise is an impact. The existing pit had not created any impacts that they were aware of and continuing similar operations in the future would also not cause any serious impacts. This is why they decided not to do a noise analysis study. Mr. Clarke has had conversations with the Umatilla County Road Department Road Master, Tom Fellows, and he said there were no issues or concern with sight restriction or the access road. As mining progresses to the north of the property they plan to establish another access point on to the north part of Livestock Road. If there are concerns when they go to obtain the permit for the road, they will address those at that time. They spoke with JR Cook from the Westland Irrigation District and he expressed some interest in using the site for a recharge area. She said they are most willing to accommodate any proposal by the Irrigation District going forward and feels that the Planning Staff has provided an adequate summary of the details.

Commissioner Rhinhart asked if they had received any comments from Westland Irrigation District. Mr. Clarke said Westland Irrigation District has criteria on distance from the canal they are required to maintain. Those offsets are noted on the plans they submitted. They are required to meet minimum slope requirements set by the Oregon Department of Geology and Mineral Industries (DOGAMI). Commissioner Rhinhart stated that he is concerned about the site growing from 14 acres to almost 80 acres. He thinks that is a lot of acreage to add. He asked Mr. Clarke how he would justify needing to expand to a point of almost tripling the site of the pit. Ms. Hauer stated that they meet the quality and quantity criteria stated in the OAR. She said the Planning Commission could approve the Comprehensive Plan Amendment, approving the site as a resource and put a restriction on the permit by limiting the area allowed for mining, if that is a concern. Mr. Clarke could come back in the future to request more mining area. She stated that Mr. Clarke currently estimates that there is a 25-30 year supply, so a portion of the property would keep him busy for a few years. Commissioner Rhinhart said his concern is protecting EFU ground for future generations. Ms. Hauer said she believes the particular area will contain mostly business and industrial uses in the future. Commissioner Rhinhart said it depends on whether they get water, and reiterated that he feels we need to protect the ground. He asked if the site would join up to an abandon pit that never got restored, she affirmed that is correct but said they do not own that property. Commissioner Rhinhart said that is a concern for him. He doesn’t want to see another abandoned pit. Mr. Clarke stated that DOGAMI has funds set aside to deal with those issues. If the property owner and governing body make a request, they might be willing to assist. Commissioner Rhinhart said he feels it should be the responsibility of those who extracted the rock, and other industry folks should hold those people accountable.

## Planning Commission DRAFT Minutes

Commissioner Marlatt asked what the purpose of the expansion is. He asked if they were running low on the available resource at the location they are currently using, or have experienced an increase in business. Mr. Clarke said both factors are true. Hermiston is growing and there is an operation in the area for asphalt. They are hauling rock back to Pendleton and buying rock to go to Boardman. They would like to do more work in the area instead of buying rock and trucking it from Pendleton. The area is growing and the 25 year outlook shows this sort of volume is needed to allow an operation to complete the projects and aide in growth.

Ms. Hauer wanted to address the questions surrounding the request for 24 hour operation. The state is working all night and needs product to be available at night. This would not be a 24 hour, 6 day a week operation, but they would like the ability to operate 24 hours a day in the times they would need to. Mr. Clarke agreed and said ODOT is moving toward night work to avoid traffic conflicts. These are multimillion dollar projects that require they be available with product throughout the night. He also wanted to comment on the issue Granite Construction raised in their letter regarding air and water quality. He pointed out that they are required to have permits issued by the Department of Environmental Quality (DEQ) which have set standards concerning wastewater contaminate discharge. When they set a plant in a new location the first thing they do is conduct tests to measure the emissions. DEQ has set criteria for water quality issues as well and they are confident they will meet those standards.

Commissioner Marlatt asked if he currently has a concrete plant. Mr. Clarke said he has operations in Pendleton and a small one in Milton Freewater. Commissioner Rhinhart asked if the crushing plant is located at the bottom of the hole. Mr. Clarke confirmed that everything located is at the bottom of the hole which helps reduce dust. Commissioner Danforth asked what factors they use to make the determination that there is about 20-25 years of product available. Ms. Hauer said the quantity they estimated was based on test holes and Mr. Clarke's experience. Mr. Clarke said they are making a projection on what their market share will be. It will likely be a shared market somehow between the existing operators and him, ramping up over several years. There is no indicator that the market would support a 24 hour operation. They are asking for 6 days a week so they won't be restricted and put at a disadvantage. Commissioner Danforth asked about the plans for two crossings of the canal. She noted that the Canal District can be strict about those things and asked if they have discussed this with them. Mr. Clarke said they have consulted with the Canal District and they are aware of their criteria. Ms. Hauer added that they have an alternative access point through NW Livestock Road to the north end of the property if things fall through with the plans for crossing the canal.

Commissioner Danforth pointed out that the intensity of operation will increase substantially, and asked how they can argue that noise will not increase as a result. She said there would be more trucks coming in and out of the facility, with a possibility of up to 200 a day. This would cause more traffic and more wear and tear on the road. She also has concern for the residence that will be located 700 feet away. Ms. Hauer said the trucks will come straight on to Livestock Road and the house is on Cottonwood Bend Road, located quite a ways to the east. They will not go anywhere close to the house and

## Planning Commission DRAFT Minutes

their access would not be affected. The house that sits behind the livestock sales yard will be closest to additional mining operation and potential crushing will be somewhere in the vicinity but the distance should mitigate that. The experience they have had with other operations and other permits tells them that once they get below ground level, the noise tends to be channeled straight up instead of out. Commissioner Marlatt asked if the material was mostly river rock and cobble, therefore they wouldn't be doing any blasting. Mr. Clarke confirmed that is true.

Commissioner Marlatt asked if there were any buildings on the site, or if they intend to put buildings on the site. Mr. Clarke said there are no buildings right now but they may have something in the future. They also have a scale. Ms. Hauer stated that if he chooses to put a building at some point they would return to the County Planning Office to request a Zoning Permit for that. Commissioner Marlatt asked about the potential plans for an Aquifer Recharge Project and if it would be located in the existing pit. Mr. Clarke said it could be in either pit. He has done similar projects over on Stateline Road where they took an existing mine site and turned it into what is similar to a canal. The Walla Walla Basin Watershed Council was active in getting funding for the project. Commissioner Rhinhart asked when they are finished excavating, if the pit will be the same depth as the existing pit is now or if it will be more shallow. Mr. Clarke said it will be about the same. There is a layer of clay in the area about 30 feet deep and they do not want to penetrate that layer because they will get wet.

**Applicant Testimony:** Jayne Clarke, Pioneer Asphalt Inc., 1325 NW Horn, Pendleton, OR 97801. Mrs. Clarke stated that at two sites they have reclaimed, they have done well and received awards for their work. The first is a pond that they turned into one of the first wetlands, before it was popular. She said they often reference Mission Ponds, in the Pendleton Bird Club newsletters. The CTUIR has identified over 107 different species of birds located there. When it comes to reclaiming the land they take it very seriously. They consider themselves to be good stewards of the land.

**Opponent Testimony:** James Essig, Resource Manager, Granite Construction Company, 81500 Lind Rd., Hermiston, OR 97838. Mr. Essig provided a letter to the Commissioners outlining details he feels have been overlooked. Allowing a gravel mine, asphalt plant and concrete plant to operate 24 hours a day without implementing appropriate mitigation measures results in significant impacts on residences and businesses located in the vicinity of these operations. The applicant has not proposed or offered any throughput limitations. At this time, Umatilla County has not imposed any production limit conditions for the aggregate crusher, asphalt plant and concrete plant. If you take a close look at the Staff Report there are very few conditions on the operation parameters and this is important to consider when looking at potential impacts. To appropriately mitigate noise, dust and traffic impacts from this proposal, each environmental impact must be quantified and analyzed to be appropriately mitigated. Without production limitations, it is assumed the site will operate 24 hours a day, 6 days a week. The proposal should be modeled and analyzed as such, to determine the actual environmental impacts. When they look at modeling they should consider the total potential to emit with a 6 day, 24 hour operation. The Particulate Matter (PM) emissions



need to be calculated appropriately to mitigate operational impacts. Dust emissions have potential to be significant health and safety hazards. Windblown dust could pose a significant visual obstruction to the traveling public on I-84. PM emissions are already a concern for the Umatilla Basin. This project will add to those existing concerns if not appropriately analyzed and mitigated.

Regarding the noise issue, the applicant narrative states, "Noise from mining operations will generally be a minimal problem because there are no noise sensitive issues in the vicinity..." Without any noise analysis, it is difficult to support this finding. The applicant also says, "Noise will be minimized by having operations within the existing pit, below grade..." How much will the noise be minimized? What impact does the pit elevation have on reducing sound waves? Is the pit floor elevation enough to reduce noise impacts to off-site receptors?

Page 15 of the County's Findings states, "No conflicts have been identified that are not adequately mitigated." It is difficult to comprehend how Umatilla County can find that no conflicts have been identified, without a noise analysis. It is understood that the distance sound will travel is reduced by the pit floor elevation, but there is no scientific analysis to support the decibel level reduction. A noise study should be conducted to determine if increased noise impacts from the new asphalt and concrete plant operations are significant. If proposed operations are determined to increase noise levels to receptors in the vicinity, are the decibel levels within the noise standards found in the OAR? Subsequent Condition #9 states, "Adhere to DEQ Noise Standard as found in OAR 340-035-0035, Noise Control Regulations for Industry and Commerce." Without background information to support the proposed mitigation measures it is difficult to confirm that the operations will indeed fall below the thresholds identified in the industrial noise standards.

There is a concern of increased traffic in the area. The intersection with NW Livestock Road and Westland Road is only 200 feet from the Northbound Exit off Interstate 84. The access road to the property is not paved at this time. There is also limited site distance of approximately 600 feet from the intersection and the top of the overpass, when looking toward the west. He believes 200 trucks a day leaving the facility is a hazard to the traveling public. The staff report states that the applicant has spoken to Tom Fellows and no concerns were identified. However, the applicant anticipates complying with any reasonable mitigating measures identified by the County's Roadmaster. A detailed traffic investigation is necessary to determine if access roads have the capacity to handle increased truck traffic. A paved access road, additional turn pockets on Westland Road and appropriate traffic signage within 1,000 feet for the intersection may be necessary to allow for safe ingress and egress of the site.

The Pioneer Asphalt Westland Quarry expansion application should be revised to support the findings that increased dust, noise and traffic have been mitigated appropriately. A scientific noise study is needed to model the decibel levels from the proposed operations. The applicant needs to provide air emissions modeling to quantify the potential PM emissions. A traffic impact study should be required to determine the appropriate road

improvements necessary for safe ingress and egress to the site. They are requesting to add 2 additional operations to an existing crusher operation. There will be significantly more activity than what occurs at the site at this time. Without production limitations the quarry and plant operations have the potential to run 24 hours a day, 6 days a week at maximum production levels. They are only limited by the size and reliability of the equipment being used. The proposed asphalt plant needs to be limited to propane and natural gas fuel. Bunker and diesel fuel have the potential to significantly impact groundwater quality and air emissions. He thanked the Planning Commission for their time and asked them to consider the issues he presented.

Commissioner Rhinhart commented that he wished the county had the authority to enforce noise levels, but it's actually DEQ's job and they choose not to enforce the rules. He acknowledged that the Planning Commission often is presented with noise as an issue, but they have a hard time doing anything about it. Commissioner Wysocki asked about his suggestion of production limitations and what that might look like. Mr. Essig said he feels there should be a daily limitation as well as annual, based on the traffic counts and what the existing infrastructure can support for the project. If they cannot support it, there needs to be some analysis done on what type of improvements the project can consider minimizing them and allowing increasing production. He said he doesn't have an actual number, but there has been no analysis done. Commissioner Wysocki stated that these projects tend to spike when a project comes along requiring a large output, then when the project is over, if you don't have another, production slows down. Mr. Essig confirmed that is true. There is an ebb and flow to production in the aggregate industry, it's project and economy based. Commissioner Wysocki asked about the potential for diesel and bunker fuel to contaminate groundwater. He asked if he was concerned about spills. Mr. Essig said yes, and they would be storing then onsite.

Commissioner Rhinhart asked what kind of business is Granite Construction. Mr. Essig stated that they do aggregate, bridges and heavy civil construction. Mrs. Mabbott, Planning Director, asked about the suggestion of the throughput limitation. She asked if he was aware of any similar operations in the area that have a limitation on production. She doesn't recall ever having set a production limit on other quarries or aggregate operations. They have had limitations on hours of operation but not on tonnage. Mr. Essig said he does not know of any in the area, but it is common practice. Mrs. Mabbott said there are two levels; a small site and a large significant site, and they applied for the latter. In order to qualify for the large significant site they are required to meet a minimum standard of production. The rules and standards are designed to have a set of standards for large industrial sites and there is no limitation on output unless one has concrete evidence about impacts to infrastructure. Mr. Seitz and Senior Planner, Carol Johnson, evaluated that issue and addressed it in the findings. Mr. Seitz stated that the reason the traffic impact study was not required is because there will not be 200 new trucks adding to traffic on the road. Mrs. Mabbott clarified that in the future if they have 200 additional trucks, above and beyond the current activity, they will be required to complete a traffic impact analysis.

Mrs. Mabbott addressed the issue of regulating noise. She said the Planning Commission has struggled with the issue of the noise standard set by the state in the past. They handle it by stating that the applicant is required to comply with the noise standard. We enforce that by asking for a noise study if we have reason to believe they are exceeding the noise standard. The state Attorney General advised the state to stop enforcing noise standards and the county doesn't have the tools. If one has evidence to suggest they are in violation of the noise standard, the county could pursue enforcement at that time. There have been no complaints about noise from the existing operation.

**Public Agencies:** No comments.

**Applicant Rebuttal:** Leslie Ann Hauer, 6100 Collins Rd, West Richland, WA and Terry Clarke, Vice President, Pioneer Asphalt Inc., 1325 NW Horn, Pendleton, OR. Ms. Hauer stated there are several conditions placed on the permit by County Planning Staff, as well as DEQ, DOGAMI, and others. This is not Mr. Clarke's first time embarking on a mining operation. They can identify noise sensitive uses; residences, schools, churches and other places of assembly. The only sensitive uses identified in the vicinity are the 3 residences. They have been contacted and do not have a problem with the plans. The gravel business tends to be an up and down thing. If they have a contract to fulfill they could get all 200 trucks going per day for a short period of time. In an 8 hour day they could move a maximum of one truck every 2.5 minutes, or 25 per hour. That is well within the ability of the intersection of Livestock Road and Westland Road can handle. Mr. Fellows was consulted and did not indicate any problems. The concern about limiting production would be that the Planning Commission would set a precedent that they then would be obligated to enforce, which could be difficult. Regarding the matter of fuel limited to propane and natural gas, that's fine with them. Mr. Clarke said he does not intend to use any other fuel, other than propane. If you do require a limitation like that on this operation, then you will be required to apply the same terms to future operations to maintain continuity. The regulation by DEQ, Water Resources and others regulatory offices already cover many of those concerns. He said he used the Environmental Protection Agency (EPA) emission factors for a concrete plant crusher, mining and asphalt plant, using their potential to emit 24 hours a day 365 days a year, to measure the output of his operation. He said the numbers still fall into what is considered a minor source. They are still below the threshold set for big industry. Using those production rates, it is estimated that the site would have a life of less than 2 years, so it is not likely. Chair Randall asked the total site volume. Mr. Clarke said he approximates about 2.6 million tons.

Commissioner Rhinhart asked if they plan to do the expansion in phases. Mr. Clarke confirmed that is true. The first phase on the south side of the canal will likely take 10-12 years. Mr. Clarke said he is leasing the unused portion of the property and it's currently being used for livestock. A few years ago they had a crop on part of the land. Commissioner Wysocki asked if they had dust problems, what their mitigation measures would be. Mr. Clarke said they use water to mitigate dust, and they use dust oil on Livestock Road to cover the road during hauling.

Chair Randall closed the public hearing and moved to deliberation.

Commissioner Rhinhart said he thinks Mr. and Mrs. Clarke would do a good job in operating the facility, but he is concerned about putting too much ground into the aggregate operation. Chair Randall said his concern was the opposite of Commissioner Rhinhart's. He does not want to make them have to come back in 5 years to go through the same process. He feels that we need aggregate and there is no way around that. There are only so many sites around to operate this kind of business and he would rather enlarge the existing site than choose a new location someplace else.

Commissioner Danforth recognizes that asking for a large improvement to encompass more ground makes sense for the company. In today's society, who knows what kind of penalties and restrictions will be placed on the business operations as time progresses. She doesn't feel like further restrictions on production or operations are necessary. They have been operating businesses in the area for some time and completing award winning restoration after they are done at the sites. There are no complaints or concerning comments received from agencies. She sees this as a good thing because we are growing in this area. Chair Randall said he has firsthand knowledge in dealing with the Irrigation District on canal crossings. It is very difficult. They will have to meet strict standards to get that approved. Commissioner Danforth is pleased that they have an alternative route they could use to avoid the crossings entirely if they need to. Commissioner Wysocki stated that due to the fact that there is no water right on the property, it limits what the soils can be used for. In the future, if the land is reclaimed there are some potential uses for other activities. He feels they should not get into the business of restricting hours of operation and types of fuels a business can use. Commissioner Marlatt stated that he feels the issue is covered adequately in the Staff Report and the remarks provided were appropriate. Commissioner Thorne stated that they received no adverse comments from ODOT or other agencies so he assumes they have no problems.

Commissioner Marlatt moved to approve Conditional Use Request, #C-1254-16 with additional conditions set forth by planning staff. They recommend approval of Text Amendment, #T-16-065, Plan Amendment #P-116-16, Zone Map Amendment, #Z-307-16 to the Board of Commissioners. Commissioner Thorne seconded the motion. Motion passed 5:1.

Ms. Mabbott noted that the Board of Commissioners hearing is scheduled for Wednesday, April 6<sup>th</sup> at 9:00 a.m. in Room 130 of the Umatilla County Courthouse in Pendleton, Oregon.

#### **OTHER BUSINESS:**

Bob Waldher, Senior Planner, provided an update on the status of the proposed Idaho Power Boardman to Hemingway (B2H) Electric Transmission Line Project. On March 23, 2016 the Bureau of Land Management (BLM) issued a press release announcing the new agency preferred alternative route. It's the preliminary alternative based on the recommendation that the Umatilla and Morrow counties made in January 2016 for the Umatilla-Morrow south route. Mr. Waldher provided maps to the Planning Commission

## Planning Commission DRAFT Minutes

which represents the Northern portion of the B2H Project. He pointed out the alternative routes that will be analyzed in the Final Environmental Impact Statement (EIS). He explained the dark blue line shows the environmentally preferred alternative which was announced in December 2015. The red line on the map represents Idaho Power's original preferred route. The light blue line, south of Pilot Rock, is the agency preferred alternative route. Mr. Waldher met with Jeff Maffuccio, Project Manager with Idaho Power, and was told they are starting their spring surveys for the new route. They have already missed the window on some of their surveys so they plan to submit an amended application to the Oregon Energy Facility Siting Council (EFSC) this spring, and will have to submit a second amendment to the application to look at the southern route, next spring. The agency preferred route will become Idaho Powers preferred route, moving forward. The agencies will receive the administrative Final EIS sometime in late summer. At that time, cooperating agencies will have an opportunity to comment. BLM stated that the announcement of the agency preferred alternative does not represent a final decision, nor does it constitute the start of a public comment period. The purpose of releasing this information at this time is for Idaho Power to notify land owners that they need to begin their spring surveys. Mrs. Mabbott said the land owners for the new agency preferred alternative route will receive a postcard notification in the mail next week. A list of land owners will be available soon. She said the southerly route is primarily range land and doesn't impact any high value farm land in the county. It also avoids a lot of other farm ground. There will be more updates to come.

**ADJOURNMENT:**

Chair Randall adjourned the meeting at 8:06 p.m.

Respectfully submitted,

Tierney Dutcher  
Administrative Assistant

(Minutes adopted by the Planning Commission on \_\_\_\_\_)

# **UMATILLA COUNTY PLANNING COMMISSION**

**June 23, 2016**

## **NEW HEARING:**

### **LAND DIVISION REQUEST, #LD-5N-850-16, VADATA, INC APPLICANT, VADATA, INC. AND PORT OF UMATILLA OWNERS.**

The applicant requests approval to replat approximately 55.28 acres in the Port of Umatilla Subdivision consisting of Lots 5, 6, 9 and adjusted Lot 8. The property is split between the City of Umatilla and County jurisdiction. The County will process the application subject to coordination with the City. The criteria of approval are found in Sections 152.695 through 152.698 of the Umatilla County Development Code, Section 3.146 of the Umatilla County Zoning Ordinance, and Sections 11-2-6 and 11-4-5 of the City of Umatilla Land Division Ordinance.

# Umatilla County

Department of Land Use Planning

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DIRECTOR  
TAMRA  
MABBOTT

## MEMO

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

**TO:** Umatilla County Planning Commissioners

**FROM:** Brandon Seitz, Assistant Planner  $\beta S$

**DATE:** June 14, 2016

CODE  
ENFORCEMENT

SOLID WASTE  
COMMITTEE

**RE:** June 23, 2016, Planning Commission Hearing  
Vadata Replat Type III Land Division, # LD-5N-850-16

SMOKE  
MANAGEMENT

### Request

Vadata Inc. is requesting a Replat of Lots 5, 6, 9 and adjusted Lot 8 of the Port of Umatilla Subdivision.

GIS AND  
MAPPING

### Jurisdiction

The existing Lots are split between County and the City of Umatilla's jurisdictions. Lots 6, 9 and adjusted Lot 8 are located in City Limits. Lot 5 is located in the City's Urban Grown Area but falls under County jurisdiction. The County will process the application as directed by the Intergovernmental Agreement.

RURAL  
ADDRESSING

### Standards

The criteria of approval are found in Sections 152.695 through 152.698 of the Umatilla County Development Code, Section 3.146 of the Umatilla County Zoning Ordinance, and Sections 11-2-6 and 11-4-5 of the City of Umatilla Land Division Ordinance.

LIAISON,  
NATURAL  
RESOURCES &  
ENVIRONMENT

### Planning Commission's Decision

The Planning Commission may request additional information and continue the hearing or the Planning Commission may decide to approve or deny the applicant's request.

### Attachments

The following attachments have been include for review by the Planning Commission:

- Preliminary Finding and Conclusions
- Public Hearing Notice
- Applicant narrative and exhibits
- Wetland Map

**UMATILLA COUNTY PLANNING DEPARTMENT  
PRELIMINARY FINDINGS AND CONCLUSIONS  
REPLAT OF LOTS 5, 6, 9 AND ADJUSTED LOT 8  
OF THE PORT OF UMATILLA SUBDIVISION, PLAT BOOK 15, PAGE 31  
VADATA REPLAT #LD-5N-850-16  
Assessors Map # 5N 28 11, Tax Lot # 1700 &  
Assessors Map # 5N 28 14, Tax Lots #2100, 2200, 2400 and 2500**

- 1. APPLICANT:** Vadata, Inc., 410 Terry Ave N, Seattle, WA 98109
- 2. OWNERS:** Vadata, Inc., 410 Terry Ave N, Seattle, WA 98109 and Port of Umatilla, 500 Willamette Ave, Umatilla, OR 97882.
- 3. LOCATION:** The property is located northwest of the Highway 730 and Beach Access Road intersection.
- 4. EXISTING ACREAGE:**
- |        |                            |
|--------|----------------------------|
| Lot 5: | Tax Lot 1700 = 5.48 acres  |
|        | Tax Lot 2100 = 16.31 acres |
| Lot 6: | Tax Lot 2200 = 10.55 acres |
| Lot 8: | Tax Lot 2400 = 15.61 acres |
| Lot 9: | Tax Lot 2500 = 9.79 acres  |
- 5. RESULTING ACREAGE:**
- |                            |
|----------------------------|
| Replat Lot 1 = 46.63 acres |
| Replat Lot 2 = 4.62 acres  |
| Replat Lot 3 = 4.03 acres  |
- 6. REQUEST:** The applicant is proposing to replat Lots 5, 6, 9 and adjusted Lot 8 of the Port of Umatilla Subdivision. The replat will reconfigure the existing Lots into 3 new Lots. Replat Lot 1 would consolidate existing Lots 6, 9, adjusted Lot 8 and the southern portion of Lot 5. Replat Lots 2 and 3 would be the remainder of Lot 5 located directly north of Replat Lot 1 extending to Roxbury Road.
- The existing Lots are split between County and the City of Umatilla's jurisdictions. Lots 6, 9 and adjusted Lot 8 are located in City Limits. Lot 5 is located in the City's Urban Grown Area (UGA) but falls under County jurisdiction. The County will process the application as directed by the Intergovernmental Agreement.
- 7. COMP PLAN:** All of the existing Lots are located in the City's UGA and designated Industrial by the City's Comprehensive Plan.
- 8. ZONING:** Lots 6, 9 and adjusted Lot 8 are zoned Heavy Industrial (M-2) under the City's Zoning Ordinance. Lot 5 is also zoned Heavy Industrial (M-2) but falls under the County's Zoning Ordinance (UMZO).



- 9. ACCESS:** Lots 6, 8 and 9 have direct access to Beach Access Road. Lot 5 has direct access to Roxbury Road.
- 10. ROAD TYPE:** In the area of the proposed replat Beach Access Road is a two lane paved City Street and Roxbury Road is a two lane paved City Street.
- 11. EASEMENTS:** There is an existing access and utility easement across Lot 6. This easement will be vacated as the southern portion of Lot 5 served by the easement will be incorporated into Replat Lot 1.
- 12. LAND USE:** The area of the proposed replat has been developed with two industrial buildings and related utilities that are currently used for industrial purposes. Both of the existing buildings and related utilities would be located on proposed Replat Lot 1.
- 13. UTILITIES:** The property is served by Umatilla Electric Co-op for Utilities.
- 14. WATER/SEWER:** The existing Lots in City Limits are served by City water and sewer. The Lots under County jurisdiction are currently not developed with water or sewer.
- 15. NOTICES SENT:** June 3, 2016.
- 16. PLANNING COMMISSION HEARING DATE:** June 23, 2016.
- 17. NOTIFIED AGENCIES:** Department of Environmental Quality, Oregon Water Resources, County Public Works, County Assessor, City of Umatilla, Umatilla Rural Fire District, Pacific Power and Light and Umatilla Electric Co-op.
- 18. COMMENTS:** None to date.

**NOTE:** The proposed replat consist of lands located in the City's and County's jurisdictions. The County will apply the replat standards found in Section 152.695 through 152.698 of the Umatilla County Development Code (UCDC) to those portions located within the County's jurisdiction. However, the portions under County jurisdiction are located in the City's UGA and are subject to the City's Comprehensive Plan. In addition the lands under County Jurisdiction are zone M-2 and subject to the standards found is Section 3.146 of the Umatilla County Zoning Ordinance. The lands under the City's jurisdiction are subject to the City's Comprehensive Plan, Land Division Ordinance and Zoning Ordinance.

**STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR LAND DIVISIONS, Sections 152.695 through 152.698, Land Divisions, Type III contains the criteria of approval for a replat of and existing subdivision.** The following standards of approval are underlined and the findings are in normal text.

## 152.697 TENTATIVE REPLAT PLAN (UCDC)

**Note:** The following standards apply to Replat Lots 2, 3 and the portion of Replat Lot 1 not in City Limits.

(C) Criteria for approval of a Type III Land Division.

In granting approval of a tentative replat plan, the Planning Commission shall find that the tentative plan:

(1) Complies with applicable elements of the Comprehensive Plan

**Applicant Response:** Pursuant to the Joint Management Agreement between the City and County effective on March 26, 1996, the City's Comprehensive Plan applies to properties in the City's UGA, and the County's Comprehensive Plan is not applicable to these properties. Parcels [Lots] 2 and 3 are located in the unincorporated portion of the County within the City's UGA.

**County Findings:** The proposed replat is located entirely within the City's UGA and is subject to the City's Comprehensive Plans. This application is found to comply with the City's Comprehensive Plan. This criterion is met. (The applicable elements of the City's Comprehensive Plan are addressed below under the City's Land Division approval criteria)

(2) Complies with applicable provisions listed in the zoning regulations of this chapter:

3.146 DIMENSIONAL STANDARDS

In an M-2 Zone, the following dimensional standards shall apply:

- (1) Minimum Lot Area: As determined by the Department of Environmental Quality to be necessary for protection of public health;
- (2) Setback: No building shall be located closer than 30 feet from a lot line except by a ruling of the Planning Commission upon the request of a property owner;
- (3) Conditional Uses: Additional dimensional standards may be required by the Planning Department in approving a conditional use as provided by Article 7.

**Applicant Response:** There are no existing or proposed used or buildings on Parcels [Lots] 2 and 3.

**County Findings:** The replat area located in the County's jurisdiction is subject to the Dimensional Standards, listed above, found in Section 3.146 of the UCZO. The area under County jurisdiction is currently undeveloped. Therefore, the application is found to meet the required setbacks and provide adequate lot area. This criterion is met.

(3) Conforms and fits into the existing development scheme in the area, including logical extension of existing roads and public facilities within and adjoining the site;

**Applicant Response:** The development scheme in the area is that of an industrial park with existing platted lots and existing roads and public facilities. The application conforms and fits into this development scheme because it simply reconfigures existing

platted lots within the industrial park. The reconfigured lots will not require new roads or public facilities that were not contemplated by the subdivision.

**County Findings:** The portion of Replat Lot 1 under County jurisdiction and Replat Lot 3 would have access to a public road and facilities. This would conform to the existing Port of Umatilla Subdivision. Replat Lot 2 would not have direct access to a public road or facilities. The applicant has proposed a 30 foot <sup>ACCESS</sup> easement to serve Replat Lot 2. 30 feet is the County standard for an easement serving 3 or fewer parcels<sup>1/30-foot</sup>. However, Replat Lot 2 is located within the City's UGA and subject to the City's Transportation System Plan and standards. This in essence creates a flag lot under the City's Land Division Ordinance. A flag lot would require a 15 foot easement. The proposed 30 foot easement is found to be sufficient to satisfy <sup>and</sup> applicable County and City standards for access. Therefore, the proposed replat is found to conform to the existing development in the area.

- (4) Complies with the standards and criteria of § 152.667<sup>2</sup>, if applicable, due to the size, scope, and/or location of the request.

**Applicant Response:** The property is not located in a designated multiple use area.

**County Findings:** The proposed replat is not located in a designated multiple use area. This criterion is not applicable.

**STANDARDS OF THE CITY OF UMATILLA'S LAND DIVISION ORDINANCE AND ZONING ORDINANCE.** The following standards of approval are underlined and the findings are in normal text.

**11-2-6: LAND DIVISION APPROVAL CRITERIA** (City Title 11- Land Division Ordinance)  
No plat for a subdivision or partition may be considered for approval until the City has approved a tentative plan. Approval of the tentative plan shall be binding upon the City and the applicant for the purposes of preparing the subdivision or partition plat. In each case, the applicant bears the burden of proof to demonstrate that the proposal satisfies applicable criteria and standards.

A. Approval Criteria:

Land division tentative plans shall only be approved if found to comply with the following criteria:

1. The proposal shall comply with the City's Comprehensive Plan.

**Applicant Response:** For the reasons set forth in response to the City Comprehensive Land Use Plan provisions, listed below, the County should find that the application satisfies this criterion.

---

<sup>1</sup> Option 1 is to be used for easements serving 3 parcels or less and includes a 16 foot surface width with a minimum 30 foot easement width. Option 2 is to be used for easements serving 4 or more parcels. This standard includes a 22 foot surface width with a 60 foot easement width.

<sup>2</sup>152.667 Specific criteria for approvals of subdivisions in multiple use areas

## 2.2 IMPLEMENTATION (City Title 9 – Comprehensive Land Use Plan)

2.2.140 Subdivision: The subdivision ordinance established procedures and standards for Land Divisions including standards for lot arrangement, street widths and design, and provision of public utilities. **Applicant Response:** Applicant acknowledges that the applicable procedures and standards for land divisions in the City are set forth in the City's Subdivision Ordinance. This section of the narrative explains how the application satisfies the applicable provisions of the Subdivision Ordinance.

## 2.6 LAND USE PLANNING POLICY

2.6.105: Review of land use actions and land divisions shall be coordinated with the Oregon department of Transportation, Umatilla County, and Morrow County, as well as with the Umatilla School District 6R, The Umatilla Rural Fire Protection District, the Westland Irrigation District and any other public agency or utility as appropriate. The review process shall incorporate reasonable and appropriate conditions of approval of development proposals that are intended to minimize impacts and protect public facilities or transportation corridors, as recommend by service providers. **Applicant Response:** Applicant understands that the City and County will coordinate review of the application with affected agencies and that, if required, the review process will incorporate reasonable an appropriate conditions of approval to minimize impacts and protect public facilities or transportation corridors.

## 9.9 ECONOMIC DEVELOPMENT POLICIES

9.9.101: The City, through cooperation and a close working relationship with public and private sectors, will encourage new and continuous employment opportunities. **Applicant Response:** Approval of the application will facilitate full build-out of Parcel [Lot] 1 with industrial uses, which will encourage new continuous employment opportunities.

9.9.103: The City will coordinate with the Port of Umatilla and the Oregon Department of Economic Development on local and regional economic development projects. **Applicant Response:** Approval of this application will facilitate full build-out of Parcel [Lot] 1 with industrial uses, which is a significant economic development opportunity. Approval of the application will also further the Port's interests because the Port owns a portion of the Property, and the entire Property is located in the Port's largest industrial park adjacent to the barge dock.

9.9.104: The City wishes to maintain its role as a regional employer by maintaining at least a 20-year supply of industrial and commercial land. **Applicant Response:** Approval of the application will facilitate creation of Parcel [Lot] 1. Applicant intends to petition the City to annex the portion of Parcel [Lot] 1 not currently located in the City and to zone this area for industrial uses. Therefore, approval of the application will allow the City to maintain its role as a regional employer and allow the City to expand its industrial land supply.

#### 11.4 PUBLIC FACILITIES AND SERVICES FINDINGS

11.4.102: New development should occur in areas where public utilities are available before reaching out into areas that are not served. **Applicant Response:** Public Utilities are currently available to the Property.

11.4.104: Development of the City should occur in such a way as to facilitate the provision of police, fire protection and other services. **Applicant Response:** The property is located in an area that is already adequately served by police, fire and other services. Approval of the application will not change this fact.

#### 11.5 PUBLIC FACILITIES AND SERVICES POLICIES

11.5.101 (a): A proposed use can be connected to a public water and sanitary sewer system with adequate capacity. **Applicant Response:** The application does not propose a new use; however, the property is located in an area that is currently served by public water and sanitary sewer systems with adequate capacity.

11.5.101 (b): Surface water run-off can be handled on-site, or adequate provisions can be made for run-off which will not adversely affect water quality in adjacent streams, ponds, lakes, or other drainage on adjoining lands; nor will such run-off adversely affect the use of adjoining or downstream properties. **Applicant Response:** The application does not propose any development that will generate surface water run-off; however, the property is located in an existing industrial park that has adequate provisions for run-off that do not adversely affect off-site properties or water quality.

#### 14.10 URBANIZATION POLICIES

14.10.105: The City will enter into a formal agreement with the County on how to coordinate issues within the urban growth area. The agreement shall include, but not be limited to: zoning, subdivisions, roads, services, conditional uses, variances, major partitions, and annexations. **Applicant Response:** The City and County entered into an Intergovernmental Agreement to coordinate review and decision-making for the application, which is a subdivision affecting property within the urban growth area.

**County Findings:** In addition to the policies addressed above by the applicant the proposed replat is subject to the following policy:

#### 5.6 NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES GOAL POLICIES

5.6.101: The City will protect natural resource areas and require that the long-range availability and use of the following will not be limited or impaired by development.

- Mineral and aggregate deposits
- Energy resources
- Domestic water supplies

- Fish and wildlife habitats
- Ecologically and scientifically significant natural areas
- Agricultural land not needed for urbanization
- Historically significant sites/areas
- Wetlands and riparian areas

The proposed replat contain inventoried wetland areas. However, as no land disturbing activities are proposed the existing wetlands will not be affected and will be preserved in its current condition. If/when development occurs in the replat area measures to mitigate impacts/protect the natural resource will be implement by the appropriate jurisdiction. Therefore, the County finds that as address above the proposed replat complies with the applicable policies of the City’s Comprehensive Plan. This criterion is met.

2. The proposal shall comply with the I-82/U.S. 730 interchange area management plan (IAMP) and the access management plan in the IAMP (Section 7) as applicable.

**Applicant Response:** Parcel [Lot] 1 is not subject to the I-82/U.S. 730 interchange area management plan and the access management plan.

**County Findings:** The proposed replat is not located in the I-82/U.S. 730 interchange area. This criterion is not applicable.

3. The proposal shall comply with the City's zoning requirements.

**Applicant Response:** The applicable City zoning requirements include the City’s lot standards and dimensional standards for the City’s M-2 zoning district. These standards are addressed below. For the reasons explained below, Parcel [Lot] 1 satisfies these standards.

**County Findings:** Replat Lot 1 meets the dimensional standards as required by the City’s Zoning Ordinance in Section 10-5B-4<sup>3</sup>. The City’s lot standards are addressed below. This criterion is met.

4. The proposal shall comply with the City's Public Works Standards.

**Applicant Response:** The application does not propose any public improvements.

**County Findings:** The roads and public facilities serving Replat Lot 1 have already been developed. The existing roads comply with the City’s Public Work Standards. This

<sup>3</sup> Dimensional Standards (Title 10 – Zoning Ordinance)

|                       |  |
|-----------------------|--|
| Minimum lot width     | 80 feet  |
| Minimum lot depth     | 100 feet   |
| Minimum yard setbacks |  |
| Front and rear yard   | 10 feet if 20 feet if adjacent to residential district |
| Side yard             | 0 feet or 20 feet if adjacent to residential district  |
| Street side yard      | 10 feet or 20 feet if adjacent to residential district |
| Rear yard             | 0 feet or 20 feet if adjacent to residential district  |
| Parking area          | 10 feet  |

criterion is met.

5. The proposal shall comply with applicable State and Federal regulations, including, but not limited to, Oregon Revised Statutes 92, 197, 227, and wetland regulations.

**Applicant Response:** The City and County standards addressed in this narrative implement applicable state requirements, including applicable requirements, of ORS 92, 197, and 227. There are no wetlands located on the property. There are no federal regulations that constitute approval criteria applicable to the application.

**County Findings:** Replat Lot 1 contains wetlands as shown on the National Wetlands Inventory (NWI) and figure 5-1.2 in the City's Comprehensive Plan. However, the proposed replat will not require a Wetland Land Use Notice to the Department of State Lands (DSL) because no land disturbance is proposed. The proposed replat only reconfigure the existing property lines. Therefore, the application is found to comply with the applicable State and Federal regulations. This criterion is met.

6. The proposal shall conserve inventoried natural resource areas and flood plains, including, but not limited to, mapped rivers, creeks, sloughs, and wetlands.

**Applicant Response:** There are no inventoried natural resource areas or flood plains located on Parcel [Lot] 1. See City Comprehensive Plan figures 5.1-1 (floodplains) and 5.1-2 (wetlands).

**County Findings:** As referenced above the County finds there are mapped wetlands as depicted on the NWI and City's Comprehensive Plan figure 5.1-2. The wetlands are the only natural resource found on Replat Lot 1. The proposed replat would not affect the mapped wetlands. If/when development occurs, i.e. ground disturbance, a Wetland Land Use Notice to DSL will be required. Therefore, as no development is proposed the mapped wetlands will be conserved in their present condition. This criterion is met.

7. The proposal shall minimize disruption of natural features of the site, including steep slopes or other features, while providing for safe and efficient vehicle, pedestrian, and bicycle access.

**Applicant Response:** Parcel [Lot] 1 does not include any inventoried natural features. See City Comprehensive Plan figures 5.1-4 (floodplains), 5.1-2 (wetlands), and 7.1-2 (slopes).

**County Findings:** Replat Lot 1 does not have inventoried natural features as identified in City's Comprehensive Plan. This criterion is not applicable.

8. The proposal shall provide adjacent lands with access to public facilities and streets to allow its full development as allowed by the City's codes and requirements.

**Applicant Response:** Although the application proposes to extinguish an access easement connecting Lot 5 with Beach Access Road, the application ensures that Lot 5 will continue to have access to public streets as follows: (1) the portion of Lot 5 that is being incorporated into Parcel [Lot] 1 will have direct frontage on and access to Beach Access Road; (2) the portion of Lot 5 that is being platted as Parcel [Lot] 2 will have

access to Roxbury Road via and easement across Parcel [Lot] 3; and (3) the portion of Lot 5 that is being platted as Parcel [Lot] 3 will have direct frontage on and access to Roxbury Road. Further, the replat does not landlock any adjacent lands or affect how any adjacent lands in the City take access to public facilities and streets.

**County Findings:** The proposed replat would not affect the adjacent lands access to public facilities and streets. Replat Lots 1 and 3 would have access to a public street and facilities. Replat Lot 2 would not have direct access to a public street or facilities and would be served by access easement across Replat Lot 3. This criterion is met.

9. The proposal shall be designed with streets that continue or connect to existing and planned land division plats on adjoining properties. All proposed streets shall comply with standards of this Title and the Public Works Standards.

**Applicant Response:** There are no existing public streets on properties that adjoin Parcel [Lot] 1.

**County Findings:** The existing Port of Umatilla Subdivision streets connect to the existing streets on adjacent lands. Replat Lot 1 does not contain a proposed street. This criterion is met.

10. The City's Decision on a land division application shall include written findings for each required dedication or improvement that identify the legitimate governmental purpose, the relationship between the purpose and the exaction, and the rough proportionality in nature and extent, between the requirement and the projected impacts of the proposed development.

**Applicant Response:** There is no basis for the City to require dedications or improvements in conjunction with this replat.

**County Findings:** The application is for a replat of an existing subdivision all of the necessary dedications and improvements were evaluated with the original subdivision application. This criterion is not applicable.

#### **11-4-5: LOTS (City Title 11- Land Division Ordinance)**

Lot and parcel size, shape, and orientation shall be consistent with the applicable zoning district and for the type of use contemplated. No lot or parcel dimension shall include the adjacent public right-of-way.

- A. Through lots with public streets on both front and rear or both sides shall be avoided except when essential to provide separation of residential development from adjacent arterial or collector streets. An easement of at least five feet (5') in width shall be located adjacent to the right-of-way and there shall be no right of access to the major street. A permanent barrier may be required along the Right-of-way, within the easement.

**Applicant Response:** Parcel [Lot] 1 is not a through lot.

**County Findings:** Replat Lot 1 is not a through lot. This criterion is not applicable.



- B. Lot and parcel side lot lines shall be at right angles to fronting streets or radius to curved streets to the extent practical, in order to create lots and parcels with building sites which are nearly rectangular.

**Applicant Response:** The northern lot line for Parcel [Lot] 1 is at a right angle to Beach Access Road. Because Highway 730 passes Parcel [Lot] 1 on a diagonal angle, the southern and western lines of Parcel [Lot] 1 do not intersect their fronting streets at right angles. Notwithstanding this fact, the side lot lines for Parcel [Lot] 1 are arranged to create a reasonable building site.

**County Findings:** To the greatest extent practical Replat Lot 1 would be rectangular with lot lines at right angles to the fronting street. This criterion is met.

- C. Lots shall have a width to depth ratio not to exceed 2.5.

**Applicant Response:** At its widest point, the width of Parcel [Lot] 1 is approximately 1797 feet. At its deepest point, the depth of Parcel [Lot] 1 is approximately 1227 feet. Thus, at its highest, the width to depth ratio of Parcel [Lot] 1 is 1.46, which does not exceed 2.5.

**County Findings:** As stated above Replat Lot 1 would not exceed a 2.5 width to depth ratio. This criterion is met.

- D. All lots and parcels shall have a minimum street frontage on a public street of fifty feet (50'), except that lots or parcels fronting a cul-de-sac or curved street may have a minimum street frontage of forty feet (40'), so long as the minimum lot width required by the zoning district is provided at a distance equivalent to the required front yard setback.

**Applicant Response:** Parcel [Lot] 1 has frontage of approximately 1181 feet on Highway 730. Parcel [Lot] 1 has two frontages on Beach Access Road (one of approximately 927 feet and the other of approximately 469 feet). All of these street frontages exceed the 50-foot minimum.

**County Findings:** Replat Lot 1 would meet the required street frontage of 50 feet. This criterion is met.

- E. Flag lots shall not be acceptable for land divisions, but may be approved if the following circumstances apply:

1. For one or two (2) lot land divisions when it is not practical to create or extend a public street or partial public street due to the nature of surrounding development.
2. When topographic conditions or other physical constraints make it impractical or infeasible to create or extend a public street.
3. When the size and shape of the site limit the possible arrangement of new lots or parcels and prevent the creation or extension of a public street.
4. When allowed, the flag portion of a new lot shall have a minimum width of fifteen feet (15') to accommodate a driveway a minimum of twelve feet (12') wide. Two (2) adjacent flag lots may reduce the street frontage and pole width to twelve feet (12') wide, if joint access easements are created and a driveway is provided with a minimum width of twenty feet (20').

**Applicant Response:** Parcel [Lot] 1 is not a flag lot.

**County Findings:** Replat Lot 1 is not a flag lot. This criterion is not applicable.

**DECISION: BASED UPON THE ABOVE FINDING THE VADATA TYPE III LAND DIVISION REQUEST, #LD-5N-850-16, MAY BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

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

1. Submit a Subdivision Replat complying with State and County regulations. The survey shall show all easements, including the required 30 feet easement to serve Replat Lot 2, road names and include the replat name, *Port-Vadata Replat*.

Subsequent Conditions: The following subsequent conditions must be fulfilled for final approval of the Replat.

2. Record the Subdivision Replat.

UMATILLA COUNTY PLANNING COMMISSION

Dated \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

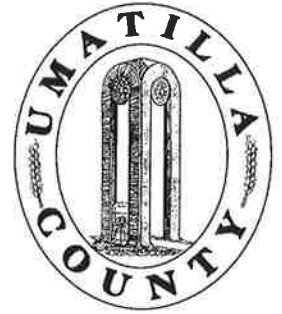
\_\_\_\_\_  
Randy Randall, *Chair*

Mailed \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

# Umatilla County

Department of Land Use Planning

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DIRECTOR  
TAMRA  
MABBOTT

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

CODE  
ENFORCEMENT

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

GIS AND  
MAPPING

RURAL  
ADDRESSING

LIAISON,  
NATURAL  
RESOURCES &  
ENVIRONMENT

## CORRECTED NOTICE OF PUBLIC HEARING UMATILLA COUNTY PLANNING COMMISSION

YOU ARE HEREBY NOTIFIED of a Public Hearing to be held before the Umatilla County Planning Commission on **Thursday, June 23, 2016 at 6:30 PM** at the Stafford Hansell Government Center, 915 SE Columbia Drive, Hermiston, OR. The Public Hearing is in regard to LAND DIVISION REQUEST, #LD-5N-850-16, application submitted by VADATA, INC, property owners VADATA, INC. AND PORT OF UMATILLA. The property is located at the northwest corner of the Highway 730 and Beach Access Road, in Township 05N, Range 28E, Sections 14 and 11.

The applicant requests approval to replat approximately 55.28 acres in the Port of Umatilla Subdivision consisting of Lots 5, 6, 9 and adjusted Lot 8. The property is split between the City of Umatilla and County jurisdiction. The County will process the application subject to coordination with the City. **The criteria of approval are found in Sections 152.695 through 152.698 of the Umatilla County Development Code, Section 3.146 of the Umatilla County Zoning Ordinance, and Sections 11-2-6 and 11-4-5 of the City of Umatilla Land Division Ordinance.**

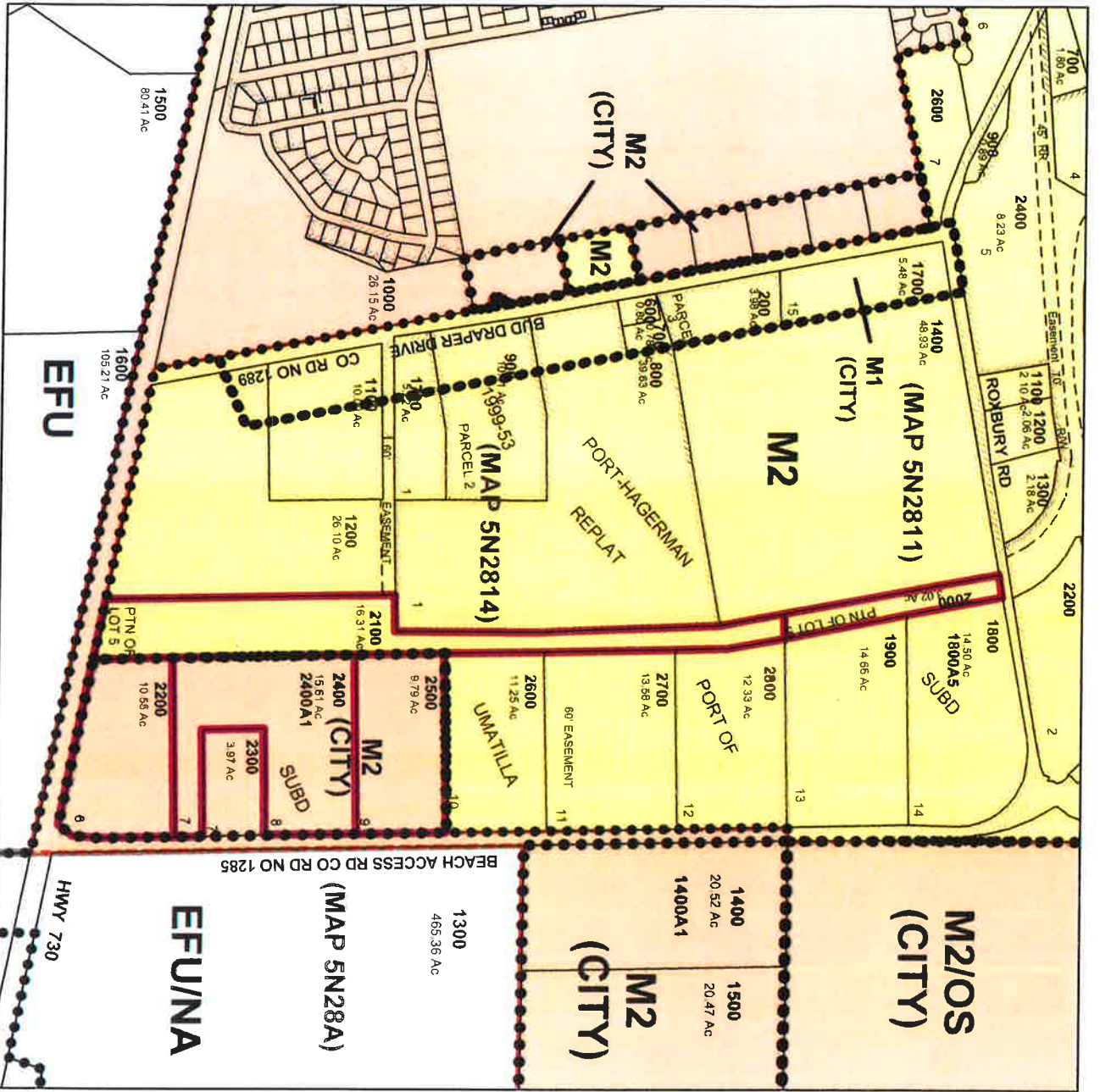
For further information concerning the above proposal, please contact Assistant Planner, Brandon Seitz at the Umatilla County Planning Department, 216 SE 4<sup>th</sup> Street, Courthouse, Pendleton, Oregon 97801; telephone 541-278-6249.

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

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

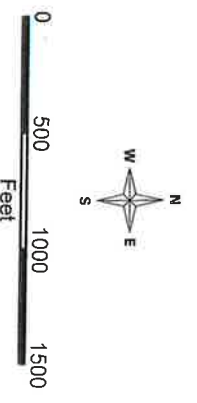
DATED THIS 9<sup>th</sup> day of June 2016

UMATILLA COUNTY PLANNING DEPARTMENT



**PROPERTY OWNERS WITHIN 100'  
OF SUBJECT PARCEL**

| MAP & TAX LOT   | OWNER                               |
|-----------------|-------------------------------------|
| 5N28110001400   | J-M MANUFACTURING CO INC            |
| 5N28110001800   | SJR PROPERTIES LLC                  |
| 5N28110001800A6 | SJR PROPERTIES LLC                  |
| 5N28110001900   | UMATILLA PORT OF                    |
| 5N28110002000   | UMATILLA PORT OF                    |
| 5N28110002200   | BOISE WHITE PAPER LLC               |
| 5N28110002400   | PORT OF UMATILLA                    |
| 5N28140000800   | RS DAMS RECYCLING LESSEE            |
| 5N28140001200   | A T CHASE, LLC                      |
| 5N28140001200   | 730 DRAPER LLC                      |
| 5N28140002100   | % BOB HALE                          |
| 5N28140002200   | UMATILLA PORT OF                    |
| 5N28140002300   | VADATA INC                          |
| 5N28140002400   | UMATILLA ELECTRIC COOPERATIVE ASSOC |
| 5N28140002500   | VADATA INC                          |
| 5N28140002600   | VADATA INC                          |
| 5N28140002700   | UMATILLA PORT OF                    |
| 5N28140002800   | UMATILLA PORT OF                    |
| 5N28140001300   | DEPT OF INTERIOR BIA, CTUIR         |



DATE: 6/1/16

LAND DIVISION #LD-5N-850-16  
 VADATA INC., APPLICANT / PORT OF UMATILLA, OWNER  
 MAP 5N2814, TAX LOTS 2100, 2200, 2400, 2500 & MAP 5N2811, TAX LOT 2000

SUBJECT PARCELS  
 CITY LIMITS  
 URBAN GROWTH BOUNDARY

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only.  
 Created by J. Alford, Umatilla County Planning Dept.  
 Y:\workspace\planning\w\city\maps\U-Z\Vadata\_LD-5N-850\_16.gws

**- For Office Use Only -**

**Application Fee (non-refundable):**

The acceptance of the fee does not mean the application is determined to be complete at this time. \$ \_\_\_\_\_

Assigned Application #: \_\_\_\_\_

## Umatilla County Department of Land Use Planning Land Use Request Application

This application must be submitted to the Umatilla County Department of Land Use Planning, 216 SE 4<sup>th</sup> ST, Pendleton, OR 97801, (541) 278-6252, and must be accompanied by a non-refundable application fee. Acceptance of the application and fee does not guarantee approval or a Determination of Completeness.

**PLEASE COMPLETE THIS APPLICATION PRINTING CLEARLY WITH A BLACK INK PEN**

### **Section 1: Type of Application(s) to Submit**

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

**Amendment:**  Comprehensive Plan Text/Map,  Zoning Text/Map

**Conditional Use**  (briefly describe) \_\_\_\_\_

**Land Division**  Type I,  Type II,  Type III,  Type IV

**Land Use Decision**  Farm Dwelling,  Non-Farm Dwelling,  Lot of Record Dwelling  
(OTHER LUD, briefly describe) \_\_\_\_\_

**Pre-Application**  Dwellings on resource land (specify) \_\_\_\_\_

**Variance**  Lot Size,  Setbacks,  Other (specify) \_\_\_\_\_

### **Section 2: Contact Information**

**Name of Applicant:** Vadata, Inc.

**Address:** 410 Terry Ave N

**City, State, Zip:** Seattle, WA 98109

**Telephone Number & Email Address:** Attn: Jim Footh, 206.794.1191, jfooth@amazon.com

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

**Name of Current Property Owner(s):** Port of Umatilla (as to Lot 5) Attn: Kim B. Puzey  
If Property Owner is not the applicant.

**Address:** 500 Willamette Ave, PO Box 879

**City, State, Zip:** Umatilla, OR 97882

**Telephone Number:** 541.922.3224

### Section 3: Property Information

Complete for all land use request applications.

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

Northwest corner of Highway 730 and Beach Access Road

2. Account Number(s) of Property:

Account # \_\_\_\_\_

Account # \_\_\_\_\_

3. Map Number(s) of Property:

Township 5N Range 28E Section 14 Tax Lot several 2100, 2200, 2400

Township 5N Range 28E Section 11 Tax Lot 2000

2400 A1 + 2500

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

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

Yes  
 No

2400 Beach Access Road, Umatilla

5. Current size of the Property:

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

Acres 55.28

Acres \_\_\_\_\_

6. Current Zoning Designation:

There are some 22 zoning designations in Umatilla County.

EFU  
 GF

Other Zone M-2 (County); M-2 (City)

7. Comprehensive Plan Designation:

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

Agri-business  
 Commercial  
 Grazing/Forest  
 Industrial  
 Multi-Use

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

8. Buildings on the Property:

Two light industrial buildings and related utilities

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

Light industrial and related utilities

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

Agricultural and industrial

11. Does the Property reside in a Floodplain?  
If so, a Floodplain Development Permit will need to be completed prior to construction.

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

Zone \_\_\_\_\_

Community Number \_\_\_\_\_

Panel Number \_\_\_\_\_

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

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

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

*Name of Road or Lane*

Beach Access Road \_\_\_\_\_

- Paved,  Gravel,  Dirt

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

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

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

*Attach easement documentation:*

- Access easements exist  
 Utility line easements exist  
 Irrigation easements exist  
 Other easements exist: Port of Umatilla Subdivision  
 No, other easements exist.

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

*Fire Services:*

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

*Private Companies:*

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

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

*Irrigation District:*

- Hermiston  
 Stanfield  
 West Extension  
 Westland

Hudson Bay or  
Walla Walla River  
Irrigation

Not in an ID

Other, \_\_\_\_\_

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

| Map Unit | Description           | Class |
|----------|-----------------------|-------|
| 94A      | Starbuck-Rock outcrop |       |
|          |                       |       |
|          |                       |       |

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

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

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

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

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

- Expected Water Usage:*
- Exempt Domestic Well (<15,000 gal daily)  
 Exempt Commercial Well (<5,000 gal daily)  
 Water Right required, estimated number of gallons to be used daily: \_\_\_\_\_ gallons  
 No water is necessary for the development

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

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

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

Water  well, or N/A  
 Sewer  septic, or N/A

Telephone Varies  
 Electrical Umatilla Electric Corp.  
 Garbage Disposal Sanitary Disposal

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

Replat a portion of Port of Umatilla Subdivision to:

- (1) Reconfigure Lots 5, 6, 9, and adjusted Lot 8 into three units of land;
- (2) Extinguish 60-foot access and utility easement to existing Lot 5 across Lot 6; and
- (3) Extinguish blanket railroad corridor and access tract and utility easement across new Parcels 1 and 2.



## Section 4: Required Application Materials

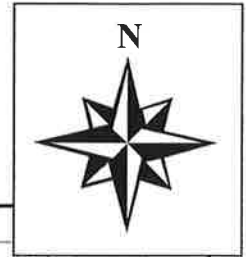
25. These materials are to be submitted with the application: The proceeding page is to be used as a base for the site plan. This drawing DOES NOT take the place of any maps required to be submitted by a Licensed Surveyor. This site plan will show what is or will be on the property. Additional material may be requested.

| <input checked="" type="checkbox"/>                      | <b>Materials to be submitted for ALL types of Applications:</b>  |  |                 |                   |                     |  |            |
|--|--|--|-----------------|-------------------|---------------------|--|------------|
| <input checked="" type="checkbox"/>                      | a) Completed Application form.   |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | b) Applicable Application fees.  |  |                 |                   |                     |  |            |
|  | c) Site Plan Marked Exhibit B (see next page) to include:  |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • Scale of drawing   |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • Site area showing <u>property boundaries</u> and dimensions  |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • Proposed and existing <u>structures</u> with dimensions to nearest Property lines  |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • Location of existing <u>wells</u>  |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • Location of existing <u>septic systems</u> (i.e. tanks, drain fields)  |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • Widths and names of <u>roads</u> adjacent to the site as well as existing roads, which provide direct access to the property.  |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • Existing <u>access points</u> (driveways, lanes, etc.)   |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • <u>Easements</u> and rights-of-ways  |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • Existing <u>utility lines</u> (above and below ground)   |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • Approximate location of any unusual <u>topographical</u> features.   |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • Major <u>geographic</u> features   |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | • Location of all creeks, streams, ponds, springs and other drainage ways  |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | d) <u>VICINITY MAP</u> – Assessor’s map of the Property.   |  |                 |                   |                     |  |            |
| <input type="checkbox"/>                                 | e) <u>Property ASSESSOR’S REPORT</u> showing property details.   |  |                 |                   |                     |  |            |
| <input type="checkbox"/>                                 | f) The <u>DEED(S)</u> of the Property in question.   |  |                 |                   |                     |  |            |
| <input type="checkbox"/>                                 | g) <u>Property TAX LOT CARD(S)</u> and description of property.  |  |                 |                   |                     |  |            |
| <input type="checkbox"/>                                 | h) <b>OVERLAY MAP</b> showing potential re-division of the parcels (if the parcels are large enough to be re-divided). Within the Hermiston Urban Growth Boundary, a formal “Shadow Plat” may be required.   |  |                 |                   |                     |  |            |
| <input checked="" type="checkbox"/>                      | i) <b>SUPPLEMENTAL APPLICATION</b> for the land use request will also be required to be submitted with this basic application form. Submit a Supplemental Application if applying for any of the following: <table style="margin-left: 40px; width: 100%;"> <tr> <td>- Amendment to Comprehensive Plan/Map or Zoning Text/Map</td> <td>- Land Division</td> </tr> <tr> <td>- Conditional Use</td> <td>- Land Use Decision</td> </tr> <tr> <td></td> <td>- Variance</td> </tr> </table> | - Amendment to Comprehensive Plan/Map or Zoning Text/Map | - Land Division | - Conditional Use | - Land Use Decision |  | - Variance |
| - Amendment to Comprehensive Plan/Map or Zoning Text/Map | - Land Division  |  |                 |                   |                     |  |            |
| - Conditional Use  | - Land Use Decision  |  |                 |                   |                     |  |            |
|  | - Variance   |  |                 |                   |                     |  |            |



## Exhibit B, "Site Plan"

Please include the details listed under item (c)  
found in Section 4 (on preceding page)

A large rectangular area filled with a fine grid of small squares, intended for drawing a site plan. The grid covers most of the page's width and height.

**Section 5: Certification**

Original signatures only, photocopies, faxes, etc. will not be accepted.

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

X \_\_\_\_\_  
Signature of Applicant

5/17/16  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Applicant

**PROPERTY OWNER(S):** ALL property owners to this land use request are to sign, date and print their names verifying that the applicant is authorized to submit the specified land use request. If there are multiple parcels that are part of this land use request, please indicate which parcel you own. This page can be copied if there are more property owners than this space allows. Attach additional page if necessary.

Legal Owner(s) Vadata, Inc.

Mailing Address 410 Terry Ave N City, State, Zip Seattle, WA 98109

Parcel Map # 5N 28E Sect. 14 Tax Lots 2200, 2400, 2400A1, 2500

X \_\_\_\_\_  
Signature of Legal Owner

X \_\_\_\_\_  
Signature of Legal Owner

5/17/16  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\* \* \* \* \*

Legal Owner(s) Port of Umatilla

Mailing Address 500 Willamette Ave, PO Box 879 City, State, Zip Umatilla, OR 97882

Parcel Map # 5N 28E Sect. 14 Tax Lot 2100, 5N 28E Sect. 11 Tax Lot 2000

X \_\_\_\_\_  
Signature of Legal Owner

X \_\_\_\_\_  
Signature of Legal Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ADDITIONAL PERSON(S) TO SEND NOTICE**

Is there anyone else besides the property owner and adjacent property owners who would like to receive notice of this application during its' review period and notice of decision? (Realtor, Prospective Buyer, Attorney, etc.) Provide name and mailing address:

Name: Seth King

Address: Perkins Coie LLP, 1120 NW Couch St, Tenth Flr, Portland, OR 97209



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## Section 3 - Type III -Replat

Taken from UCDC 152.695 – 698, Land Division; also review the provisions in UCDC 152.610 – 652 “General Provisions” which applies to all land division applications.

Type III Land Division is a replat of an existing subdivision (or “addition”), whereby the lot configuration, the public roads or streets, and/or the dedicated easements are proposed to be realigned. Replatting includes adjustments to the boundary lines between adjoining lots, except as provided for survey corrections under Type V Land Divisions. This subchapter is intended to implement the requirements of ORS 92.180 through 92.190. Review and approval of a Type III Land Division shall be as follows in §§ 152.696 through 152.698.

NOTE: A tentative replat plan shall be filed with the Planning Director, who shall schedule it to be reviewed via the public hearing process before the Planning Commission, pursuant to §§ 152.770, 152.771 and 152.772.

- 
1. Is a written report/map describing the replat attached? Details of the report are outlined in UCDC 152.697 (B) *Contents of a tentative replat plan*
- Yes, the tentative replat plan is attached and follows the requirements of UCDC 152.697 (B).
- No report is being submitted.

The written report and map will contain these details:

- (a) Location of existing structures and buildings, including distances to existing lot lines.
- (b) Location of natural features, including streams, bluffs, rock out-crops, ponds, and wetlands.
- (c) Use of the land within the proposed replat.
- (d) Location and identification of all existing utility lines and irrigation ditches.
- (e) Location of existing driveways.
- (f) Location and identification of existing roads and access easements.
- (g) Other restrictive features specific to the site and not identified above.
- (h) The location of the proposed new lot lines, roads, and easements, and distances with respect to existing lot lines, existing structures, utility lines, and the like, as needed to determine compliance of the proposal with the standards of this chapter.

- 
2. Is a written report describing the replat attached? Details of the report are outlined in UCDC 152.697 (C) *Criteria for approval of a Type III Land Division*.
- Yes, the report is attached and follows the requirements of UCDC 152.697 (C).
- No report is being submitted.

The written report is to answer the following criteria:

- (a) Complies with applicable elements of the Comprehensive Plan;
- (b) Complies with applicable provisions listed in the zoning regulations of this chapter;
- (c) Conforms and fits into the existing development scheme in the area, including logical extension of existing roads and public facilities within and adjoining the site;
- (d) Complies with the standards and criteria of § 152.667, if applicable. due to the size, scope, and/or location of the request.

**BEFORE THE PLANNING COMMISSION FOR UMATILLA COUNTY, OREGON**

**In the Matter of a Request to Replat  
Approximately 55.28 Acres of Real  
Property Consisting of Lots 5, 6, 9, and  
Adjusted Lot 8 in the Port of Umatilla  
Subdivision and Generally Located at  
the Northwest Corner of Highway 730  
and Beach Access Road.**

**NARRATIVE IN SUPPORT OF THE  
APPLICATION FILED BY VADATA, INC.**

**I. Introduction.**

Vadata, Inc., a Delaware corporation (“Applicant” or “Vadata”), submits this application (“Application”) requesting that Umatilla County (“County”) approve a Type III land division to replat approximately 55.28 acres in the Port of Umatilla Subdivision (“Subdivision”) consisting of Lots 5, 6, 9, and adjusted Lot 8 (“Property”).

This narrative explains how the Application satisfies the approval criteria of the Umatilla County Development Code (“UCDC”) and the City of Umatilla Zoning Ordinance (“Zoning Ordinance”). Because the Application satisfies these approval criteria, the County should approve the Application.

**II. Description of Request.**

The replat reconfigures the Property into three parcels, extinguishes one easement, and limits the extent of another easement as follows:

- Consolidates Lots 6, 9, adjusted Lot 8, and the southern portion of Lot 5 into a new unit of land (Parcel 1) that is approximately 46.63 acres in size.
- Creates Parcel 2 immediately north of Parcel 1 from a portion of Lot 5. Parcel 2 is approximately 4.62 acres in size. Parcel 2 will be landlocked but will have access to Roxbury Road via an easement created on Parcel 3.
- Creates Parcel 3 immediately north of Parcel 2 from a portion of Lot 5. Parcel 3 is approximately 4.03 acres in size.

- Extinguishes a 60-foot wide access and utility easement connecting Lot 5 and Beach Access Road across Lot 6. The easement is no longer necessary because the southern portion of Lot 5 is being incorporated into Parcel 1, which will have direct frontage on Beach Access Road.
- Extinguishes a blanket railroad access and utility corridor easement on Parcels 1 and 2, although this easement will continue to apply to Parcel 3. This blanket easement is no longer necessary on Parcels 1 and 2 because these portions of Lot 5 will no longer function as a railroad access or utility corridor.

A copy of the proposed replat is included in Exhibit 1.

The Property is split between the City and County: Lot 5 of the Property is currently unincorporated, while the remainder of the Property is located in the City. The City and County have agreed that the County will process the Application for the entire Property, subject to review for compliance with applicable City and County approval criteria and subject to coordination with the City. See that certain Intergovernmental Agreement between the City and County dated February 5, 2016.

Upon approval and recording of the replat, Vadata intends to annex the balance of Parcel 1/the southern portion of Lot 5 into the City. Parcels 2 and 3 of the replat will not be annexed and will remain under the County's jurisdiction.

### **III. Description of Subject Property and Surrounding Area.**

The Property is approximately 55.28 acres in size and consists of Lots 5, 6, 9, and adjusted Lot 8 of the Subdivision. Lot 5 is a long, narrow lot that extends from Roxbury Road on the north to Highway 730 on the south. Lots 6, 9, and adjusted Lot 8 are located immediately east of Lot 5 and clustered at the northwest corner of Highway 730 and Beach Access Road. The Property does not include adjusted Lot 7 of the Subdivision. The Property is located in the northeast quarter of Section 14 and southeast quarter of Section 11, Township 5 North, Range 28 East, Willamette Meridian. A vicinity map that identifies the Property is attached as Exhibit 2. There are currently two light industrial buildings and related utilities located on the Property, although a significant portion of the Property is currently undeveloped.

The Port of Umatilla ("Port") owns Lot 5, which is located in unincorporated Umatilla County and zoned County M-2 (Heavy Industrial). Vadata owns the remainder of the Property, which is located inside the City boundaries and is zoned City M-2 (Heavy Industrial).

The Property is located in the McNary Industrial Park. Surrounding properties are zoned M-2 or EFU, and they are either vacant or developed with industrial uses. The City has identified the land across Beach Access Road to the east as its ideal candidate property for expanding the UGB to allow for additional industrial development:

“The optimum location for a new industrial site is 160 acres owned by the Port of Umatilla, south of the Two Rivers Correctional Facility site on Beach Access Road. Public sanitary sewer and water are available in the road. Street access is good, with a connection directly to U.S. Highway 730; rail could be made available, and the Port’s dock facility is approximately one mile. The site is on the northeast edge of the City, where impacts on residential or commercial areas are minimized by distance and the prevailing southwest wind. The site is currently zoned for Exclusive Farm Use (EFU), although there is no water right and the soils are very poor owing to proximity of bedrock.”

City Comprehensive Plan at pp. 445-446. This passage suggests that, although this site is currently zoned for agricultural uses, its characteristics indicate that it may convert to industrial use in the future.

#### **IV. Land Division History of the Property.**

In 2007, the Property was platted with the approval of the Port of Umatilla Subdivision recorded at Book 15, Page 31 *et seq.* of the Plat Records of Umatilla County, Oregon.

In 2015, the City approved a lot-line adjustment that shifted property from Lot 7 of the Subdivision to Lot 8 of the Subdivision.

In 2016, the City and County entered that certain Intergovernmental Agreement to establish a joint process for reviewing and approving a replat of the entire Property. The key points of that process are as follows:

- The owners may apply for a tentative replat of the entire Property.
- The County is responsible for processing the application consistent with its tentative replat review procedures.
- The County is required to apply City approval criteria to that part of the Property in the City limits and County approval criteria to that part of the Property in the unincorporated portion of the County.



- The County must coordinate with City Planning staff during completeness review and compliance review to make certain the City’s concerns are addressed in a timely manner.
- The County’s final decision on the tentative replat application is final and binding as to both County and City.
- The land division is also subject to obtaining approval of a final plat for the Property.

A complete copy of the Intergovernmental Agreement is included as Exhibit 3. The effect of the Intergovernmental Agreement is that the County procedural criteria and application requirements apply to the Application, and both the County and City substantive approval criteria apply to the Application.

**V. Applicable County Approval Criteria.**

As explained above, pursuant to the Intergovernmental Agreement, the County is required to apply the County’s tentative replat approval criteria to that portion of the Property located in the unincorporated portion of the County (Parcels 2 and 3). This section of the narrative identifies and responds to these criteria, which are from the UCDC and the 1972 Umatilla County Zoning Ordinance (“UCZO”).

**A. Umatilla County Development Code.**

**UCDC § 152.645 DELEGATION OF AUTHORITY FOR LAND DIVISIONS.**

**(A) The Planning Commission shall have the authority to approve, deny or modify tentative plans and final plats for Type I and Type III Land Divisions.**

**RESPONSE:** The Application is for a tentative replat plan, which is a Type III Land Division. Applicant acknowledges that the County Planning Commission has jurisdiction to review and make a decision on the Application.

**UCDC § 152.646 PROPOSALS DESIGNATED TO LAND DIVISION TYPES.**

\* \* \* \*

**(C) Type III Land Division.**

**(1) The following proposals are designated Type III Land Divisions: replats of subdivisions.**

RESPONSE: The Application proposes to replat a portion of the Subdivision. Therefore, it is designated as a Type III Land Division.

**(2) Review and approval procedures for Type III Land Divisions are set forth in §§ 152.695 through 152.698 of this chapter.**

RESPONSE: The Application proposes a Type III Land Division. Pursuant to this section, the Application is subject to the review and approval procedures set forth in UCDC 152.695 through 152.698. This narrative addresses compliance with these provisions below.

**UCDC § 152.648 CREATION OF ROADS, EASEMENTS AND RIGHTS-OF-WAY; MINIMUM STANDARDS.**

\* \* \* \*

***(B) Creation of easements, private roads and public rights-of-way. A private easement or right-of-way, or any other device created to provide access to property which is not otherwise described or controlled by this chapter, shall be submitted to and approved by the Planning Director and shall be described and recorded in the County Records Office. If, in the opinion of the Planning Director, the proposed easement, private road or right-of-way would involve new or modified standards of policy, the Planning Director may refer the matter to the Planning Commission for a decision.***

RESPONSE: The Application proposes an access easement across Parcel 3 that will connect Roxbury Road and Parcel 2. The purpose of the easement is to provide access to and from a public street for Parcel 2, which is otherwise landlocked. This easement is depicted on the replat plan. The County should approve the proposed easement.

\* \* \* \*

**(D) Rural Road standards**

**(1) Private Roads and Public Rights of Way. See Table 1. These roadways are established as ingress-egress easements to provide legal access to parcels. Although these are not roads in the County Road system, they are under County jurisdiction and are included to recognize their existence and to set standards for their creation. Unless otherwise stated in this Chapter, an easement for roadway purposes shall have a minimum width of 30 feet if the easement serves three or fewer lots. If the easement will serve more than three lots or has the potential of serving more than three lots to provide conductivity, then the easement shall have a minimum width of 60 feet, unless an exception is granted by the Board of Commissioners.**

**(a) Option 1 is to be used for easements serving 3 parcels or less and includes a 16 foot surface width with a minimum 30 foot easement width. Option 2 is to be used for easements serving 4 or more parcels. This standard includes a 22 foot surface width with a 60 foot easement width.**

**(b) The specific engineering and design standards for private roads and public rights of way are addressed and approved by the County Public Works Department. Option 2 may also apply to roads dedicated as public roads within a platted subdivision.**

RESPONSE: The proposed easement will serve one parcel (Parcel 2), so it is subject to the standards of Option 1. The replat plan depicts the proposed easement. The County should find that the easement can be approved as depicted, or to the extent the County requires that the easement be modified, the County should impose a condition of approval to ensure same.

#### **(11) Lot Width-to-Depth Ratios**

**(a) To provide for proper site design and prevent the creation of irregularly shaped parcels, the depth of any parcel shall not exceed 3 times its width (or 4 times its width in rural areas) unless there is a topographical or environmental constraint or an existing man-made feature such as a railroad line.**

RESPONSE: Parcels 2 and 3 will both exceed the width-to-depth ratios identified in this subsection; however, there are existing constraints that cause them to be shaped as they are. These constraints include the following: (1) Parcels 2 and 3 are being created from Lot 5 of the Subdivision, which was developed as a long, narrow railroad and utility corridor to serve the surrounding lots on each side; and (2) there are existing platted lots on either side of Parcels 2 and 3 that are not part of this replat, which prevents Vadata from making the lots wider or shorter. The proposed parcels have width-to-depth ratios that are closer to compliance with applicable regulations than existing Lot 5. For these reasons, the County should find that the Application meets the exception to this standard, and the width and depth of Parcels 2 and 3 is acceptable.

#### **(15) Subdivisions**

**(a) A subdivision shall conform to the following standards:**

**(1) Each proposed lot must be buildable in conformance with the requirements of this ordinance and all other applicable regulations.**

RESPONSE: Parcels 2 and 3 are zoned M-2, so the applicable development standards are set forth in UCZO 3.146. This narrative explains how the Application satisfies these standards in Section V.B. below. For the reasons set forth in response to UCZO 3.146, the County should find that this standard is satisfied.

**(2) Each lot shall abut a public or private road for the required minimum lot frontage for the zoning district where the lots are located.**

RESPONSE: Parcels 2 and 3 are zoned M-2. The UCZO does not establish a minimum lot frontage for properties zoned M-2. Further, the County should note that the parcels are being created from an existing platted lot (Lot 5) that has the same lot frontage. The County should find that this standard is not applicable to the Application.

**(3) If any lot abuts a street right-of-way that does not conform to the design specifications of this code, the owner may be required to dedicate up to one-half of the total right-of-way width required by the ordinance.**

RESPONSE: Roxbury Road is an existing road with a 60-foot wide right-of-way. The County should find that there is no basis to require the Port to dedicate additional right-of-way for Roxbury Road.

**(b) Further subdivision of the property shall be prohibited unless the applicant submits a plat or development plan in accordance with the requirements in this ordinance.**

RESPONSE: Applicant acknowledges the restrictions of this provision.

**UCDC § 152.695 DEFINITION; REVIEW AND APPROVAL PROCEDURE.**

**A Type III Land Division is a replat of an existing subdivision (or “addition”), whereby the lot configuration, the public roads or streets, and/or the dedicated easements are proposed to be realigned. Replatting includes adjustments to the boundary lines between adjoining lots, except as provided for survey corrections under Type V Land Divisions. This subchapter is intended to implement the requirements of ORS 92.180 through 92.190. Review and approval of a Type III Land Division shall be as follows in §§ 152.696 through 152.698.**

RESPONSE: The Application requests a replat of an existing subdivision (the Subdivision) because it reconfigures existing platted lots, extinguishes one easement, and reduces the extent of another easement. Therefore, the Application requests approval of a Type III Land Division.

**UCDC § 152.696 PRE-FILING CONFERENCE.**

**A pre-filing conference shall be required and held prior to the filing of a replat for a Type III Land Division.**

RESPONSE: Applicant held a pre-filing conference with County staff on February 22, 2016, which was prior to the filing of the Application. The County can find that the Application satisfies this standard.

**UCDC § 152.697 TENTATIVE REPLAT PLAN.**

**(A) Filing.** A tentative replat plan shall be filed with the Planning Director, who shall schedule it to be reviewed via the public hearing process before the Planning Commission, pursuant to §§ 152.770, 152.771 and 152.772.

RESPONSE: Applicant has filed this Application with the Planning Director and acknowledges that it will be reviewed via the applicable public hearing process before the Planning Commission.

**(B) Contents of a tentative replat plan.** A copy of the subdivision plat shall be obtained and the following information presented on it or an enlarged, to scale, copy of said plat.

**(1) Location of existing structures and buildings, including distances to existing lot lines.**

**(2) Location of natural features, including streams, bluffs, rock out-crops, ponds, and wetlands.**

**(3) Use of the land within the proposed replat.**

**(4) Location and identification of all existing utility lines and irrigation ditches.**

**(5) Location of existing driveways.**

**(6) Location and identification of existing roads and access easements.**

**(7) Other restrictive features specific to the site and not identified above.**

**(8) The location of the proposed new lot lines, roads, and easements, and distances with respect to existing lot lines, existing structures, utility lines, and the like, as needed to determine compliance of the proposal with the standards of this chapter.**

RESPONSE: The Application includes a tentative replat plan that depicts these features, where applicable. See Exhibit 1. The County can find that the Application satisfies this section.

**(C) Criteria for approval of a Type III Land Division. In granting approval of a tentative replat plan, the Planning Commission shall find that the tentative plan:**

As explained above, pursuant to the Intergovernmental Agreement, the County is required to apply the County's tentative replat approval criteria to that portion of the Property that will remain under the County's jurisdiction (Parcels 2 and 3). This section of the narrative addresses these criteria.

**(1) Complies with applicable elements of the Comprehensive Plan;**

RESPONSE: Pursuant to the Joint Management Agreement between the City and County effective on March 26, 1996, the City's Comprehensive Plan applies to properties in the City's Urban Growth Area, and the County's Comprehensive Plan is not applicable to these properties. Parcels 2 and 3 are located in the unincorporated portion of the County within the City's Urban Growth Area. Therefore, the County should find that the Application is not required to comply with the County Comprehensive Plan, and this criterion is not applicable to the Application.

**(2) Complies with applicable provisions listed in the zoning regulations of this chapter;**

RESPONSE: Parcels 2 and 3 are zoned M-2 and are subject to the zoning regulations of the UCZO. Section V.B. of this narrative explains how these parcels comply with these regulations.

Parcel 1 is split between the City and County; however, Vadata and the Port intend to petition the City to annex the remainder of Parcel 1 to the City such that all of this parcel will be subject to the City's zoning jurisdiction. Therefore, the County should find that Parcel 1 is not subject to the County's zoning regulations.

The County should find that the Application satisfies this criterion.

**(3) Conforms and fits into the existing development scheme in the area, including the logical extension of existing roads and public facilities within and adjoining the site;**

RESPONSE: The development scheme in the area is that of an industrial park with existing platted lots and existing roads and public facilities. The Application conforms

and fits into this development scheme because it simply reconfigures existing platted lots within the industrial park. The reconfigured lots will not require new roads or public facilities that were not contemplated by the Subdivision. The County should find that the Application satisfies this criterion.

**(4) Complies with the standards and criteria of § 152.667, if applicable, due to the size, scope, and/or location of the request.**

RESPONSE: The Property is not located in a designated multiple use area. Therefore, the County should find that this standard is not applicable to the Application.

**(D) Decision on a tentative replat plan. The findings and conclusions of the Planning Commission shall include two copies of the tentative plan upon which the decision is noted and any conditions described. One copy shall be returned to the applicant, while the other is retained by the Planning Department. Approval by the Planning Commission shall be final upon signing of the findings, and stands as the county's official action unless appealed. Approval of the tentative plan shall not constitute acceptance of the final replat for recording. However, such approval shall be binding upon the county for purposes of preparation of the replat, and the county may require only such changes in the replat as are necessary for compliance with the terms of its approval of the tentative plan.**

RESPONSE: This subsection describes procedures applicable to the County's review of the Application. Upon compliance with these procedures, the County should find that it has satisfied the requirements of this section.

#### **UCDC § 152.698 FINAL REPLAT.**

**Within one year from the date of approval of a tentative plan, the applicant shall file with the Planning Department a final replat. The replat is intended to be recorded in the Town Plat Records of Umatilla County and will be referenced in the original subdivision plat. This replat shall be reviewed and processed in the same manner as a final subdivision plat, and shall conform to the standards for a final subdivision plat, all as set forth in § 152.669 of this chapter. An extension of up to one year may be granted the applicant for the filing of the final replat map upon a written request submitted to the Planning Director.**

RESPONSE: Applicant acknowledges the requirements of this section, which do not include any approval criteria applicable to the Application but which govern future events.

**B. 1972 Umatilla County Zoning Ordinance (“UCZO”)**

The UCZO is the zoning ordinance that is applicable in the urban growth areas of various cities in the County, including the City. As applicable to the Application, the UCZO establishes dimensional standards for lots in the M-2 zoning district. These standards apply to Parcels 2 and 3 and are addressed below.

**UCZO 3.146 DIMENSIONAL STANDARDS**

**In an M-2 Zone, the following dimensional standards shall apply:**

**(1) *Minimum Lot Area:* As determined by the Department of Environmental Quality to be necessary for the protection of public health;**

RESPONSE: There are no existing or proposed uses on Parcels 2 and 3. Therefore, there is no minimum lot area for these two parcels that is necessary for the protection of public health. The County should find that the Application satisfies this standard.

**(2) *Setback:* No building shall be located closer than 30 feet from a lot line except by a ruling of the Planning Commission upon the request of a property owner;**

RESPONSE: There are no existing or proposed buildings on Parcels 2 and 3. Therefore, the County should find that this standard is not applicable to the Application.

**(3) *Conditional Uses:* Additional dimensional standards may be required by the Planning Department in approving a conditional use as provided by Article 7.**

RESPONSE: The Application does not request approval of a conditional use. The County should find that this standard is not applicable to the Application.

**VI. Applicable City Approval Criteria.**

As explained above, pursuant to the Intergovernmental Agreement, the County is required to apply the City’s tentative replat approval criteria to that portion of the Property located in the City or subject to annexation to the City (Parcel 1). This section of the narrative addresses these criteria, which are from the City’s Land Division Ordinance (“LDO”) and the City’s Zoning Ordinance (“Zoning Ordinance”).



**A. City's Land Division Ordinance.**

**11-2-6: LAND DIVISION APPROVAL CRITERIA**

**No plat for a subdivision or partition may be considered for approval until the City has approved a tentative plan. Approval of the tentative plan shall be binding upon the City and the applicant for the purposes of preparing the subdivision or partition plat. In each case, the applicant bears the burden of proof to demonstrate that the proposal satisfies applicable criteria and standards.**

**A. Approval Criteria:**

**Land division tentative plans shall only be approved if found to comply with the following criteria:**

- 1. The proposal shall comply with the City's Comprehensive Plan.**

RESPONSE: The Application is consistent with applicable provisions of the City's Comprehensive Land Use Plan as follows:

**2.2.100 IMPLEMENTATION MEASURES**

**2.2.140 Subdivision**

**The subdivision ordinance establishes procedures and standards for land divisions, including standards for lot arrangement, street widths and design, and provision of public utilities.**

RESPONSE: Applicant acknowledges that the applicable procedures and standards for land divisions in the City are set forth in the City's Subdivision Ordinance. This section of the narrative explains how the Application satisfies the applicable provisions of the Subdivision Ordinance. The County should find that the Application is consistent with this implementation measure.

**2.6.105 Review of land use actions and land divisions shall be coordinated with the Oregon Department of Transportation, Umatilla County, and Morrow County, as well as with the Umatilla School District 6R, the Umatilla Rural Fire Protection District, the Westland Irrigation District and any other public agency or utility, as appropriate. The review process shall incorporate reasonable and appropriate conditions of approval of development proposals that are intended to minimize impacts and protect public facilities or transportation corridors, as recommended by service providers.**

RESPONSE: Applicant understands that the City and County will coordinate review of the Application with affected agencies and that, if required, the review process will incorporate reasonable and appropriate conditions of approval to minimize impacts and protect public facilities or transportation corridors. Upon compliance with these procedural requirements, the County should find that the Application is consistent with this implementation measure.

## **9.9 ECONOMIC DEVELOPMENT POLICIES**

### **9.9.101 The City, through cooperation and a close working relationship with the public and private sectors, will encourage new and continuous employment opportunities.**

RESPONSE: Approval of the Application will facilitate full build-out of Parcel 1 with industrial uses, which will encourage new and continuous employment opportunities. The County should find that the Application is consistent with this policy.

### **9.9.103 The City will coordinate with the Port of Umatilla and the Oregon Department of Economic Development on local and regional economic development projects.**

RESPONSE: Approval of the Application will facilitate full build-out of Parcel 1 with industrial uses, which is a significant economic development opportunity. Approval of the Application will also further the Port's interests because the Port owns a portion of the Property, and the entire Property is located in the Port's largest industrial park adjacent to the barge dock. The County should find that the Application is consistent with this policy.

### **9.9.104 The City wishes to maintain its role as a regional employer by maintaining at least a 20-year supply of industrial and commercial land.**

RESPONSE: Approval of the Application will facilitate creation of Parcel 1. Applicant intends to petition the City to annex the portion of Parcel 1 not currently located in the City and to zone this area for industrial uses. Therefore, approval of the Application will allow the City to maintain its role as a regional employer and allow the City to expand its industrial land supply. The County should find that the Application is consistent with this policy.

## **11.4 PUBLIC FACILITIES AND SERVICES FINDINGS**

### **11.4.102 New development should occur in areas where public utilities are available before reaching out into areas that are not served.**

RESPONSE: Public utilities are currently available to the Property. The County should find that approval of the Application is consistent with this provision.

**11.4.104 Development of the City should occur in such a way as to facilitate the provision of police, fire protection, and other services.**

RESPONSE: The Property is located in an area that is already adequately served by police, fire, and other services. Approval of the Application will not change this fact. The County should find that approval of the Application is consistent with this provision.

**11.5 PUBLIC FACILITIES AND SERVICES POLICIES**

**11.5.101 The City will require the following pre-conditions to development:**

**a. A proposed use can be connected to a public water and sanitary sewer system with adequate capacity.**

RESPONSE: The Application does not propose a new use; however, the Property is located in an area that is currently served by public water and sanitary sewer systems with adequate capacity. The County should find that approval of the Application is consistent with this policy.

**b. Surface water run-off can be handled on-site, or adequate provisions can be made for run-off which will not adversely affect water quality in adjacent streams, ponds, lakes, or other drainage on adjoining lands; nor will such run-off adversely affect the use of adjoining or downstream properties.**

RESPONSE: The Application does not propose any development that will generate surface water run-off; however, the Property is located in an existing industrial park that has adequate provisions for run-off that do not adversely affect off-site properties or water quality. The County should find that approval of the Application is consistent with this policy.

**14.10 URBANIZATION POLICIES**

**14.10.105 The City will enter into a formal agreement with the County on how to coordinate issues within the urban growth area. The agreement shall include, but not be limited to: zoning, subdivisions, roads, services, conditional uses, variances, major partitions, and annexations.**

RESPONSE: As explained above, the City and County entered into an Intergovernmental Agreement to coordinate review and decision-making for the Application, which is a

subdivision affecting property within the urban growth area. The County should find that the Application is consistent with this policy.

For the reasons set forth in response to these City Comprehensive Land Use Plan provisions, the County should find that the Application satisfies this criterion.

Continuing with addressing provisions of City LDO 11-2-6...

**2. The proposal shall comply with the I-82/U.S. 730 interchange area management plan (IAMP) and the access management plan in the IAMP (Section 7) as applicable.**

RESPONSE: Parcel 1 is not subject to the I-82/U.S. 730 interchange area management plan and the access management plan. The County should find that this criterion is not applicable.

**3. The proposal shall comply with the City's zoning requirements.**

RESPONSE: The applicable City zoning requirements include the City's lot standards and dimensional standards for the City's M-2 zoning district. These standards are addressed below. For the reasons explained below, Parcel 1 satisfies these standards. Therefore, the County can find that the Application satisfies this criterion.

**4. The proposal shall comply with the City's Public Works Standards.**

RESPONSE: The Application does not propose any public improvements. Therefore, the County should find that this standard is not applicable to the Application.

**5. The proposal shall comply with applicable State and Federal regulations, including, but not limited to, Oregon Revised Statutes 92, 197, 227, and wetland regulations.**

RESPONSE: The City and County standards addressed in this narrative implement applicable State requirements, including applicable requirements of ORS 92, 197, and 227. There are no wetlands located on the Property. There are no federal regulations that constitute approval criteria applicable to the Application. The County should find that the Application satisfies this criterion.

**6. The proposal shall conserve inventoried natural resource areas and flood plains, including, but not limited to, mapped rivers, creeks, sloughs, and wetlands.**

RESPONSE: There are no inventoried natural resource areas or flood plains located on Parcel 1. See City Comprehensive Plan Figures 5.1-1 (floodplains) and 5-1.2 (wetlands). The County should find that this criterion is not applicable to the Application.

**7. The proposal shall minimize disruption of natural features of the site, including inventoried natural features of the site, including steep slopes or other features, while providing for safe and efficient vehicle, pedestrian, and bicycle access.**

RESPONSE: Parcel 1 does not include any inventoried natural features. See City Comprehensive Plan Figures 5.1-1 (floodplains), 5-1.2 (wetlands), and 7.1-2 (slopes). The County should find that this criterion is not applicable to the Application.

**8. The proposal shall provide adjacent lands with access to public facilities and streets to allow its full development as allowed by the City's codes and requirements.**

RESPONSE: Although the Application proposes to extinguish an access easement connecting Lot 5 with Beach Access Road, the Application ensures that Lot 5 will continue to have access to public streets as follows: (1) the portion of Lot 5 that is being incorporated into Parcel 1 will have direct frontage on and access to Beach Access Road; (2) the portion of Lot 5 that is being platted as Parcel 2 will have access to Roxbury Road via an easement across Parcel 3; and (3) the portion of Lot 5 that is being platted as Parcel 3 will have direct frontage on and access to Roxbury Road. Further, the replat does not landlock any adjacent lands or affect how any adjacent lands in the City take access to public facilities and streets. The County should find that the Application satisfies this criterion.

**9. The proposal shall be designed with streets that continue or connect to existing and planned land division plats on adjoining properties. All proposed streets shall comply with standards of this Title and Public Works Standards.**

RESPONSE: There are no existing public streets on properties that adjoin Parcel 1. The County should find that this criterion is not applicable to the Application.

**10. The City's decision on a land division application shall include written findings for each required dedication or improvement that identify the legitimate governmental purpose, the relationship between the purpose and the exaction, and the rough proportionality in nature and extent, between the requirement and the projected impacts of the proposed development.**

RESPONSE: There is no basis for the City to require dedications or improvements in conjunction with this replat. The County should find that this criterion is not applicable to the Application.

**11-4-5: LOTS**

**Lot and parcel size, shape, and orientation shall be consistent with the applicable zoning district and for the type of use contemplated. No lot or parcel dimension shall include the adjacent public right-of-way.**

**A. Through lots with public streets on both front and rear or both sides shall be avoided except when essential to provide separation of residential development from adjacent arterial or collector streets. An easement at least five feet (5') in width shall be located adjacent to the right-of-way and there shall be no right of access to the major street. A permanent barrier may be required along the right-of-way, within the easement.**

RESPONSE: Parcel 1 is not a through lot. The County should find that this lot standard is not applicable.

**B. Lot and parcel side lot lines shall be at right angles to fronting streets or radius to curved streets to the extent practical, in order to create lots and parcels with building sites which are nearly rectangular.**

RESPONSE: The northern lot line for Parcel 1 is at a right angle to Beach Access Road. Because Highway 730 passes Parcel 1 on a diagonal angle, the southern and western lines of Parcel 1 do not intersect their fronting streets at right angles. Notwithstanding this fact, the side lot lines for Parcel 1 are arranged to create a reasonable building site. The County should find that the Application satisfies this lot standard.

**C. Lots shall have a width to depth ratio not to exceed 2.5.**

RESPONSE: At its widest point, the width of Parcel 1 is approximately 1797 feet. At its deepest point, the depth of Parcel 1 is approximately 1227 feet. Thus, at its highest, the width to depth ratio of Parcel 1 is 1.46, which does not exceed 2.5. The County should find that Parcel 1 satisfies this lot standard.

**D. All lots and parcels shall have a minimum street frontage on a public street of fifty feet (50'), except that lots or parcels fronting a cul-de-sac or curved street may have a minimum street frontage of forty feet (40'), so long as the minimum lot width required by the zoning district is provided at a distance equivalent to the required front yard setback.**

RESPONSE: Parcel 1 has frontage of approximately 1181 feet on Highway 730. Parcel 1 has two frontages on Beach Access Road (one of approximately 927 feet and the other of approximately 469 feet). All of these street frontages exceed the 50-foot minimum. Therefore, the County should find that Parcel 1 satisfies this lot standard.

**E. Flag lots shall not be acceptable for land divisions, but may be approved if the following circumstances apply:**

**1. For one or two (2) lot land divisions when it is not practical to create or extend a public street or partial public street due to the nature of surrounding development.**

**2. When topographic conditions or other physical constraints make it impractical or infeasible to create or extend a public street.**

**3. When the size and shape of the site limit the possible arrangement of new lots or parcels and prevent the creation or extension of a public street.**

**4. When allowed, the flag portion of a new lot shall have a minimum width of fifteen feet (15') to accommodate a driveway a minimum of twelve feet (12') wide. Two (2) adjacent flag lots may reduce the street frontage and pole width to twelve feet (12') wide, if joint access easements are created and a driveway is provided with a minimum width of twenty feet (20').**

RESPONSE: Parcel 1 is not a flag lot. The County should find that Parcel 1 is consistent with this lot standard.

**B. City Zoning Ordinance.**

## **ARTICLE B**

### **HEAVY INDUSTRIAL (M-2)**

**\* \* \* \***

#### **10-5B-4: DEVELOPMENT STANDARDS:**

**\* \* \* \***

**D. Dimensional Standards**

|                              |   |
|------------------------------|---|
| <b>Minimum lot width</b>     | <b>80 feet</b>  |
| <b>Minimum lot depth</b>     | <b>100 feet</b>   |
| <b>Minimum yard setbacks</b> |   |
| <b>Front and rear yard</b>   | <b>10 feet or 20 feet if adjacent to residential district</b> |
| <b>Side yard</b>             | <b>0 feet or 20 feet if adjacent to residential district</b>  |
| <b>Street side yard</b>      | <b>10 feet or 20 feet if adjacent to residential district</b> |
| <b>Rear yard</b>             | <b>0 feet or 20 feet if adjacent to residential district</b>  |
| <b>Parking area</b>          | <b>10 feet</b>  |

RESPONSE: Parcel 1 is not adjacent to a residential district. Therefore, the shorter setback standards apply. As depicted on the replat plan, Parcel 1 (and the existing improvements on Parcel 1) comply with each of these standards. Therefore, the County should find that the Application satisfies this section.

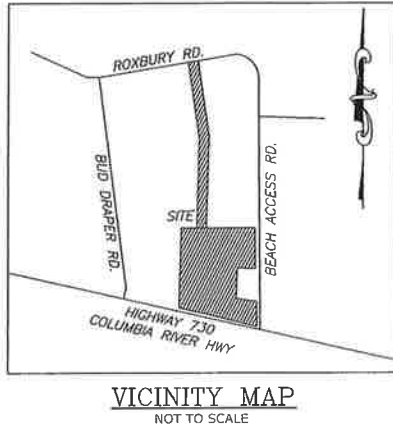
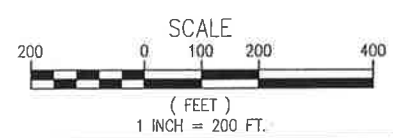
**VII. Conclusion.**

For the reasons set forth above, the Application satisfies the applicable requirements of the UCDC, the UCZO and the City's LDO and Zoning Ordinance. The County should approve the Application as proposed.



**LEGEND**

- MONUMENT AS NOTED
- FOUND PROPERTY CORNER 5/8" REBAR WITH CAP "LS 2820" UNLESS OTHERWISE NOTED
- SET PROPERTY CORNER 5/8" REBAR WITH CAP "LS 74986" UNLESS OTHERWISE NOTED
- ADJACENT PARCEL LINE
- PROPERTY LINE
- - - EASEMENT LINE
- - - PROPERTY LINE TO BE REMOVED
- <sup>CSO</sup> CLEAN OUT
- ⊗ WATER VALVE
- ⊙ SEWER MANHOLE
- ⊕ POWER POLE
- ⊖ GUY ANCHOR
- ⊞ TELEPHONE RISER
- (M) MEASURED
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- ⊞ JUNCTION BOX
- - - ROAD CENTERLINE
- - - SETBACK LINE
- X - FENCE LINE
- GAS - GAS LINE
- W - WATER LINE
- OE - OVERHEAD POWER LINE



**REFERENCES**

1. PLAT FOR PORT OF UMATILLA SUBDIVISION ON JUNE 28, 2007, IN BOOK 15, PAGE 31 INSTRUMENT NO. 2007-5210800, RECORDS OF UMATILLA COUNTY, OREGON.

**SURVEYORS CERTIFICATE**

I, STUART A. CHISHOLM, P.L.S. NO. 74986, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON HEREBY CERTIFIES THAT THE SHORT PLAT AS SHOWN HEREON CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION IN CONFORMANCE WITH THE REQUIREMENTS OF THE ORS CHAPTER 92. ALL ANGLES, DISTANCES AND COURSES ARE CORRECTLY SHOWN AND ALL MONUMENTS HAVE BEEN STAKED ON THE GROUND AS SHOWN HEREON.

**RE-PLAT**

SITUATE IN THE NORTHEAST QUARTER OF SECTION 14 AND SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 5 NORTH, RANGE 28 EAST, WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON

**CITY PLANNING DIRECTOR**      **CITY SURVEYOR**  
THE ACCOMPANYING REPLAT IS HEREBY APPROVED THIS      THE ACCOMPANYING REPLAT IS HEREBY APPROVED THIS

\_\_\_\_ DAY OF \_\_\_\_\_, 2016,      \_\_\_\_ DAY OF \_\_\_\_\_, 2016.

APPROVAL NUMBER \_\_\_\_\_  
CITY PLANNING DIRECTOR \_\_\_\_\_  
CITY SURVEYOR \_\_\_\_\_

**UMATILLA COUNTY COMMISSIONERS**

THIS IS TO CERTIFY THAT THE ACCOMPANYING REPLAT IS APPROVED FOR FILING IN THE RECORD OF TOWN PLATS OF UMATILLA COUNTY, OREGON, BY THE UNDERSIGNED BY ITS ORDER THIS

\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

CHAIRMAN \_\_\_\_\_  
COMMISSIONER \_\_\_\_\_  
COMMISSIONER \_\_\_\_\_

FOUND 3/8" REBAR & CAP, "USKH, INC., OR PLS 2820", 16.5' WEST OF EDGE OF PAVEMENT

FOUND 3" ALUMINUM DISK, STAMPED "U.S.D.O.E. BONNEVILLE PWR. ADM., N1/4, T5N, R28E, S14+13, LS 976.", 0.90 ABOVE GROUND

**COUNTY SURVEYOR**

I, DAVID H. KRUMBEIN, UMATILLA COUNTY SURVEYOR, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE ACCOMPANYING REPLAT AND THAT IT COMPLIES WITH THE LAWS WITH THE STATE OF OREGON WITH REFERENCE TO THE FILING AND RECORDING OF SUCH REPLATS AND I THEREFORE APPROVE SAID REPLAT FOR FILING IN THE RECORDS OF UMATILLA COUNTY, OREGON.

UMATILLA COUNTY SURVEYOR \_\_\_\_\_

**UMATILLA COUNTY TAX ASSESSOR AND COLLECTOR**

WE, THE ASSESSOR AND TAX COLLECTOR OF UMATILLA COUNTY, OREGON, DO HEREBY CERTIFY THAT WE HAVE EXAMINED THE TAX RECORDS RELATIVE TO THE LANDS COVERED BY THE ACCOMPANYING REPLAT AND THAT ALL MONIES DUE FOR STATE AND COUNTY TAXES THAT COULD CONSTITUTE A LIEN OF SAID LAND HAVE BEEN PAID AND WE HEREBY APPROVE THIS REPLAT THIS

\_\_\_\_ DAY OF \_\_\_\_\_, 2016

COUNTY TAX ASSESSOR \_\_\_\_\_  
COUNTY TAX COLLECTOR \_\_\_\_\_

**OWNER'S DECLARATION**

WE, PORT OF UMATILLA, OWNER, HEREBY ESTABLISH AND ACKNOWLEDGE THE WE HAVE CAUSED THIS REPLAT TO BE PREPARED AND THIS LAND REPLATTED IN ACCORDANCE WITH ORS CHAPTER 92 AS REVISE, PER THE CITY OF UMATILLA AND UMATILLA COUNTY.

AUTHORIZED AGENT \_\_\_\_\_  
ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2016, THE ABOVE NAMED INDIVIDUAL APPEARED PERSONALLY BEFORE ME AND ARE KNOWN TO ME TO BE THE IDENTICAL INDIVIDUALS WHO EXECUTED THE PLAT DECLARATION AND ACKNOWLEDGED THAT THEY DID SO FREELY AND VOLUNTARILY.

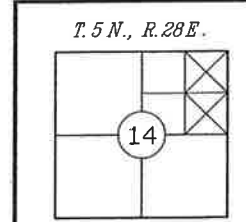
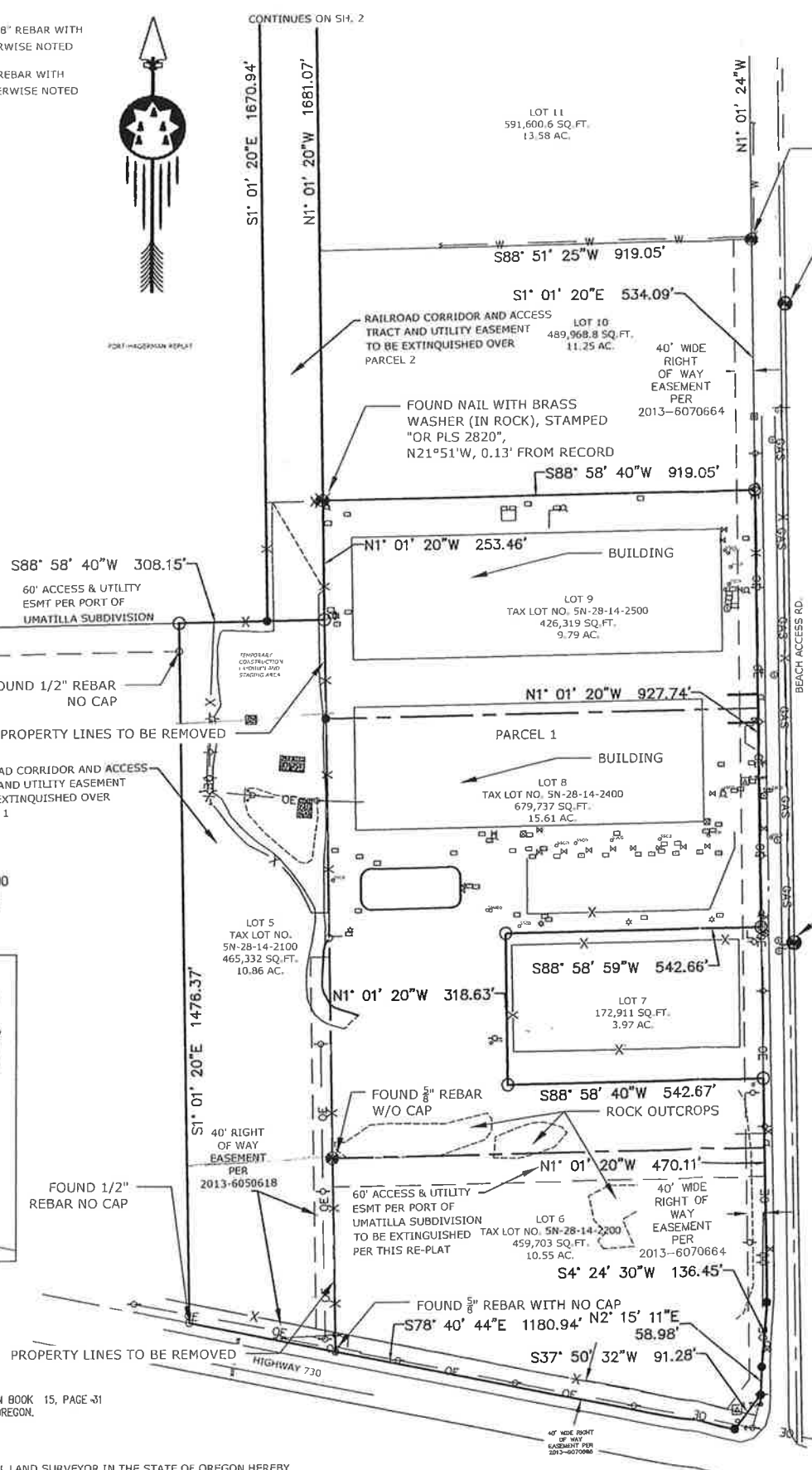
BEFORE ME: \_\_\_\_\_  
PRINTED NAME: \_\_\_\_\_  
COMMISSION NUMBER: \_\_\_\_\_  
MY COMMISSION EXPIRES: \_\_\_\_\_

**OWNER'S DECLARATION**

WE, VA DATA, OWNER, HEREBY ESTABLISH AND ACKNOWLEDGE THE WE HAVE CAUSED THIS REPLAT TO BE PREPARED AND THIS LAND REPLATTED IN ACCORDANCE WITH ORS CHAPTER 92 AS REVISE, PER THE CITY OF UMATILLA AND UMATILLA COUNTY.

AUTHORIZED AGENT \_\_\_\_\_  
ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2016, THE ABOVE NAMED INDIVIDUAL APPEARED PERSONALLY BEFORE ME AND ARE KNOWN TO ME TO BE THE IDENTICAL INDIVIDUALS WHO EXECUTED THE PLAT DECLARATION AND ACKNOWLEDGED THAT THEY DID SO FREELY AND VOLUNTARILY.

BEFORE ME: \_\_\_\_\_  
PRINTED NAME: \_\_\_\_\_  
COMMISSION NUMBER: \_\_\_\_\_  
MY COMMISSION EXPIRES: \_\_\_\_\_



**WHITE SHIELD, INC.**  
LAND SURVEYING  
ENVIRONMENTAL SERVICES  
320 N. 20TH AVENUE  
PASCO, WA 99301  
PHONE 509.547.0100  
FAX 509.547.8292

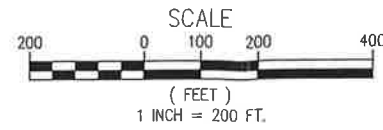
**RE-PLAT**  
PORT OF UMATILLA  
500 WILLAMETTE AVE.,  
UMATILLA, OREGON

SCALE H: 1"=100'      JOB: 212-003-01  
V: N/A      CADD/DWG: VADATA-REP.DWG

SURVEY BY: MMR      DRAWN BY: CDP/DCP      CHECKED BY: SAC      DATE: MAR. 2, 2016

# RE-PLAT

SITUATE IN THE NORTHEAST QUARTER OF SECTION 14 AND SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 5 NORTH, RANGE 28 EAST, WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON



## DESCRIPTION

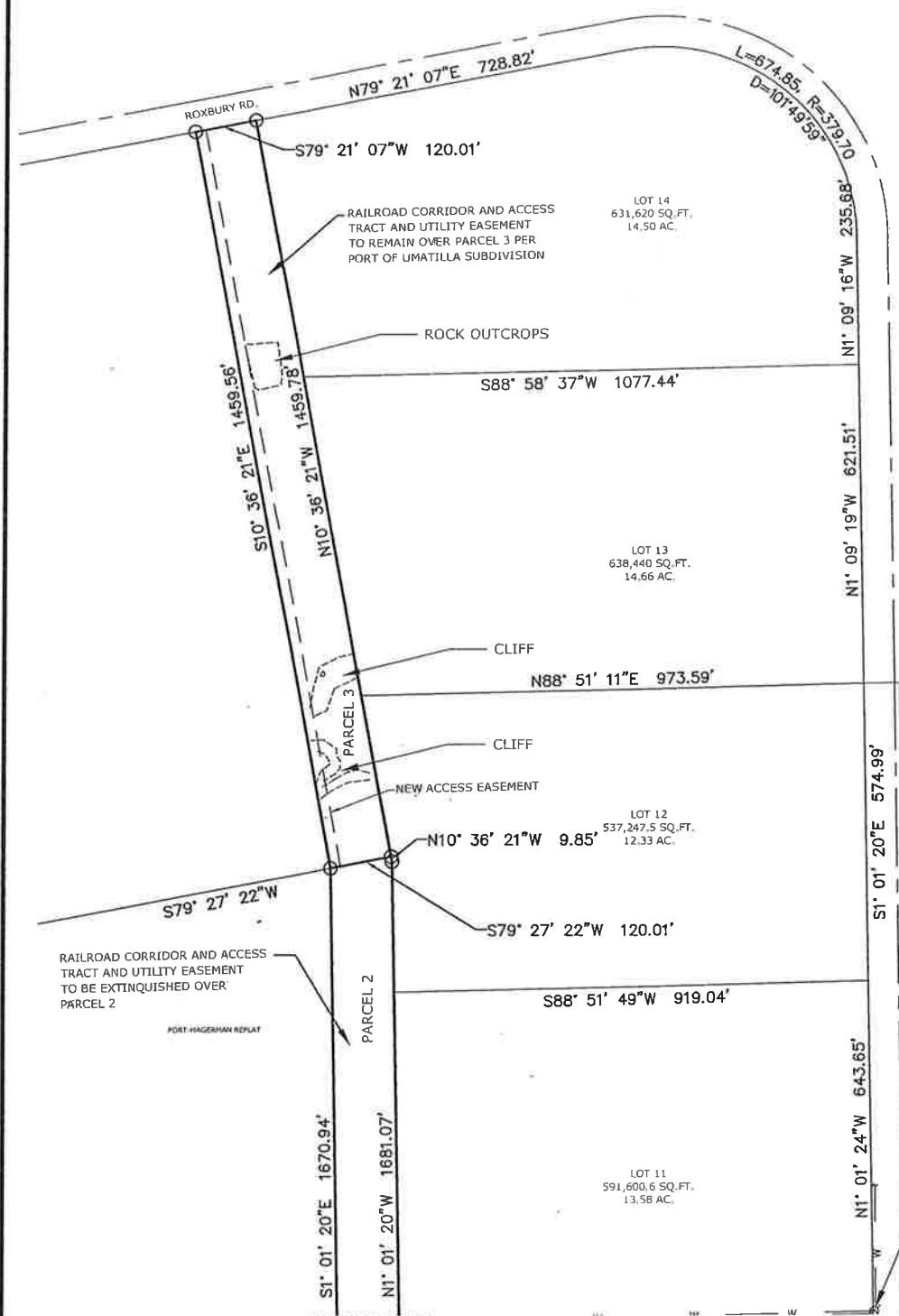
ALL THAT PORTION OF LOTS 5, 6 AND 9 OF PORT OF UMATILLA SUBDIVISION, LOCATED IN SECTION 14, TOWNSHIP 5 NORTH, RANGE 28, EAST OF THE WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON; TOGETHER WITH LOT 8 OF RECORD OF SURVEY-PROPERTY LINE ADJUSTMENT SURVEY OF LOTS 7 & 8 OF PORT OF UMATILLA SUBDIVISION, LOCATED IN EAST HALF OF SECTION 14 AND THE EAST HALF OF SECTION 11, TOWNSHIP 5 NORTH, RANGE 28, EAST OF THE WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON;

SAID LOTS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 5;  
 THENCE NORTH 1°01'20" WEST, 1476.37 FEET;  
 THENCE NORTH 88°58'40" EAST, 308.15 FEET;  
 THENCE NORTH 1°01'20" WEST, 1670.94 FEET;  
 THENCE NORTH 10°36'21" WEST, 1459.56 FEET TO THE NORTHWEST CORNER OF SAID LOT 5;  
 THENCE NORTH 79°21'07" EAST, 120.01 FEET, TO THE NORTHEAST CORNER OF SAID LOT 5;  
 THENCE SOUTH 10°36'21" EAST, 1469.65 FEET;  
 THENCE SOUTH 1°01'21" EAST, 1681.06 FEET, TO THE NORTHWEST CORNER OF SAID LOT 9;  
 THENCE NORTH 88°58'40" EAST, 919.05 FEET, TO THE NORTHEAST CORNER OF SAID LOT 9;  
 THENCE SOUTH 1°01'20" EAST, 927.74 FEET;  
 THENCE NORTH 88°58'59" EAST, 542.66 FEET;  
 THENCE SOUTH 1°01'20" EAST, 318.63 FEET;  
 THENCE NORTH 88°58'40" EAST, 542.67 FEET;  
 THENCE SOUTH 1°01'20" EAST, 470.11 FEET;  
 THENCE SOUTH 4°24'30" WEST, 136.45 FEET;  
 THENCE SOUTH 2°15'11" WEST, 59.98 FEET;  
 THENCE SOUTH 37°50'32" WEST, 91.28 FEET, TO THE SOUTHEAST CORNER OF SAID LOT 6;  
 THENCE NORTH 78°40'44" WEST, 1180.94 FEET, TO THE SOUTHWEST CORNER OF SAID LOT 5 AND THE POINT OF BEGINNING.

## LEGEND

- ⊙ MONUMENT AS NOTED
- FOUND PROPERTY CORNER 5/8" REBAR WITH CAP "LS 2820" UNLESS OTHERWISE NOTED
- SET PROPERTY CORNER 5/8" REBAR WITH CAP "LS 74986" UNLESS OTHERWISE NOTED
- ADJACENT PARCEL LINE
- PROPERTY LINE
- - - EASEMENT LINE
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- CLEAN OUT
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- ⊙ JUNCTION BOX
- - - ROAD CENTERLINE
- - - SETBACK LINE
- X - FENCE LINE
- W - GAS LINE
- W - WATER LINE
- OE - OVERHEAD POWER LINE



FOUND 5/8" REBAR & CAP, "USKH, INC., OR PLS 2820", 16.5' WEST OF EDGE OF PAVEMENT

|   |   |  |
|---|---|--|
| <p>T. 5 N., R. 28 E.</p>  | <p>320 N. 20TH AVENUE<br/>PASCO, WA 99301<br/>PHONE 509.547.0100<br/>FAX 509.547.8292</p> | <p>RE-PLAT<br/>PORT OF UMATILLA<br/>500 WILLAMETTE AVE.<br/>UMATILLA, OREGON</p>     |
| <p>SURVEY BY: MMR    DRAWN BY: CDP/DCP    CHECKED BY: SAC    DATE: MAR. 2, 2016</p> |   | <p>SCALE H: 1"=100'    JOB: 212-003-01</p> <p>V: N/A    CADD/DWG: VADATA-REP.DWG</p> |

This map was prepared for Assessment & Taxation  
purpose only and was NOT prepared nor is it suitable  
for legal, engineering or surveying

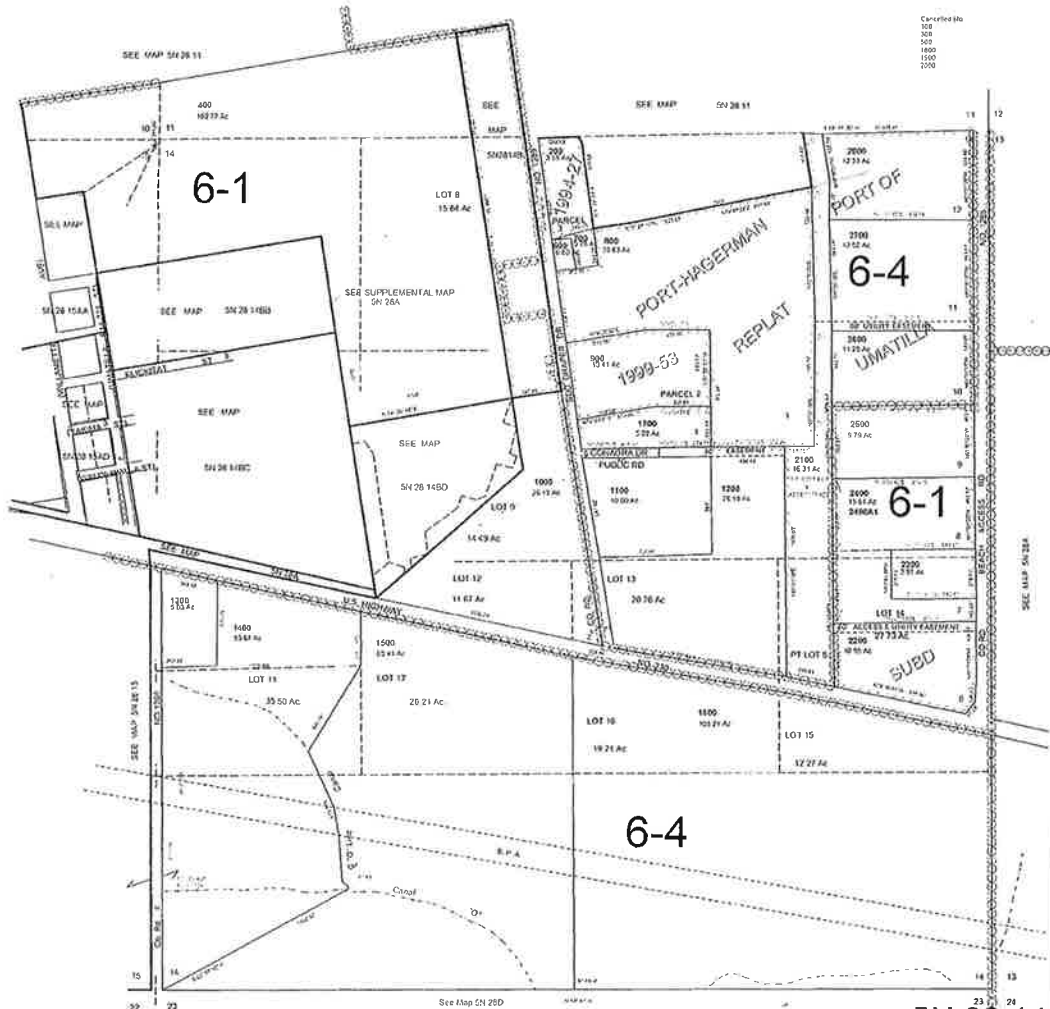
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SEC 14 T5N R28E WM  
UMATILLA COUNTY

5N 28 14

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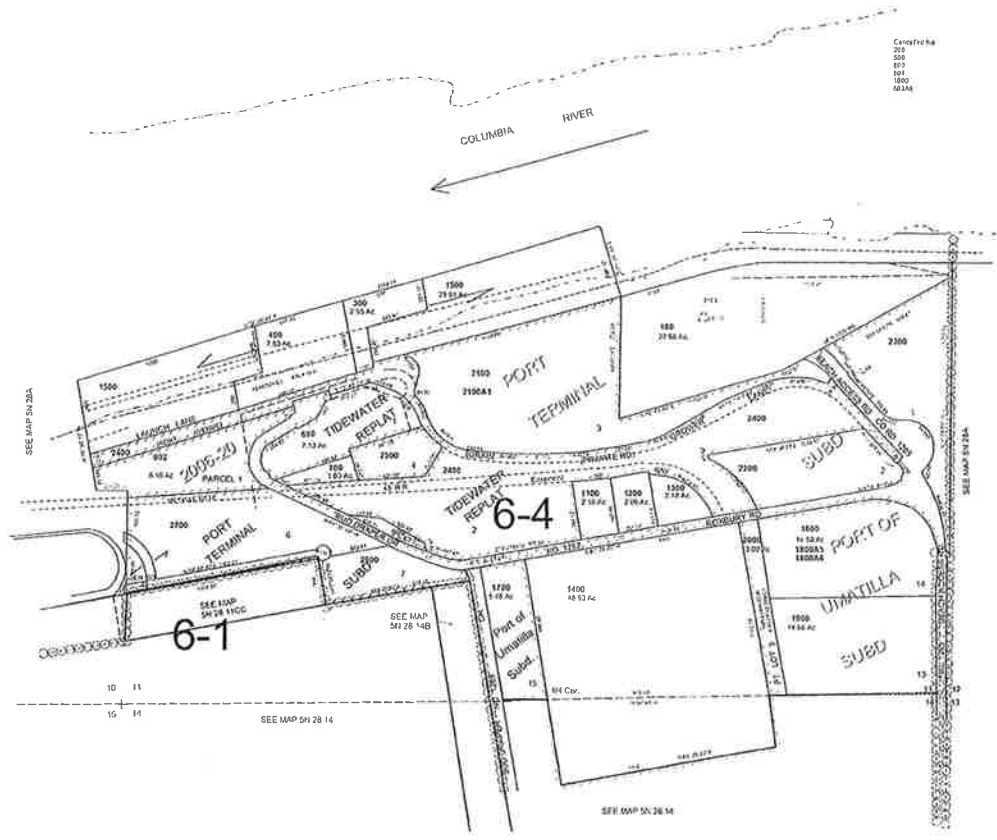
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SEC 11 T5N R28E WM  
UMATILLA COUNTY

1"=400'

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**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE CITY OF UMATILLA AND UMATILLA COUNTY**

This Intergovernmental Agreement ("Agreement") is entered into between the City of Umatilla, an Oregon municipal corporation ("City"), and Umatilla County, a governmental subdivision of the State of Oregon ("County"). City and County may be referred to jointly in this Agreement as the "Parties" and individually as a "Party."

**RECITALS**

WHEREAS, ORS 190.010 authorizes the Parties to enter into this Agreement for the performance of any or all functions and activities that a Party to the Agreement has authority to perform; and

WHEREAS, City has land use jurisdiction over the land inside the City limits and has the authority to review and decide upon land use and land division applications inside the City limits; and

WHEREAS, County has land use jurisdiction over the land in the unincorporated area of the County, and has the authority to review and decide upon land use and land division applications within the unincorporated area of the County; and

WHEREAS, the Port of Umatilla ("Port") and Vadata, Inc. ("Vadata") are owners of contiguous real property located within the area subject to the Port of Umatilla Subdivision recorded at Book 15, Page 31 *et seq.* of the Plat Records of Umatilla County, Oregon ("Subdivision"); and

WHEREAS, Vadata's existing land holdings in the Subdivision are located in the City limits; and

WHEREAS, Vadata is a contract purchaser of a portion of Lot 5 of the Subdivision ("Portion of Lot 5"), which is owned by the Port and located in the unincorporated portion of the County; and

WHEREAS, the Port and Vadata wish to replat the Portion of Lot 5 and surrounding properties described in Exhibit A and depicted in Exhibit B (together, "Property") in order to facilitate Vadata's purchase of the Portion of Lot 5 from the Port and to reconfigure their remaining respective land holdings located within the Subdivision; and

WHEREAS, if the Parties do not enter this Agreement, the Port and Vadata will need to obtain approval of a replat application by County followed by approval of a separate replat application by City; and

WHEREAS, City and County wish to provide an efficient approach to achieving the desired replat that respects the land use regulations of each jurisdiction.

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual promises, performances, agreements, and covenants contained in this Agreement, the Parties agree as follows:

**1. Processing of Tentative Replat Application**

- 1.1 Upon receipt of an application from the Port and/or Vadata on behalf of the Port for a tentative replat of the Property, County shall follow its usual process for review of a tentative replat.
- 1.2 County shall charge the scheduled fee appropriate to the tentative replat application.
- 1.3 City shall not charge a fee for the tentative replat application review.
- 1.4 County Department of Land Use Planning staff shall consult with City Planning staff as appropriate during completeness review to make certain that City's concerns are addressed in a timely manner before the tentative replat application is deemed complete under ORS 215.427.

**2. Application of Criteria to Tentative Replat Application**

- 2.1 County shall apply the relevant County approval criteria to that part of the Property within the unincorporated portion of the County.
- 2.2 County shall apply the relevant City approval criteria to that part of the Property within the City limits. County Department of Land Use Planning staff shall consult with City Planning staff as appropriate during the application review process to make certain that City's concerns are addressed in a timely manner before County staff make a recommendation to approve or deny the application.
- 2.3 In the event there is an actual conflict between any approval criteria of County and City, the approval criteria of City shall apply.

**3. Final Decision for Tentative Replat Application**

- 3.1 City may participate in the proceedings before any County decision-maker and may not appeal any final decision County makes for the tentative replat application.

3.2 County's final decision for the tentative replat application, after any appeals, shall bind and be final as to both County and City.

**4. Processing of Final Plat Application**

4.1 Upon receipt of a final plat application from the Port and/or Vadata on behalf of the Port for the Property, County shall follow its usual process for review of a final plat.

4.2 City shall charge the scheduled fee appropriate to the final plat application.

4.3 County Department of Land Use Planning shall not charge a fee for the final plat application, although other County Departments may charge their applicable fees for the final plat application.

4.4 County Department of Land Use Planning staff shall consult with City Planning staff as appropriate during completeness review to make certain that City's concerns are addressed in a timely manner before the final plat application is deemed complete under ORS 215.427.

**5. Application of Criteria to Final Plat Application**

5.1 County shall apply the relevant County approval criteria to that part of the Property within the unincorporated portion of the County.

5.2 County shall apply the relevant City approval criteria to that part of the Property within the City limits. County Department of Land Use Planning staff shall consult with City Planning staff as appropriate during the application review process to make certain that City's concerns are addressed in a timely manner before County staff make a decision to approve or deny the application.

5.3 In the event there is a conflict between any approval criteria of County and City, the approval criteria of City shall apply.

**6. Final Decision for Final Plat Application**

6.1 City may participate in the proceedings before any County decision-maker and may not appeal any final decision County makes for the final plat application.

6.2 County's final decision for the final plat application, after any appeals, shall bind and be final as to both County and City.

6.3 In the event the final plat application is approved, County Planning staff and City Planning staff shall both sign the final plat before it is recorded.

**7. Subsequent Applications**

7.1 This Agreement shall only concern the tentative replat and final plat applications described herein. Subsequent land division or land use applications made for the Property shall be subject to the exclusive review and approval of the Party with jurisdiction over that portion of the Property.

**8. General Provisions**

8.1 *Effective Date.* The effective date of this Agreement is the date all Parties have duly signed the Agreement.

8.2 *Modification.* This Agreement may be modified or amended only if made in writing and signed by all Parties.

8.3 *Capacity to Execute.* The Parties each warrant and represent to the other that this Agreement constitutes a legal, valid, and binding obligation of that Party. The individuals executing this Agreement warrant that they have full authority to execute this Agreement on behalf of the entity for whom they purport to be acting.

8.4 *Compliance with Law.* Each Party agrees to comply with all local, state and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.

8.5 *Time is of the Essence.* A material consideration of the Parties entering into this Agreement is that the Parties will perform all obligations under this Agreement in a timely manner. Time is of the essence of each and every provision of this Agreement.

8.6 *Good Faith and Reasonableness.* The Parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement.

8.7 *Choice of Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to princi-



ples of conflicts of law. Any claim, action, suit or proceeding that arises from or relates to this Agreement shall be brought and conducted exclusively within the Circuit Court of Umatilla County for the State of Oregon. In the event a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively in the United States District Court for the District of Oregon.

8.8 *Counterparts.* This Agreement may be executed in counterparts, each of which shall be an original, all of which shall constitute one and the same instrument. Execution of a facsimile or PDF copy shall have the same force and effect as execution of an original.

8.9 *Merger.* This Agreement embodies the entire agreement and understanding between the Parties hereto and supersedes all previous agreements and understandings with respect to the matters described herein.

WHEREAS, all the aforementioned is hereby agreed upon by the Parties and executed by the duly authorized signatures below.

**City of Umatilla**

**Umatilla County**

\_\_\_\_\_  
David Trott, Mayor

*George Murdock*  
\_\_\_\_\_  
George Murdock, Board Chair

\_\_\_\_\_  
Date

*1/27/2016*  
\_\_\_\_\_  
Date

Approved as to form:

Approved as to form:

\_\_\_\_\_  
City Attorney

*[Signature]*  
\_\_\_\_\_  
County Counsel



**EXHIBIT A  
DESCRIPTION OF PROPERTY**

Tax Parcel Nos.:

5N-28-11-2000

5N-28-14-2100

5N-28-14-2200

5N-28-14-2400

5N-28-14-2500

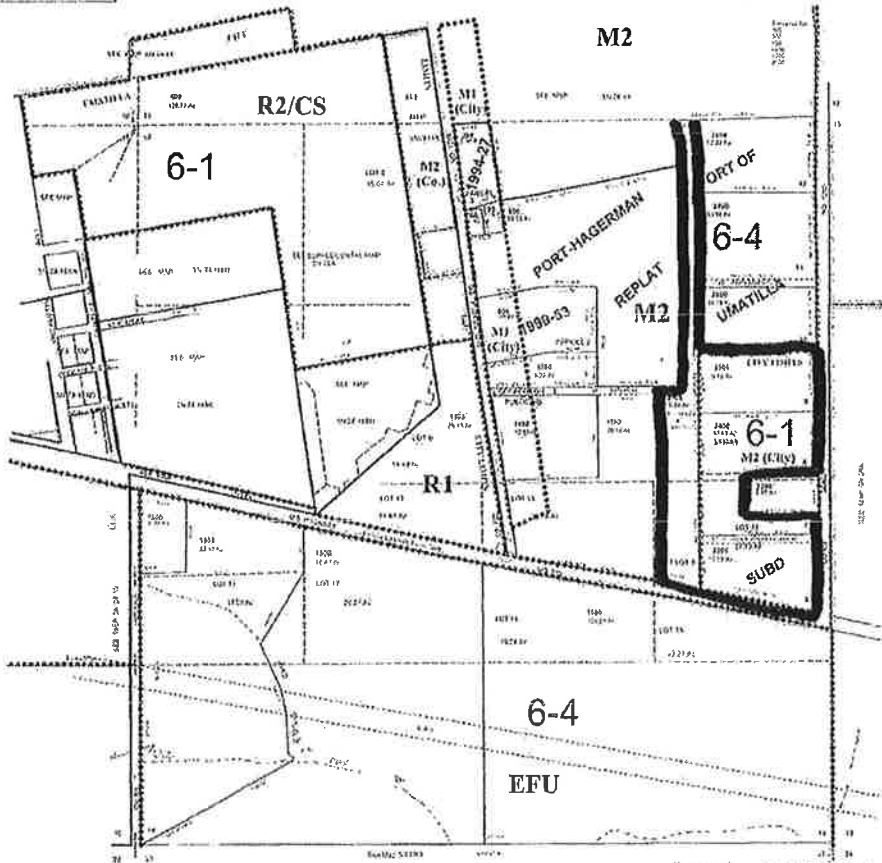
**EXHIBIT B  
MAP OF PROPERTY**

This map was prepared for Assessment & Taxation purposes only and does NOT represent nor is it suitable for legal, engineering or surveying.

1"=400'

SEC 14 T5N R28E WM  
UMATILLA COUNTY

5N 28 14  
AERIAL PHOTO NO. 112 TP 58 CO & 102-103  
Umatilla City and Urban Growth Area

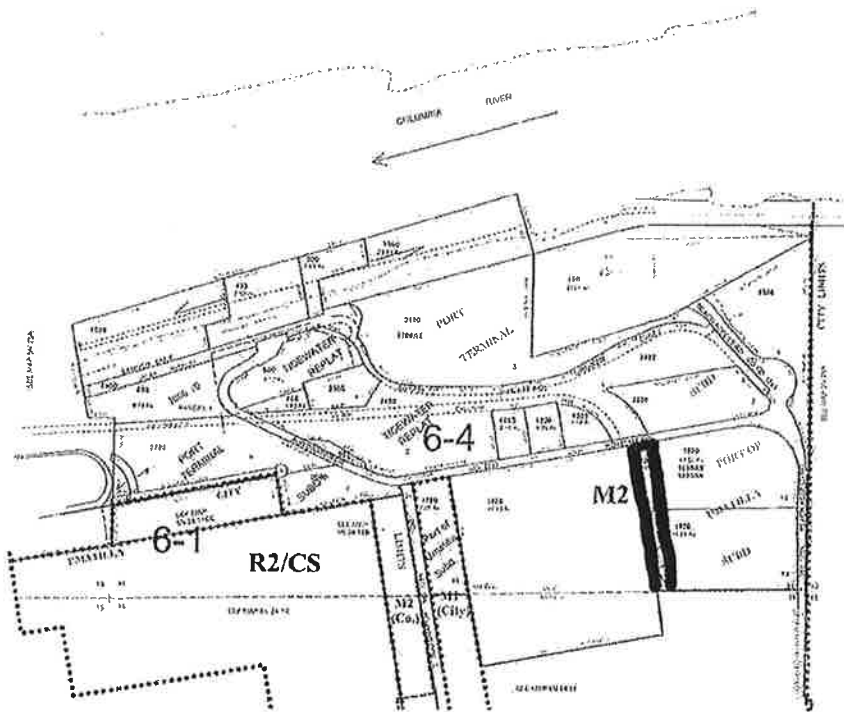


5N 28 14

This map was prepared for assessment purposes

SEC 11 T5N R28E WM  
UMATILLA COUNTY  
1"=400'

5N 28 11  
ACTUAL PHOTO NO. 824508100  
Umatilla City & Urban Growth Area  
Port of Umatilla



5N 28 11

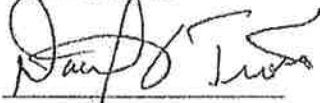
ples of conflicts of law. Any claim, action, suit or proceeding that arises from or relates to this Agreement shall be brought and conducted exclusively within the Circuit Court of Umatilla County for the State of Oregon. In the event a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively in the United States District Court for the District of Oregon.

8.8 *Counterparts.* This Agreement may be executed in counterparts, each of which shall be an original, all of which shall constitute one and the same instrument. Execution of a facsimile or PDF copy shall have the same force and effect as execution of an original.

8.9 *Merger.* This Agreement embodies the entire agreement and understanding between the Parties hereto and supersedes all previous agreements and understandings with respect to the matters described herein.

WHEREAS, all the aforementioned is hereby agreed upon by the Parties and executed by the duly authorized signatures below.

City of Umatilla



David Trött, Mayor

2/05/2014

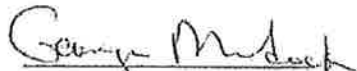
Date

Approved as to form:



City Attorney

Umatilla County

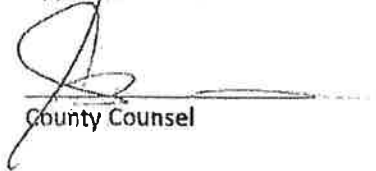


George Murdock, Board Chair

1/27/2016

Date

Approved as to form:



County Counsel





# U.S. Fish and Wildlife Service National Wetlands Inventory

Vadata Replat

Jun 2, 2016



## Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

User Remarks:

**UMATILLA COUNTY  
PLANNING COMMISSION**

**June 23, 2016**

**NEW HEARING:**

**CONDITIONAL USE PERMIT REQUEST, #C-1264-16, RODNEY J. RAINEY APPLICANT, MICHAEL ATKINSON, OWNER.**

**The applicant requests approval for a residential adult care facility for alcohol and drug treatment for up to 15 clients. The application is being processed as a Conditional Use Request for a convalescent home. The criteria of approval are found in the Umatilla County Development Code 152.616 (UU), 152.615 and 152.560.**



# Umatilla County

Department of Land Use Planning

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DIRECTOR  
TAMRA  
MABBOTT

## MEMO

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

**TO:** Umatilla County Planning Commissioners

**FROM:** Brandon Seitz, Assistant Planner BS

**DATE:** June 15, 2016

CODE  
ENFORCEMENT

**RE:** June 23, 2016, Planning Commission Hearing  
Conditional Use Request #C-1264-16

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

### Background Information

GIS AND  
MAPPING

Mr. Rod Rainey, the applicant and facility manager of the Power House Residential Drug Treatment Center, submitted a Conditional Use Permit application requesting approval of a Convalescent Home on May 16, 2016. The application is for a drug and alcohol treatment facility for up to a maximum of 15 patients. The parcel is zoned Rural Residential (RR-4) which allows a 4 acre minimum parcel size. In a RR-4 Zone a "Residential Home" would be allowed with a Zoning Permit for five or fewer individuals not including staff. The proposed facility would best be described as a "Residential Facility" allowing for six to fifteen individuals not including staff.

RURAL  
ADDRESSING

LIAISON,  
NATURAL  
RESOURCES &  
ENVIRONMENT

The property has historically been used as a nursing home/adult foster care facility. The dwelling to be used for the proposed facility was used as a nursing home that was established around 1966. The Planning Department was unable to verify when the nursing home stopped operation. In 2008 an adult foster care, residential home, was approved in a second dwelling for up to five adults. As of March 2015 planning approval for the facility has expired.

### Public Notice and Hearing

Due to the number of comments received for a similar facility in 2015, also submitted by Mr. Rainey, the application was sent directly to the Planning Commission for a decision. Public Notice was mailed to affected land owners and agencies on June 3, 2016. The notice was also advertised in the Saturday June 11, 2016 edition of the East Oregonian.

### Planning Commission's Decision

The Planning Commission may request additional information and continue the hearing or may decide to approve or deny the applicant's request.

### Attachments

The following attachments have been include for review by the Planning Commission:

- Preliminary Finding and Conclusions
- Public Hearing Notice

**UMATILLA COUNTY PLANNING DEPARTMENT  
PRELIMINARY FINDINGS AND CONCLUSIONS  
RAINEY CONDITIONAL USE PERMIT REQUEST, # C-1264-16  
Map # 5N 29C, Tax Lot # 3391, Account # 130085**

- 1. APPLICANT:** Rodney J. Rainey, 32405 Diagonal Road, Hermiston OR, 97838.
- 2. OWNERS:** Michael Atkinson, 29735 Bridge Road, Hermiston OR, 97838.
- 3. REQUEST:** The applicant request approval of a Conditional Use Permit for a residential adult care facility for alcohol and drug treatment, “Convalescent Home”, for up to 15 clients. The Umatilla County Development Code (UCDC) does not address the operation of a residential care facility (alcohol and drug treatment) as a land use in any Rural Residential zone. The closest description for the proposed land use in the UCDC is a convalescent home. A specific definition for a convalescent home is not provided in the UCDC. However, the generally accepted medical definition of a convalescent is “recovering from sickness or debility: partially restored to health or strength” (Merriam-Webster, Medical Dictionary). Clients treated for alcohol and drug issues would meet that medical definition and a convalescent home may be permitted with a conditional use permit.
- 4. LOCATION:** The subject property is located on the north side of W Walls Road, approximately a half mile west of the W Walls Road and Highway 207 intersection.
- 5. SITUS ADDRESS:** The parcel has two addresses 32773 and 32755 W Walls Road, Hermiston, OR, 97838.
- 6. ACREAGE:** The parcel is 4.75 acres.
- 7. PERMITS:** Land Use Permits:
- 1) ZP-75-1008: Issued April 29, 1975, for a 780 square feet mobile home.
  - 2) ZP-79-097: Issued April 5, 1979, for a 14’ x 70’ mobile home and 20’ x 40’ storage shed.
  - 3) ZP-86-002: Issued January 7, 1986, for a 30’ x 40’ shed.
  - 4) ZP-89-030: Issued March 27, 1989, for a replacement mobile home 66’ x 28’ and addition to shop 15’ x 40’.
  - 5) ZP-97-127: Issued May 16, 1997, for addition to existing residential facility 18’ x 26’.
  - 6) ZP-98-048: Issued March 3, 1998, for an addition to existing shed 20’ x 40’.

- 7) ZP-08-214: Issued October 21, 2008, establish adult foster care for 5 adults in an existing manufactured dwelling, permitted by ZP-89-030.

- 8. COMP PLAN:** The parcel is designated Rural Residential by the Comprehensive Plan.
- 9. ZONING:** The parcel is zoned Rural Residential (RR-4) four acres minimum.
- 10. ACCESS:** The parcel has access from W Walls Road.
- 11. ROAD TYPE:** W Walls road is a gravel County maintained road (#1258W).
- 12. EASEMENTS:** The parcel does not have an easement.
- 13. LAND USE:** The parcel is developed with two dwellings and a shop. One of the dwelling was used as an adult foster care/nursing home that was established around 1966. As of March 30, 2015 planning approval of the adult foster care home was voided. Both dwellings are currently vacant.
- 14. ADJACENT USE:** The adjacent land uses are mixed between residential and farm uses. There are several rural dwelling on lands zoned for residential use in the area. In addition there is irrigated farm land and pasture lands in the area.
- 15. LAND FORM:** Columbia River Plateau.
- 16. BUILDINGS:** The parcel has been developed with two dwelling and a shop.
- 17. UTILITIES:** The parcel is served by Umatilla Electric and Charter Communication.
- 18. WATER/SEWER:** There is a domestic well and sanitary sewage disposal system serving the dwellings on the property.
- 19. FIRE SERVICE:** The parcel is located within the Hermiston Rural Fire District for protective services.
- 20. IRRIGATION:** The parcel is located within the Hermiston Irrigation District.
- 21. FLOODPLAIN:** The parcel is not located within a designated floodplain.
- 22. NOTICES SENT:** June 3, 2016.
- 23. PLANNING COMMISSION HEARING DATE:** June 23, 2016

**24. AGENCIES:** Oregon Dept of Human Services, Oregon Health Authority, Oregon Fire Marshall, Oregon Dept of Environmental Quality, Oregon Building Codes, Umatilla County Assessor, Umatilla County Public Works, Umatilla County Public Health, Hermiston Irrigation District, Hermiston Rural Fire District, City of Hermiston, and Umatilla Electric.

**25. COMMENTS:** None to date.

**26. STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE to establish a “CONVALESCENT HOME” in an existing dwelling on RR-4 land is allowed through approval of a Conditional Use Permit as provided in Section 152.616 (UU), pursuant to Section 152.615 (A)-(L) and Section 152.560.** The standards for approval are provided in underlined text and the responses are indicated in standard text.

**152.616 STANDARDS FOR REVIEW OF CONDITIONAL USES AND LAND USE DECISIONS**

(UU) Rest home, home for the aged, nursing home or convalescent home.

(1) The activity is compatible with existing adjacent land uses; The application is for an alcohol and drug treatment facility that would be located in an existing dwelling that was operated as a 15 patient nursing home. The proposed treatment facility would have the same number of maximum patients. The applicant has indicated that staff is onsite 24 hours a day 7 days a week to provide treatment and monitor the patients. Patients are not allowed off-site for any reason. All visitors must schedule visitations in advance and multiple visitors at one time are avoided.

The Umatilla County Planning Department finds that the proposed facility would have the same maximum number of patients as a previous care facility, the only difference would be in the type of care received. The applicant has indicated that reasonable measures will be taken to ensure impacts to surround properties are minimized. Therefore, the proposed treatment facility is found to be compatible with the existing adjacent land uses. This criterion is met.

(2) Adequate area for off street parking is provided for both employees and visitors; The Umatilla County Planning Department finds that the applicant has indicated there is adequate room on the parcel for the required off street parking. However, the applicant has indicated that the patients are not allowed to have personal vehicles. The off street parking requirements are address below. A condition of approval is imposed to show on the final site plan the required 15 parking spaces. Satisfaction of this criterion is pending.

(3) Landscaping shall be provided and maintained around the perimeter of the activity and through the open area; The Umatilla County Planning Department finds that the subject property is maintained with appropriate residential landscaping around the dwellings. This criterion is met.

(4) Suitable methods for fire escape are available for each room in the home; The Umatilla County Planning Department finds that the applicant has indicated that suitable methods for fire escape are available for each room. However, a condition of approval is imposed to comply with all applicable Oregon Fire Code standards and provide verification of compliance to the Umatilla County Planning Department. Satisfaction of this criterion is pending.

(5) Complies with other conditions as deemed necessary provided in § 152.615. UCDC 152.615 is addressed below.

### **152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.**

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions: The Umatilla County Planning Department find that the proposed facility would server up to 15 clients. Water systems that regularly serve ten or more people per day are State Regulated Water Systems by the Oregon Health Authority (OHA). Therefore, a condition of approval is imposed requiring the applicant to comply with all OHA regulations for the proposed facility and provide verification of compliance to the Planning Department.

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such environmental effects as noise, vibration, air pollution, water pollution, glare or odor; The treatment facility would be an around the clock facility with staff and patients onsite 24 hours a day. However, hours for visitation and deliveries shall be limited to normal business hours (8 a.m. through 5 p.m.) to minimize disturbances to adjacent residences. Satisfaction of this criterion is pending.

(B) Establishing a special yard, other open space or lot area or dimension; The parcel is developed with open space and residential landscaping. The proposed facility would not require a special yard or additional open space.

(C) Limiting the height, size or location of a building or other structure; The parcel is developed with two dwelling and a shop. No additional buildings or structures are proposed. Therefore, limiting the height, size or location of a structure is not required.

(D) Designating the size, number, location and nature of vehicle access points; The property has two existing access points off W Walls Road, one serving each existing dwelling. No additional access is proposed or required for the proposed facility. Therefore, no additional restrictions are required.

(E) Increasing the required street dedication, roadway width or improvements within the street right of way; No improvement within the street right of way are required.

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area; The applicant will be required to comply with all applicable off

street parking standards listed in Sections 152.560-152.562 of the UCDC which are addressed below. No additional parking restrictions are required.

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs; There are no signs currently on the subject property. If the property were to be developed with signage the applicant would be required to comply with the sign regulation standards in the UCDC Sections 152.545-152.548. No additional restrictions are required.

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding; The existing outdoor lighting consist is consistent with typical residential development. No additional restrictions or shielding is required.

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance. No diking, screening or landscaping is required.

(J) Designating the size, height, location and materials for a fence; No fencing is required.

(K) Protecting and preserving existing trees, vegetation, water resources, air resources, wildlife habitat, or other natural resources; The subject property is maintained with trees, shrubs and other residential vegetation. No changes to the existing natural resources is proposed. Therefore, no additional measures are required.

(L) Parking area requirements as listed in 152.560 through 152.562 of this chapter. Parking requirement are addressed below.

### **152.560 OFF-STREET PARKING REQUIREMENTS.**

(A) Each use shall provide the following minimum off-street parking spaces. Each parking space shall be a minimum of nine feet wide and 20 feet in length.

(B) Off-street parking requirements.

(3) Rest home, hospital, convalescent home: one space per bed.

The Umatilla County Planning Department find that the proposed convalescent home would have up to 15 clients thus would be required to have 15 parking spaces. The applicant has indicated that there is adequate space to meet the parking requirements. A condition of approval will be to show on the final site plan the required 15 parking spaces. Satisfaction of this criterion is pending.

**DECISION: THE RAINEY CONDITIONAL USE PERMIT TO ESTABLISH A CONVELASCENT HOME COMPLIES WITH THE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE, AND MAY BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

Precedent Conditions: The following precedent condition must be fulfilled prior to final

approval of this request, signified by issuance of a Zoning Permit.

1. Provide to the County Planning Department a copy of State licensing showing that the applicant is licensed as a residential care facility for alcohol and drug treatment in the State of Oregon.
2. Provide to the County Planning Department verification of compliance with all applicable Oregon Fire Code.
3. Submit a site plan showing the size, location and number of all parking space as required per Section 152.560 of the UCDC.
4. Comply with all applicable requirement of the Oregon Health Authority for State Regulated Water Systems and provide verification of compliance to County Planning.

Subsequent Condition: The following subsequent conditions must be fulfilled after final approval and shall continue to apply.

6. Obtain a County Zoning Permit from the Umatilla County Planning Department to finalize approval of the convalescent home.
7. Obtain all other applicable State permits for the facility.
8. Visitation and delivery hours shall be limited to normal business hours (8 a.m. to 5 a.m.).

UMATILLA COUNTY PLANNING COMMISSION

Dated \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

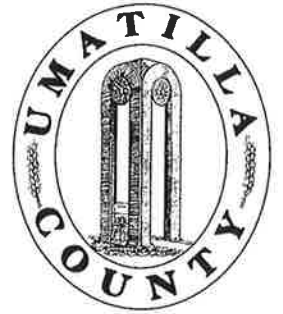
\_\_\_\_\_  
Randy Randall, *Chair*

Mailed \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

# Umatilla County

Department of Land Use Planning

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DIRECTOR  
TAMRA  
MABBOTT

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

CODE  
ENFORCEMENT

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

GIS AND  
MAPPING

RURAL  
ADDRESSING

LIAISON,  
NATURAL  
RESOURCES &  
ENVIRONMENT

## NOTICE OF PUBLIC HEARING UMATILLA COUNTY PLANNING COMMISSION

YOU ARE HEREBY NOTIFIED of a Public Hearing to be held before the Umatilla County Planning Commission on **Thursday, June 23, 2016 at 6:30 PM** at the Stafford Hansell Government Center, 915 SE Columbia Drive, Hermiston, OR. The Public Hearing is in regard to **CONDITIONAL USE PERMIT REQUEST, #C-1264-16**, application submitted by **RODNEY J. RAINEY**, property owner **MICHAEL ATKINSON**. The property is located on the north side of West Walls Road (County Road No. 1258) on Tax Lot #3391, in Township 05N, Range 29E, Section 29. The site address for this property is 32773 W Walls Road, Hermiston, OR 97838.

The applicant requests approval for a residential adult care facility for alcohol and drug treatment for up to 15 clients. The application is being processed as a Conditional Use Request for a convalescent home. The criteria of approval are found in the Umatilla County Development Code 152.616 (UU), 152.615 and 152.560.

For further information concerning the above proposal, please contact Assistant Planner, Brandon Seitz at the Umatilla County Planning Department, 216 SE 4<sup>th</sup> Street, Courthouse, Pendleton, Oregon 97801; telephone 541-278-6249.

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

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

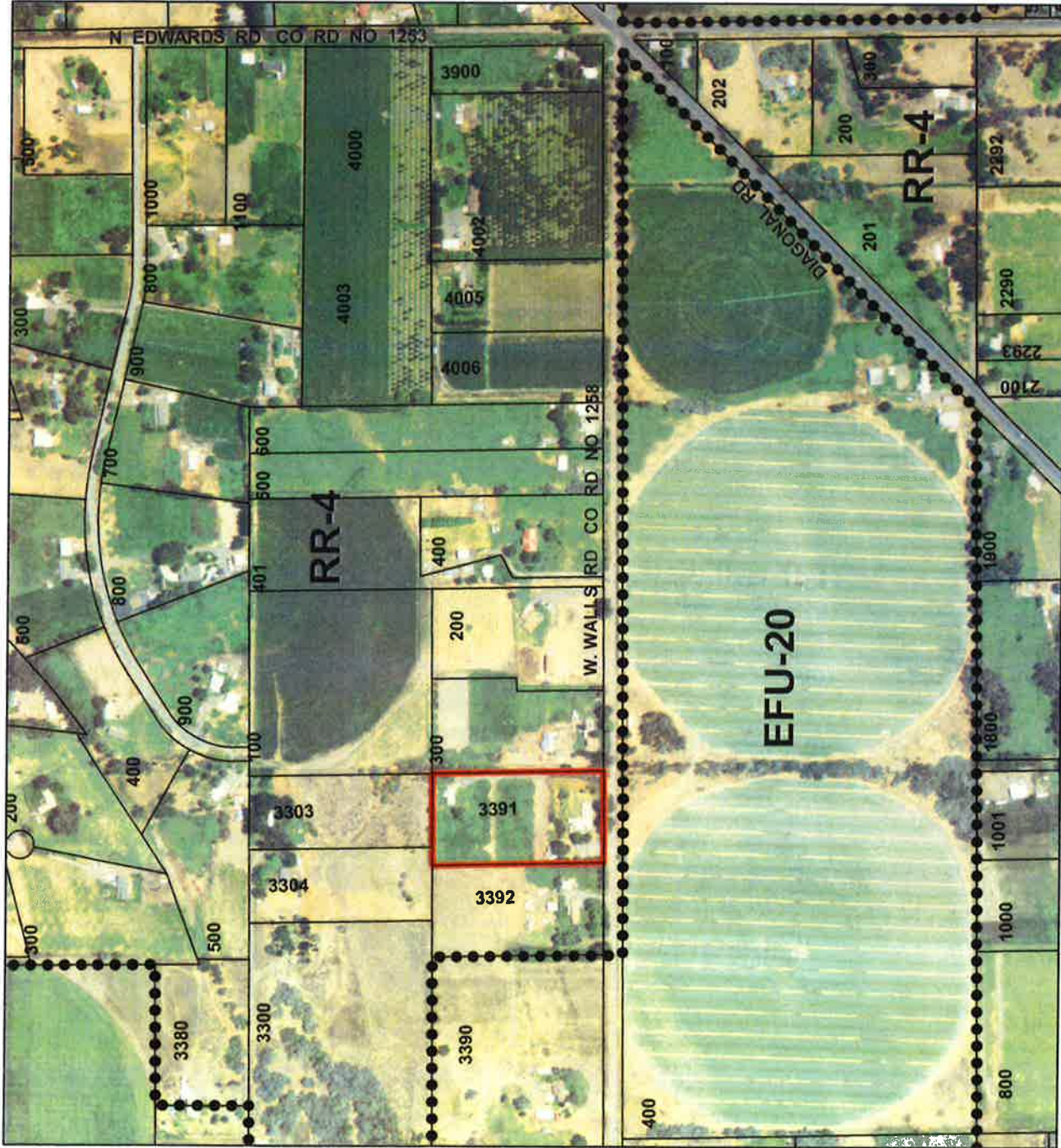
DATED THIS 3<sup>rd</sup> day of June 2016

UMATILLA COUNTY PLANNING DEPARTMENT



**PROPERTY OWNERS WITHIN 250'  
NOTICE OF SUBJECT PARCEL**

| MAP & TAX            | OWNER                               |
|----------------------|-------------------------------------|
| 5N2929DC00100        | MEADS IVAN                          |
| 5N2929DC00300        | STAUFFER DONALD R & LINDA J         |
| 5N29320000400        | GAGE DARREL & DONNA (TRS)           |
| 5N29C00003300        | LORANG JEANNETTE                    |
| 5N29C00003303        | BALLARD MARY M & BURSSELL JESSICA D |
| 5N29C00003304        | MARTINEZ SABAS & MUNOZ SUSAN        |
| <b>5N29C00003391</b> | <b>ATKINSON MICHAEL R</b>           |
| 5N29C00003392        | POOL JEFFREY L & AMELIA D           |



2014 AERIAL PHOTO

**CONDITIONAL USE REQUEST #C-1264-16  
ROD RAINEY / POWER HOUSE RDTC, APPLICANT  
MICHAEL ATKINSON, OWNER**

SUBJECT PROPERTY



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