

# Umatilla County

Department of Land Use Planning



## AGENDA

Umatilla County Planning Commission  
Public Hearing  
Thursday, September 24, 2015, 6:30 p.m.  
Justice Center Media Room  
Pendleton, OR

### Members of Planning Commission

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

### Members of Planning Staff

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

1. Call to order
2. Adopt minutes (August 27, 2015 )
3. New Hearing:

**NEW HEARING: MICHAEL PARKER REQUEST FOR HEARING #ZP-14-109, Landowner, Eva Swain.** On June 2, 2015, county revoked Zoning Permit issued to Michael Parker based on violations of conditions of the permit. Mr. Parker filed a request for a public hearing. The Permit allowed operation of a nursery business and excluded selling or dispensing of marijuana or marijuana products. The property is located on the east side of Highway 395, just north of Power City Road. Property is described as tax lot 300 of Assessor's Map 5N 28 15CC. Applicable code standards include Zoning Ordinance C-1, Zone 3.110-3.3.114 and Ordinance 2014-02.

4. Continued Hearing:

**CONTINUED HEARING: REQUEST FOR A PUBLIC HEARING FOR LAND USE DECISION REQUEST #LUD-185-15, BLUE MOUNTAIN CHRISTIAN FELLOWSHIP, applicant/property owners.** During the public comment period, a "Request for a Public Hearing" was submitted on July 27, 2015. The request is to develop an 80 foot by 80 foot cemetery on church-owned property. The area of the Blue Mountain Christian Fellowship property proposed for the cemetery is located on the south side of Sunquist Road (County Road No. 512) at the northeast corner of Tax Lot #1100, in Township 6N, Range 35E, Section 21A. The situs address for this property is 52322 Sunquist Road, Milton Freewater, OR 97802. Criteria of approval are found in Umatilla County Development Code 152.059 (B), 152.617 (II).

**5. New Hearing:**

**NEW HEARING: CONDITIONAL USE PERMIT REQUEST #C-1248-15 AND LAND USE DECISION REQUEST #LUD-188-15 FOR WALLULA TO McNARY 230-kV TRANSMISSION LINE, PACIFIC POWER, applicant.** Planning commission will review the Conditional Use Permit Request and Land Use Decision Request by Pacific Power to build a 230-kV transmission line from the McNary Substation near Umatilla, OR to Wallula, WA, near the Oregon/Washington border. The proposed transmission line route would pass through public and private lands and would parallel existing Bonneville Power Administration and Pacific Power transmission lines. Criteria of approval include Umatilla County Development Code 152.059, 152.617 (II)(7), and 1972 Umatilla County Zoning Ordinance 3.114, 3.116, 3.026, and 7.040.

**6. Adjournment**

**Next Scheduled Meeting:**

Thursday, October 22, 2015, 6:30 p.m., Justice Center Media Room, Pendleton, OR.

**NEW HEARING:**

**MICHAEL PARKER REQUEST FOR HEARING #ZP-14-109, Landowner, Eva Swain.**

On June 2, 2015, county revoked Zoning Permit issued to Michael Parker based on violations of conditions of the permit. Mr. Parker filed a request for a public hearing. The Permit allowed operation of a nursery business and excluded selling or dispensing of marijuana or marijuana products. The property is located on the east side of Highway 395, just north of Power City Road. Property is described as tax lot 300 of Assessor's Map 5N 28 15CC. Applicable code standards include Zoning Ordinance C-1, Zone 3.110-3.3.114 and Ordinance 2014-02.

# Umatilla County

Department of Land Use Planning



DIRECTOR  
TAMRA  
MABBOTT

MEMO  
September 17, 2015

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

TO: Planning Commission  
FROM: Tamra J. Mabbott, Planning Director *TJM*  
CC: Doug Olsen, County Counsel  
SUBJECT: Michael Parker Request for Public Hearing

CODE  
ENFORCEMENT

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

GIS AND  
MAPPING

RURAL  
ADDRESSING

LIAISON,  
NATURAL  
RESOURCES &  
ENVIRONMENT

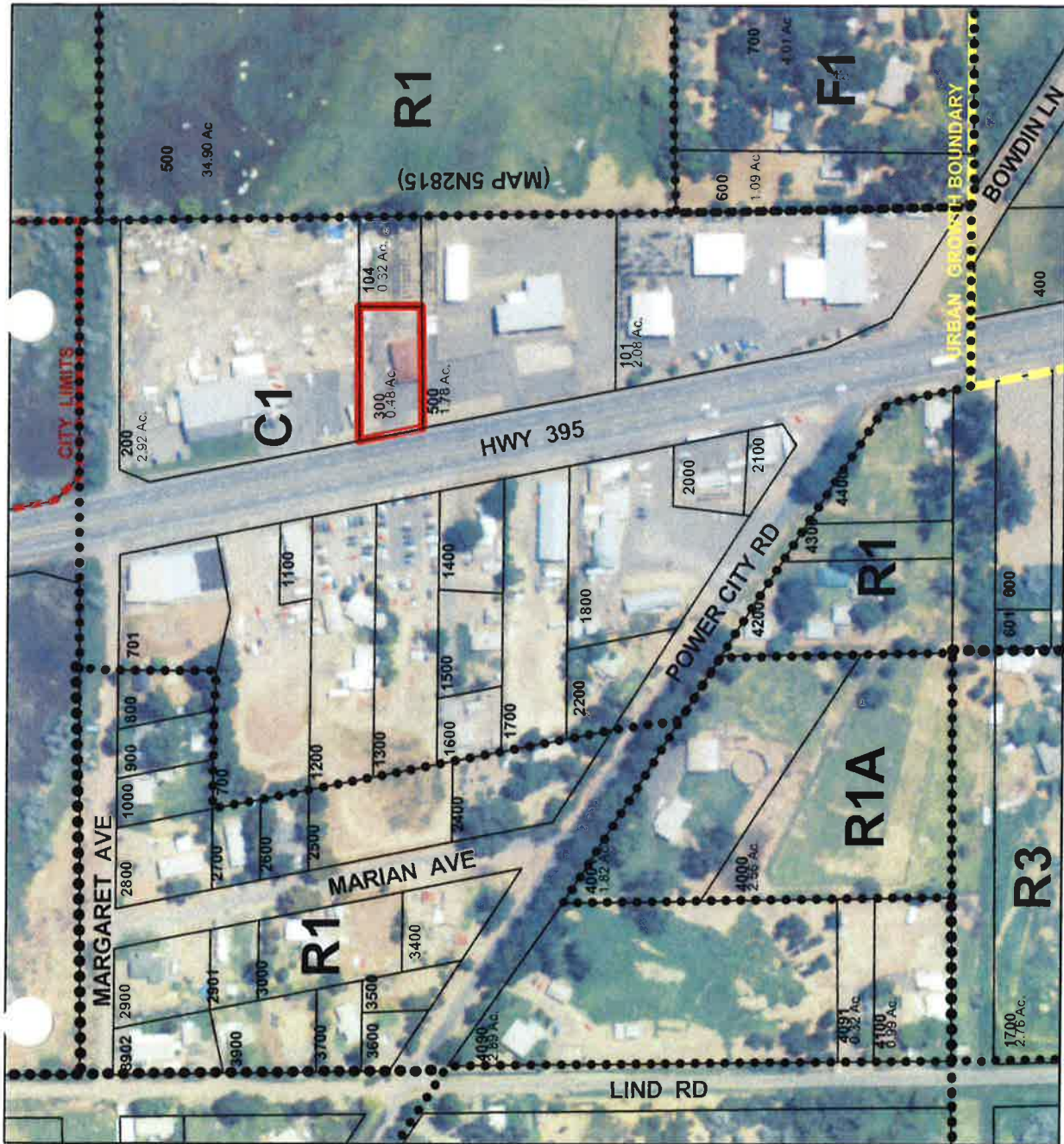
Michael Parker has requested a Public Hearing in response to a Zoning Permit which was revoked. The permit was revoked based on the fact that Mr. Parker was and is living at the property which is not permissible. And, the Zoning Permit specifically prohibited retail sales of marijuana, which was reported by Oregon State Police. The most recent report of a transaction for marijuana was on July 14, 2015, according to OSP MNNT personnel.

This matter pertains specifically to the violation of the land use permit. However, at the time the permit was issued and since, the county has been under a moratorium of medical marijuana dispensaries. Also, at no time was Mr. Parker permitted by Oregon Health Authority to operate a medical marijuana dispensary. In fact, code enforcement staff report the dispensary business, in anticipation that the OHA would investigate and pursue appropriate enforcement action.

Please see the attached record of the Zoning Permit, letters to Mr. Parker and evidence of Mr. Parker's occupancy at the subject property

Table of Contents –

1. Vicinity Map of subject property
2. Letter from William Perkinson, attorney for Michael Parker, with request for public hearing and Basis of Appeal.
3. June 2, 2015 letter to Michael Parker, business owner and Eva Swain, landowner, including notice of permit revocation.
4. April 29, 2015 letter to Parker and Swain including notice of violation and request for evidence to demonstrate compliance.
5. Zoning Permit ZP-14-109 issued to allow a green house or nursery. Permit specifically declared permit did not allow commercial/retail sales.
6. April 21, 2015 Judge Order identifying place of residence of Michael Parker as 82035 North Highway 395.



ZONING PERMIT APPEAL #APPL-ZP-14-109  
 MICHAEL PARKER/WILLIAM PERKINSON, APPLICANTS  
 MAP 5N2815CC, TAX LOT 300



Subject Parcel

2014 AERIAL PHOTO

PROPERTY OWNERS WITHIN NOTICE

MAP & TAX LOT	OWNER
5N28150000500	KLOEPPER ORLIN D
5N2815CC00104	CLARK DENNIS A & NADINE (AGT)
5N2815CC00200	SWAIN EVA
	HP LLC
	C/O HENDON CARL C
<b>5N2815CC00300</b>	<b>SWAIN EVA</b>
5N2815CC00500	SCHWENKELDER JOHN R & BONNIE
5N2815CC01100	VANARSDALE BARBARA J
5N2815CC01200	CHEN ZICHONG & CHEN WOREN (AGT)
5N2815CC01300	VANARSDALE BARBARA J
5N2815CC01400	CHEN ZICHONG & CHEN WOREN (AGT)
5N2815CC01700	GONZALEZ JUAN D & ORALIA M
	HUSSEY JACK O ETAL



DATE: 7/8/15

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Not intended for legal use. Created by J. Alford, Umatilla County Planning Dept.



## PERKINSON LAW OFFICE

17 SW Frazer Avenue, Suite 246  
Post Office Box 181  
Pendleton, Oregon 97801  
541 276 0270  
office@wperkinson.com

WILLIAM E. PERKINSON  
ATTORNEY AT LAW

DANIELLE B. RAMOS  
ATTORNEY AT LAW

June 17, 2015

Umatilla Co. Planning Commission  
Department of Land Use Planning  
216 SE 4<sup>th</sup> Street  
Pendleton, OR 97801  
By hand delivery

RE: Notice of Appeal  
ZP-14-109 (Revoked by letter June 2, 2015)

To whom it concerns,

My firm currently represents Michael Parker and is assisting him with this issue.

Please see the attached Notice of Appeal in the above identified matter. We are requesting a de novo hearing as provided by the UCDC. We also request the ability to present additional documents and information to the commission at the time of any hearing(s), as indicated by the UCDC. UCDC 152.766(E).

The proper filing fee accompanies this notice.

Contact me by email with any questions or concerns, and contact my office to schedule the hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "William E. Perkinson".

William E. Perkinson

cc: Client by hand delivery

#APPL-ZP-14-109

## Section 1: Request and Description of Application

This information deals with the Land Use Request Application that an Appeal is being filed against.

**THE REQUEST IS FOR...** (Check the one that applies)

- an Appeal to the Planning Commission from a decision of the Planning Department  
 an Appeal to the Board of Commissioners from a decision of the Planning Commission

### DESCRIPTION OF THE LAND USE REQUEST APPLICATION IN QUESTION:

- Land Use Request Application File Number: ZP-14-109
- Type of Land Use Request Application: Zoning Permit (Greenhouse)
- Decision-Making Body:  Planning Director or  Planning Commission
- Date of Decision (date on Findings): June 2, 2015: Letter revoking ZP
- Date you received notice of the decision or learned of the decision: June 2, 2015

## Section 2: Contact Information

Name of Appellant(s): Michael Parker c/o W. Perkinson

Address: 17 SW Frazer Ave #255 / PO Box 181

City, State, Zip: Pendleton, OR 97801

Telephone Number & Email Address: 541 276 0270, wep@wperkinson.com

Date of Submittal for the Appeal: June 17, 2015



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## Section 3: Basis of Appeal

Complete only when appealing a decision made by the Planning Department or Planning Commission.

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The Appeal is based on the belief that certain policies and/or procedures of the Comprehensive Plan and/or provisions of the Development Code were not properly administered or followed. Please specify the chapter, section and page numbers of the Comprehensive Plan and/or Development Code where the policies and/or procedures are found; as well as a narrative explaining the issues that the Appeal is based upon (*use additional pages if necessary*):

1. Mr. Parker's business at all times has complied with his zoning permit and with Oregon Medical Marijuana law.

On April 29, 2015, the planning department sent Mr. Parker a letter alleging that he was selling marijuana at the property in violation of ZP-14-109. At no point in time has Mr. Parker or any of his agents sold marijuana at the property. Likewise, he was not using or permitting the property to be used as an apartment, nor was he selling drug paraphernalia, as alleged in the April 29 letter. These allegations have no basis in fact, because Mr. Parker nor his agents have never sold marijuana at the property, and there exists no evidence permitting any conclusion to the contrary. As a result, the revocation of ZP-14-109 was without sufficient cause.

Mr. Parker admits that he did anticipate operating a medicinal marijuana dispensary at the property, and he admits that he advertised accordingly. However, after learning about the county's decision to extend the dispensary moratorium, he canceled his plans and discontinued running the advertisements. These advertisements were not a prohibited use of the property and were in expectation of the original dispensary ban expiration.

ZP-14-109 affirmatively permitted Mr. Parker and his agents to grow medicinal marijuana at the property as a greenhouse or nursery, and that activity (and some necessarily connected support activity) is all that Mr. Parker has ever used the property for. He has always complied with OMMP, county ordinances, and his zoning permit.

2. The ordinance Mr. Parker is accused of violating (2015-02) is invalid. SB1531 explicitly authorized Oregon counties to impose a moratorium on medical marijuana dispensaries, subject to certain terms in SB1531. The ordinance at issue extends the moratorium beyond the date explicitly authorized by SB1531. The ordinance is therefore invalid. If there is a reversal on issue 1., the planning commission need not reach issue 2.

COPY

# Umatilla County

Department of Land Use Planning



DIRECTOR  
TAMRA  
MABBOTT

June 2, 2015

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

Michael Parker

✓ Eva Swain, landowner  
4620 W. River Blvd  
Pasco, WA 99301-3017  
CERTIFIED MAIL

CODE  
ENFORCEMENT

HAND DELIVERED

SOLID WASTE  
COMMITTEE

RE: Tax Lot 300 of Map 5N 28 15CC  
Address 82053 Highway 395 North, Umatilla, OR  
Notice to Revoke ZP-14-109

SMOKE  
MANAGEMENT

GIS AND  
MAPPING

Dear Mr. Parker and Ms. Swain:

RURAL  
ADDRESSING

This is a follow up to my April 29, 2015 letter in which I advised you of two land use violations on the above referenced property. Mr. Parker delivered papers from the Oregon Medical Marijuana Program however, those papers did not provide sufficient evidence that the business is in compliance with Zoning Permit #ZP-14-019.

LIAISON,  
NATURAL  
RESOURCES &  
ENVIRONMENT

Therefore, county finds that Mr. Parker is operating a business in violation of Zoning Permit #ZP-14-109 and in violation of the Umatilla County Ordinance No. 2015-02. Zoning Permit #ZP-14-109 is therefore revoked effective immediately.

You are ordered to immediately cease business operations at the above address. Failure to comply will result in further enforcement action.

You have a right to request a hearing. If you choose to request a hearing, you must do so in writing within 21 days from the date of this notice.

Thank you for your prompt attention and cooperation.

Sincerely,

Handwritten signature of Tamra J. Mabbott in cursive script.

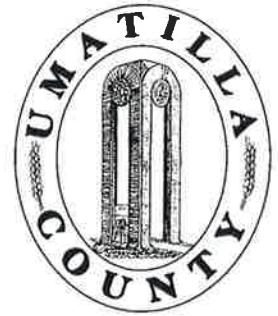
Tamra J. Mabbott

Cc: Terry Rowan, County Sheriff  
Jim Littlefield, Undersheriff  
Doug Olsen, County Counsel  
County Code Enforcement Office

# Umatilla County

Department of Land Use Planning

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DIRECTOR  
TAMRA  
MABBOTT

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

April 29, 2015

CODE  
ENFORCEMENT

Michael Parker

Eva Swain, landowner  
4620 W River Blvd  
Pasco, WA 99301-3017  
CERTIFIED MAIL

SOLID WASTE  
COMMITTEE

HAND DELIVERED

SMOKE  
MANAGEMENT

GIS AND  
MAPPING

RE: Tax Lot 300 of Map 5N 28 15CC

Address 82053 Highway 395 North, Hermiston, OR 97838

RURAL  
ADDRESSING

Violation of land use permit and Notice to Revoke ZP-14-109

LIAISON,  
NATURAL  
RESOURCES &  
ENVIRONMENT

Dear Mr. Parker and Ms. Swain:

Zoning Permit #ZP-14-109 was issued on June 2, 2014 to allow a greenhouse/nursery on the above referenced property. The permit specifically precluded the "commercial /retail sales of any product grown in this nursery at the location."

We have evidence that marijuana sales are occurring on this property. We find that you are in violation of the permit and we are hereby serving notice that your permit will be revoked 21 days of this notice. **If you do not provide any evidence refuting that you are in violation of your permit within 21 days, your permit will be revoked.** You have a right to request a hearing.

Further, there are two other land use violations at this property. It appears you or other individuals are using the commercial building as an apartment. The zoning does not allow occupancy of the commercial building without permit approval. It may be permitted with a Conditional Use Permit. Please see attached C-1 Zoning Code.

The other land use violation is the selling of drug paraphernalia. This is not allowed in the C-1 zone and the activity is a violation of the C-1 Zone.

We note that the property ownership has changed. Eva Swain was the owner in 2014 when the Zoning Permit was issued. Any change in activity requires a zoning permit at a minimum, and possibly a conditional use permit.

Please contact us at (541) 278-6252 at your earliest convenience to discuss your plans to cease your business operation. Thank you for your prompt attention and cooperation.

Cordially,

Tamra J. Mabbott

Cc: Terry Rowan, County Sheriff  
Jim Littlefield, Undersheriff

COPY



UMATILLA COUNTY ZONING PERMIT

DEPARTMENT OF LAND USE PLANNING
216 SE 4TH ST, Pendleton, OR 97801
Phone: 541-278-6252 • Fax 541-278-5480

For information visit- www.umatillacounty.net/planning

Permit No. ZP - 14 - 109
Zoning Permit Fee \$75
Code Violation Fee \$75
Design Review \$350
Floodplain Dev. Permit \$250
Replace Dwelling Verify \$75
Rural Address \$35
Towers (Cell. Met. etc.) \$200

APPLICANT'S NAME Michael Parker PHONE Work ( )
MAILING ADDRESS 32697 E. Punkin Center Rd. Hermiston OR 97838

PROPERTY OWNER(S) Eva Swain PHONE (541)567-2277
MAILING ADDRESS 80406 Hwy. 395 N. Hermiston OR 97838

TWP 5N RNG 28 SEC 15CC ACCT# 133144 Map # 5N2815CC Tax Lot 300
LAND USE ZONE C-1 SQ FT / ACRES SITE ADDRESS 82053 Hwy 395 N., Umatilla, OR

REQUIRED SETBACKS (Stream Setback 100 ft) FRONT 20 ft. SIDE 10 ft. and 20 ft. REAR 20 ft.
Is the property in a FLOODPLAIN? [X] No [ ] Yes. FLOOD ZONE n/a Is a Flood Development Permit required? [X] No [ ] Yes

If the permit is for an accessory building located within the EFU/GF Zones, how will it be used? [ ] Personal Use, or [ ] Farm Use
ACCESS PERMIT: Has an access permit been issued from the County or ODOT? [ ] No [ ] Yes [ ] In Process [X] Not Applicable
MANUFACTURED HOME (placement/removal) - Has the County Assessor's Office issued applicable permits? [ ] No [ ] Yes [X] Not Applicable

PROPOSED USE(S): Green House or Nursery \* YEAR - SIZE Existing Building
Briefly describe the use YEAR - SIZE

These conditions apply to various uses authorized via a zoning permit. Planning Staff will check those that apply, if any.

- [ ] Manufactured Home Placement, pursuant to UCDC 152.013 the mobile home unit shall be manufactured after January 1, 1972, and bear the "Insignia of Compliance" if prior to 1976.
[ ] Replacement of a dwelling in a resource zone. The dwelling to be replaced MUST be demolished or removed within 90 days of the new dwelling being built. Fill out and attach the "Replacement Dwelling" supplemental form.
[ ] Met Towers. Temporary met towers must be removed within two years from the date of a zoning permit; an extension of one year may be requested prior to the permit expiration.
[ ] Temporary Mobile Home/Temporary Hardship Dwelling. The home MUST be removed, demolished or converted within 90 days from the date the hardship ends. Contact County Planning as soon as the hardship ends.

I hereby certify that the above information is correct and understand that issuance of a permit based on this application will not excuse me from complying with effective Ordinances and Resolutions of the County of Umatilla and Statutes of Oregon, despite any errors on the part of the issuing authority in checking this application. The applicant must notify the Planning Department if there are ANY changes in the details of this Zoning Permit. This Zoning Permit may be REVOKED if the information provided is found to be false.

\* SIGNATURE OF ALL PROPERTY OWNERS REQUIRED (additional signature pages are available upon request)

[X] Eva Swain 5-20-2014 [X]
Signature of Property Owner, Title Date Signature of Property Owner, Title Date
Eva Swain Printed Name of Property Owner Printed Name of Property Owner

DATE APPROVED 2/10/14 APPROVED BY Kristi Miller PERMIT NO. ZP-14-109

RELATED: LUD, CUP and/or VARIANCE NO.

EXTENDED or AMENDED. DATE APPROVED: APPROVED BY:

VALID FOR ONE YEAR ONLY UNLESS OTHERWISE NOTED. This is NOT a Building or Subsurface Disposal Permit. Revision Date: October 14, 2013

\* Permit does not allow any commercial/retail sales of any product grown in this nursery/greenhouse at this location. Anyone growing medical marijuana must provide a copy of their state license/permit to the Planning Department.

COPY

In the Circuit Court of the State of Oregon for UMATILLA/MORROW County

Case Number CVR150537

Randi Shauntel Weems See CIF  
Petitioner, (date of birth)  
(name of person who asked for restraining order)

Order After Hearing

- 21 Day or 5 Day Hearing, After Notice
- Exceptional Circumstances Hearing
- Modification
- Renewal Hearing

vs

Michael Alan Parker See CIF  
Respondent, (date of birth)  
(name of person to be restrained)

(Family Abuse Prevention Act)

This matter came before this Court on 04/21/2015

PETITIONER

- Appeared in person  by telephone/video
- Was served a copy of this Order in court
- Did not appear
- Attorney: Nicholas Patterson
- OSB# \_\_\_\_\_

RESPONDENT

- Appeared in person  by telephone/video
- Was served a copy of this Order in court
- Did not appear
- Attorney: \_\_\_\_\_
- OSB# \_\_\_\_\_

FINDINGS: Petitioner has met her burden

Having heard the testimony, IT IS HEREBY ORDERED THAT THE RESTRAINING ORDER OBTAINED BY PETITIONER ON \_\_\_\_\_ IS:

- DISMISSED in its entirety
- CONTINUED in its entirety
- RENEWED in its entirety. The renewed restraining order expires on: \_\_\_\_\_
- CONTINUED/RENEWED but MODIFIED/AMENDED as follows:  
Respondent allowed 82035 N 395 Umatilla OR 97882  
to live at this property

The renewed restraining order expires on: \_\_\_\_\_

Important: Except as modified or amended, all other portions of the restraining order remain in effect

SECURITY AMOUNT for VIOLATION OF THIS ORDER IS \$5,000 unless a different amount is specified here: Other security amount: \$ \_\_\_\_\_

- Pendleton Circuit Court, 216 SE 4<sup>th</sup> Street Pendleton OR 97801 (541) 278-0341
- Hermiston Circuit Court, 915 SE Columbia Drive Hermiston OR 97838 (541) 667-3020
- Morrow County Circuit Court, 100 Court Street/PO Box 609 Heppner OR 97836 (541) 676-5264

Order After Hearing (Family Abuse Prevention Act)  
(FAPA 5/11)

February 5, 2015

19/8

**CERTIFICATE OF COMPLAINE WITH THE VIOLENCE AGAINST WOMEN ACT**

**FIREARMS NOTIFICATION** under 42 USC §3796gg-4(e): As a result of this Order it may be unlawful for Respondent to possess, receive, ship, transport or purchase a **firearm or ammunition** pursuant to **federal law** under 18 USC §922 (g)(8). The Order also may negatively affect Respondent's ability to serve in the Armed Forces of the United States or to be employed in law enforcement. [OJIN Event Code: NOGR]

**NOTICE TO RESPONDENT:** If you have questions about whether federal or state laws make it illegal for you to possess or purchase a firearm, and/or about whether this Order will affect your ability to serve in the military or be employed in law enforcement, you should consult an attorney.

**FIREARMS PROHIBITION:** This Order (or the original Order that is continued) prohibits Respondent from possessing FIREARMS or AMMUNITION and it is unlawful for RESPONDENT to do so under state law. [OJIN Event Code: ORBY; LEDS Brady Code: Y]

The Court finds:

- A. **Relationship:** The person protected by this Order is (*check at least one*)
- A spouse or former spouse of Respondent
  - The parent of Respondent's child
  - A person who does or did cohabit (live in sexually intimate relationship) with Respondent.
  - Respondent's child.
  - A child of an intimate partner\* of Respondent (\*intimate partner is spouse/former spouse, cohabitant/former cohabitant, or parent of Respondent's child).
- B. **Notice and Opportunity to Participate:**  
The Order was issued after a hearing of which Respondent received actual notice and at which Respondent had the opportunity to participate.
- C. **Terms of Order:**  
The Order restrains Respondent from harassing, stalking or threatening Petitioner or Petitioner's or Respondent's child/ren or engaging in other conduct that would place Petitioner in reasonable fear of bodily injury to Petitioner or Petitioner's or Respondent's child/ren; **AND**

Respondent represents a credible threat to the physical safety of Petitioner or Petitioner's or Respondent's child/ren; **OR**

This Order by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against Petitioner or Petitioner's or Respondent's child/ren that would be reasonably expected to cause bodily injury.

- Pendleton Circuit Court, 216 SE 4<sup>th</sup> Street Pendleton OR 97801 (541) 278-0341
- Hermiston Circuit Court, 915 SE Columbia Drive Hermiston OR 97838 (541) 667-3020
- Morrow County Circuit Court, 100 Court Street/PO Box 609 Heppner OR 97836 (541) 676-5264

Order After Hearing (Family Abuse Prevention Act)  
(FAPA 5/11)

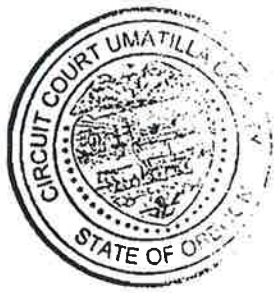
February 5, 2015

**FULL FAITH AND CREDIT PROVISIONS:** This Order meets all full faith and credit requirements of the Violence Against Women Act, 18 USC §2265. This Court has jurisdiction over the parties and the subject matter. Respondent was or is being afforded notice and timely opportunity to be heard as provided by Oregon law. This Order is valid and entitled to enforcement in this and all other jurisdictions.

DATED: 21 April 2015

Ronald J. Pahl

Ronald J. Pahl



CERTIFIED TO BE A TRUE AND  
CORRECT COPY OF THE ORIGINAL  
dated 04/21/15  
TRIAL COURT ADMINISTRATOR  
By [Signature]

- Pendleton Circuit Court, 216 SE 4<sup>th</sup> Street Pendleton OR 97801 (541) 278-0341
- Hermiston Circuit Court, 915 SE Columbia Drive Hermiston OR 97838 (541) 667-3020
- Morrow County Circuit Court, 100 Court Street/PO Box 609 Heppner OR 97836 (541) 676-5264

Order After Hearing (Family Abuse Prevention Act)  
(FAPA 5/11)

February 5, 2015



**CONTINUED HEARING:**

**REQUEST FOR A PUBLIC HEARING FOR LAND USE DECISION REQUEST #LUD-185-15, BLUE MOUNTAIN CHRISTIAN FELLOWSHIP, applicant/property owners.** During the public comment period, a “Request for a Public Hearing” was submitted on July 27, 2015. The request is to develop an 80 foot by 80 foot cemetery on church-owned property. The area of the Blue Mountain Christian Fellowship property proposed for the cemetery is located on the south side of Sunquist Road (County Road No. 512) at the northeast corner of Tax Lot #1100, in Township 6N, Range 35E, Section 21A. The situs address for this property is 52322 Sunquist Road, Milton Freewater, OR 97802. Criteria of approval are found in Umatilla County Development Code 152.059 (B), 152.617 (II).

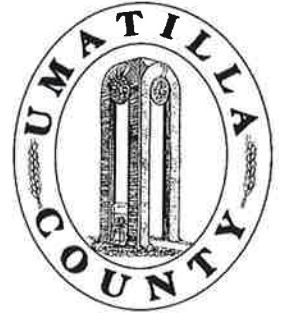
**NEW HEARING:**

**CONDITIONAL USE PERMIT REQUEST #C-1248-15 AND LAND USE DECISION REQUEST #LUD-188-15 FOR WALLULA TO MCNARY 230-kV TRANSMISSION LINE, PACIFIC POWER, applicant.** Planning commission will review the Conditional Use Permit Request and Land Use Decision Request by Pacific Power to build a 230-kV transmission line from the McNary Substation near Umatilla, OR to Wallula, WA, near the Oregon/Washington border. The proposed transmission line route would pass through public and private lands and would parallel existing Bonneville Power Administration and Pacific Power transmission lines. Criteria of approval include Umatilla County Development Code 152.059, 152.617 (II)(7), and 1972 Umatilla County Zoning Ordinance 3.114, 3.116, 3.026, and 7.040.

# Umatilla County

Department of Land Use Planning

---



DIRECTOR  
TAMRA MABBOTT

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

CODE  
ENFORCEMENT

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

GIS AND  
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RURAL  
ADDRESSING

LIAISON, NATURAL  
RESOURCES &  
ENVIRONMENT

## MEMO

**TO:** Umatilla County Planning Commissioners

**FROM:** Bob Waldher, Senior Planner

**DATE:** September 17, 2015

**CC:** Tamra Mabbott, Planning Director  
Doug Olsen, County Counsel

**RE:** September 24, 2015, Planning Commission Hearing  
PacifiCorp Wallula to McNary 230 kV Transmission Line  
Land Use Decision, #LUD-188-15  
Conditional Use Permit Request, #C-1248-15

### ***Background Information***

CH2M (Consultant) submitted an application on behalf of PacifiCorp (DBA Pacific Power) for a proposed 230 kV transmission line that will connect the McNary substation at Umatilla to the Wallula, Washington substation. The route is identified in the attachments. The proposed transmission line within Oregon is approximately 22 miles in length. The project will require new rights-of-way at a minimum width of 125 feet. The proposed route parallels the existing Pacific Power and Bonneville Power Administration (BPA) transmission lines. The new transmission line is proposed by Pacific Power as part of its northwest transmission system.

The proposed route is located within three jurisdictions; City of Umatilla, City of Umatilla Urban Growth Area (UGA) and Umatilla County. This land use decision and findings applies to the segments located within the UGA and Umatilla County only. Pacific Power is coordinating separately with the City of Umatilla since the city has exclusive authority to make land use decisions within the city limits. The segment of the transmission line located outside the UGA is in the North/South County Agriculture Plan designation area.

Umatilla County has responsibility to review and approve the land use permit. Regulatory authority for siting multi-jurisdictional transmission lines typically is through the Oregon Energy Facility Siting Council (EFSC). However, where the proposed line is within 500 feet of the existing Pacific Power and BPA corridors, the regulatory jurisdiction is exempt from EFSC permitting.

The application was submitted to the Planning Department on August 10, 2015 and a completeness letter (dated September 4) was sent the consultant. Draft findings and conclusions were prepared September 14 and are included as an attachment to this memo. The notice for public hearing was sent to property owners and agencies on

**Memo**

Planning Commission Public Hearing – September 24, 2015

PacifiCorp Wallula to McNary 230 kV Transmission Line

Land Use Decision #LUD-188-15, Conditional Use Permit #C-1248-15

September 4, 2015. In addition, the public notice was posted in the September 12, 2015 issue of the East Oregonian.

***Conclusion***

The Planning Commission may conclude that the application does or can comply with the applicable provisions of the Umatilla County Development Code and the 1972 Umatilla County Zoning Ordinance.

***Attachments***

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

- Preliminary Findings and Conclusions
- Proposed Route Map

**UMATILLA COUNTY PLANNING DEPARTMENT  
PRELIMINARY FINDINGS OF FACT AND CONCLUSIONS OF LAW  
WALLULA TO MCNARY 230-KV TRANSMISSION LINE  
PACIFIC POWER, A DIVISION OF PACIFICORP  
LAND USE DECISION, #LUD-188-15  
CONDITIONAL USE PERMIT, #C-1248-15**

- 1. APPLICANT:** **PacifiCorp** (DBA Pacific Power), 825 NE Multnomah Blvd., Suite 1600, Portland, OR 97232
- 2. OWNERS:** The proposed transmission line will traverse public and private lands. The effected landowners are listed in the application
- 3. REQUEST:** The request is to permit and construct a 230 kV electric transmission line. The proposed transmission line within Oregon is approximately 22 miles in length. The project will require new rights-of-way at a minimum width of 125 feet. The proposed route parallels the existing Pacific Power and Bonneville Power Administration (BPA) transmission lines. The new transmission line is proposed by Pacific Power as part of its northwest transmission system. Typical poles will be approximately 80 feet above ground and inserted approximately 10 feet below ground. Wood poles, in either a 2-pole “H-frame” or 3-pole configuration, or steel mono-poles will be used. Steel lattice structures will not be used.
- 4. LOCATION:** The proposed 230 kV transmission line will connect the McNary substation at Umatilla to the Wallula, Washington substation. The route is identified on the attached map.
- 5. ACREAGE:** The size of the effected parcels varies. See attached vicinity map.
- 6. PERMITS:** Numerous land-use permits have been issued for uses occurring at the subject property.
- 7. COMP PLAN:** The proposed route is located within three jurisdictions, City of Umatilla, City of Umatilla Urban Growth Area (UGA) and Umatilla County. This land use decision and findings applies to the segments located within the UGA and Umatilla County only. Pacific Power is coordinating separately with the City of Umatilla since the city has exclusive authority to make land use decisions within the city limits. The segment of the transmission line located outside the UGA is in the North/South County Agriculture Plan designation area.
- 8. ZONING:** Zoning within Umatilla UGA: F-1 (Exclusive Farm Use), F-2 (General Rural), and C-1 (General Commercial). Note, Section 4 of the Application Narrative submitted with the application materials shows that only a small portion of temporary workspace associated with one pulling and tensioning area crosses the General Commercial (C-1) zone in the City of Umatilla UGB (see Figure 2 in Appendix A of the application materials). As shown

in Figure 2, the portion of the pulling and tensioning area that extends beyond the ROW at the angle point near MP 0.8 is within the General Commercial (C-1) zone. This portion of the pulling and tensioning area will be temporary workspace needed for construction. No transmission line structures will be developed and no easements are proposed in General Commercial (C-1) zone.

Zoning outside Umatilla UGA in rural Umatilla County: EFU (Exclusive Farm Use, 160-acre minimum lot size). A portion of the project is zoned EFU with a HAC (historic, archeological, or cultural site/structure) overlay zone.

- 9. JURISDICTION:** Umatilla County has responsibility to review and approve the land use permit. Regulatory authority for siting multi-jurisdictional transmission lines typically is the Oregon Energy Facility Siting Council (EFSC). However, where the proposed line is within 500 feet of the existing Pacific Power and BPA corridors, the regulatory jurisdiction is exempt from EFSC permitting ORS 469.300(11)(a)(C).
- 10. ACCESS:** During construction of the transmission line, the applicant will utilize existing state, county and private roads. For permanent access for maintenance purposes, Pacific Power plans to secure access to the project approximately every 3 miles. Some new access roads will need to be constructed. Approximately 18.7 miles of construction access roads will be needed on uncultivated land in Umatilla County (approximately 1.5 miles in the City of Umatilla UGA and 17.2 miles in unincorporated Umatilla County).
- 11. ROAD TYPE:** The new roads will be on non-cultivated land and will be 14 feet wide, with a 3-foot temporary disturbance area on either side (total width of 20 feet).
- 12. EASEMENTS:** The applicant has indicated that they will submit easements from underlying landowners prior to construction. For purposes of this land use application, the applicant submitted written authorization from underlying landowners granting permission for Pacific Power to apply for land use permits on the landowners' properties.
- 13. LAND USE:** The route of the proposed transmission line will traverse a diverse area, ranging from urban-type land within the city limits and UGA to rural farmland. The urban and more developed area is the land that is west of State Highway 395. Land that is generally east of Highway 395 to the eastern terminus of the route is farmland.
- 14. ADJACENT USE:** The transmission line route is located adjacent to an existing BPA easement and transmission line through mile post 6.9 and then parallels an existing Pacific Power easement and transmission line from mile post 6.9 to the Oregon-Washington state border.

- 15. SOIL TYPES:** There are a variety of soil types on the parcels. The application includes a soils map and list with soil type descriptions. Attachment A includes a soils map that shows high value soils for areas of the project that pass through EFU zoned land. A majority of the soils associated with the project are considered non-high value.
- 16. UTILITIES:** Not applicable. There are no other utilities impacted by this proposal.
- 17. WATER/SEWER:** The underlying parcels have a variety of water and sewer systems. No water or sewer is proposed for the construction or operation of the transmission line.
- 18. CRITERIA DECISIONS:** The transmission line crosses five different land use zones. The specific requirements of each of these zones are discussed in the sections below.
- 19. CRITERIA FOR APPROVAL:** Criteria for approval include by zoning jurisdiction of the underlying property are shown in the table below:

<b>Zone</b>	<b>Applicable Document and Section</b>
EFU (Exclusive Farm Use)	Umatilla County Development Ordinance – Section 152.059, 152.617 (II)(7)
C-1 (General Commercial)	1972 Zoning Ordinance – Section 3.114, 3.116, 7.040
F-2 (General Rural)	1972 Zoning Ordinance – Section 3.026, 7.040

- 20. ADDITIONAL INFORMATION:** Additional information supplied by the applicant as part of this land use application include:
- Application Narrative
  - NRCS Soil Capability Class Table
  - Structural Specifications and Pictures for Pacific Power Poles
  - Avian Protection Plan
  - Vegetation Management Program
  - Wildlife, Habitat and Rare Species Survey Report
  - Wetland Delineation Report Letters of Concurrence
  - Cultural Resources Investigation
- 21. NOTICES SENT:** The Public Hearing Notice was sent on Friday, September 4, 2015 to adjacent property owners and affected governmental agencies.
- 22. AGENCIES:** City of Umatilla, Port of Umatilla, Umatilla County Counsel, Umatilla County Assessor, Umatilla County Public Works, Umatilla County Emergency Management, Hermiston Rural Fire District, Umatilla Rural Fire District, Oregon Department of Transportation - Pendleton Office, Oregon Department of Energy, Oregon Department of Fish & Wildlife - Pendleton Office, Confederated Tribes of the Umatilla Indian Reservation, Bonneville

Power Administration, Department of Natural Resources - Cultural Resources Program, Oregon Public Utility Commission, Morrow County Planning Department, Walla Walla County Planning Department

**23. PUBLIC HEARING:** A public hearing will be held before the Umatilla County Planning Commission on September 24, 2015 at 6:30 PM at the Justice Center, 4700 Pioneer Place, Pendleton, OR 97801.

**24. COMPLIANCE WITH LAND USE STANDARDS:** Planning Commission may conclude that the application does or can comply with the applicable provisions of the UCDC and the 1972 Umatilla County Zoning Ordinance (UCZO).

UCDO 152.059(C) - LAND USE DECISIONS: In an EFU zone, utility facilities necessary for public use, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height may be established as provided in ORS 215.275 and may be permitted through a land use decision via administrative review (152.769) and subject to the criteria found in 152.617. Once approval is obtained a zoning permit (152.025) is necessary to finalize the decision. Since this application is for a transmission line lower than 200 feet in height without generation, the portion of the proposed project passing through EFU zones will be processed as a Land Use Decision.

Transmission lines on EFU zoned land are “utility facilities necessary for public use” as provided for under UCDO 152.059. The Oregon Supreme Court has held that transmission lines on EFU zoned land are not energy generation facilities, and unlike energy generation facilities, transmission lines are considered uses as of right under ORS 215.283(1)(d) and are not subject to conditional use requirements. *See, Save Our Rural Oregon v. Energy Facility Siting Council*, 339 Or. 353, 382-384121 P. 3d 1141, (2005) (hereafter “*SORO*”) [Council properly reviewed generation portion of proposed facility as conditional use under ORS 215.283(2), and ancillary non-generation portion as “utility services necessary for public service” which are considered “uses of right” under state statute, ORS 215.283(1)]. ORS 215.275 sets out what an Applicant must prove in order to demonstrate that a utility facility is necessary. The criteria in ORS 215.275 for siting facility on land zoned EFU has been incorporated into state administrative rules at OAR 660-33-130(16) and Umatilla County has adopted a county ordinance to implement the state law. *See* UCDC 152.617(II)(7).

Under ORS 215.275(2) an Applicant must show that “reasonable alternatives have been considered and that the transmission lines “must be sited in an exclusive farm use zone rather than other alternatives (non-EFU zones) due to one of the following factors: (1) technical and engineering feasibility; (2) locational dependency; (3) lack of available urban and non-resource lands; (4) availability of existing rights of way; (5) public health and safety; and (6) other requirements of state and federal agencies.” *See, SPRINT PCS v. Washington County*, 186 Or. App. 470, 63 P3d 1261 (2003) (hereafter “*SPRINT PCS*”).

Therefore ORS 215.275(2) (and its counterpart found in UCDC 152.617(II)(7)1, and 2 (A), (B), (C) and (D)) requires that reasonable alternatives have been considered and that the facility must be sited in an EFU zone due to one or more of the factors listed in ORS 215.275(2) and its counterpart, UCDC 152.617(II)(7) 1, and 2 (A), (B), (C) and D).



Under ORS 215.275 (3) (and its counterpart in UCDC 152.617(II)(7)(b)), costs associated with any of the factors may be considered, but cost alone, including cost of the land, may not be the only consideration in determining that a utility facility is necessary for public service. The owner is responsible for restoration to its former condition of the agricultural land and associated improvements that are damaged or disturbed by the siting, maintenance repair or construction of the facility. (See ORS 215.275(4) and its counterpart UCDC 152.617(II)(7)(c)). The county shall impose clear and objective conditions to mitigate and minimize the impacts of the facility, if any, on surrounding lands devoted to farm use in order to prevent significant change in accepted farm practices or significant increase in the cost of farm practices on surrounding farmlands (See ORS 215.275(5) and its counterpart UCDC 152.617(II)(7)(d)).

For purposes of considering alternatives to EFU zoned land under ORS 215.275(2), road or highway rights of way in EFU zones do not require consideration as siting alternatives under ORS 215.275(2). See *Friends of Parrett Mountain v. Northwest Natural Gas Co.*, 336 Or. 93, 109-110, 79 P3d 869 (2003) (hereafter "*Friends of Parrett Mountain*") (roads and highways rights of way are not alternatives to EFU zones when they are part of such zones; they are integral parts of EFU zones even though they are non-farm uses, and it is incorrect to view road and highway rights-of-way within EFU zones as non-EFU anomalies that each require separate analysis under ORS 215.275(2)).

### **LAND USE DECISION**

Application for "utility facilities necessary" in an Exclusive Farm Use zone (EFU) is listed as a use allowed pursuant to UCDC Section 152.059 (C), through the approval of a Land Use Decision request. Following the approval of a Land Use Decision a county zoning permit is required prior to establishing a land use or pursuing construction, as provided in § 152.025 and § 152.612 (D).

ORS 215.275 sets out what an applicant must provide to demonstrate that a "utility facility is necessary." The criteria in ORS 215.275 for siting a facility on land zoned EFU has been incorporated into state administrative rules at OAR 660-33-130(16) and by Umatilla County in Umatilla County Development Code (UCDC) Section 152.617(II)(7). The applicable criteria are shown in underlined text and responses are shown in standard text.

### **UCDC 152.617(II)(7) Utility Facility Necessary for Public Service**

- (A) A utility facility established under ORS 215.283(1)(c) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must:
- (1) Demonstrate that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
- (a) Information provided in the technical and engineering feasibility;

A formal technical and engineering feasibility report was not provided as part of this application.

- (b) The proposed facility is locationally dependent. (It must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands.)

A review of submitted application materials and of the tax and zoning maps shows that the proposed transmission line has no non-EFU routes available to connect the two substations, McNary and Wallula. Therefore, the proposed facility is considered locationally dependent.

Even though there is no legal requirement to evaluate alternative routes within the EFU zone, the Applicant looked at other routes for the transmission line. The evidence indicates that the route selected was based on available easements and minimum impact to EFU zoned property. From the beginning, Applicant has been actively studying the feasibility of the most direct transmission routes, all of which must cross EFU land. Applicant has consulted with the effected landowners with regard to alignment on individual parcels. And, as part of the land use application, the applicant secured and has provided signed Land Use Authorization forms from most of the underlying landowners. Where the applicant was not able to obtain signed Land Use Authorization forms from the underlying landowner, the applicant will comply with Precedent Condition 5 as included below in these preliminary findings. Route selection is an iterative process of elimination, until a point is reached when the most feasible route has been secured. The Applicant will enter into private easements for the route segments across private property, which, when combined with public ROW, will provide the most feasible route.

(c) Show a lack of available urban and non-resource lands;

A review of submitted application materials and of the tax and zoning maps shows that the proposed transmission line has no urban and non-resource routes available to connect the two substations, McNary and Wallula.

(d) Due to availability of existing rights of way.

Existing rights of way were not available for the construction of the new transmission line.

(e) Due to public health and safety concerns; and

Information related to public health and safety concerns was not provided by the applicant as part of the project.

(f) Show it must meet other requirements of state and federal agencies.

The applicant's request to cross EFU zoned land was not based on requirements of state or federal agencies.

(2) Costs associated with any of the factors listed above may be considered, but cost alone, including the cost of any land, may not be the only consideration in determining that a utility facility is necessary for public service.

The applicant indicates that costs were not the only consideration in determining that the proposed facility is necessary for public service. The applicant states that the project is necessary to provide additional system capacity, relieve congestion, and improve the reliability of the transmission system in the area.

(3) The owner of a utility facility approved under this section shall be responsible for

restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility.

The applicant included several site reclamation measures as part of this project. Conditions of approval are recommended requiring the applicant to restore, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Additionally, bonding or other financial assurance may be required as a condition of approval to insure compliance with this standard.

(4) Mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

The applicant has indicated its willingness to mitigate impacts to farm land through negotiations with landowners. See also (b) above. This might include restoration of construction disturbances, pole structure locations, and right-of-way access. Additional appropriate mitigation measures may be considered by the Planning Commission.

(5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities are allowed under this paragraph and are subject to OAR 660-330-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

The applicant does not anticipate temporary work force housing facilities to be involved with this project. This criterion is not applicable.

(6) Any proposed extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.

The application is for a transmission line and not for the extension of a sewer system. This criterion is not applicable.

(7) The provisions of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

The application is for a transmission line and not for a natural gas pipeline or associated facilities. This criterion is not applicable.

### **CONDITIONAL USE PERMIT**

The 1972 Umatilla County Zoning Ordinance (UCZO) applies to the portion of the transmission line located within the Urban Growth Area (UGA). A portion of temporary workspace associated with one pulling and tensioning area for the construction of the transmission line is located inside the Pacificorp, Wallula to McNary Transmission Line

Land Use Decision #LUD-188-15  
Conditional Use Request #C-1248-15

UGA and would cross lands in the C-1 General Commercial Zone. This portion of one pulling and tensioning area will be temporary workspace needed for construction. No transmission line structures will be developed and no easements are proposed in General Commercial (C-1) zone.

A segment of the transmission line would also cross the F-2 General Rural Zone. In the C-1 Zone, a utility facility is allowed as a conditional use Section 3.113(7). In the F2 Zone, a utility facility is allowed as a conditional use Section 3.024(14). Applicable Conditional Use standards for both zones are found in Section 7.040(14). The applicable criteria are shown in underlined text and responses are shown in standard text.

**UCZO 7.040(14) Radio, Television tower, utility station or substation:**

- (a) In a residential zone, all equipment storage on the site may be within an enclosed building;

This standard is not applicable. The transmission line will not cross land zoned residential.

- (b) The use may be fenced and provided with landscaping;

Fencing is not proposed for this transmission line project.

- (c) The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent property;

This standard is not applicable. The application does not include the partition or creation of new parcels.

- (d) Transmission towers, poles overhead wires, pumping stations, and similar gear shall be located, designed, and installed as to minimize their conflict with scenic values.

The proposed transmission towers, pole structures, and overhead wires shall be located and installed to minimize conflict with scenic values. The proposed project route will be collocated with existing transmission line corridors for its entire route. Thus, the proposed pole structures and transmission line will not be the first and/or only transmission lines along the route, which should help to minimize new visual impacts. In addition, the pole structures that are the most visible feature of the project will only be installed approximately every 800 feet. Thus, the visual effect will be spread out across this distance.

**Standards for Review of Conditional Uses:** (Note: This section applies to CUP portion of the application only). The applicable criteria are found in Sections 152.615 and 152.616(CCC) of the UCDC. The applicable criteria are shown in underlined text and responses are shown in standard text.

UCDC 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 conditions upon a finding that circumstances warrant such additional restrictions.

- (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, glare or odor.

This criterion is not applicable. Restraints to minimize environmental effects such as noise, vibration, air pollution, glare, or odor are not necessary for a transmission line.

- (B) Establishing a special yard, other open space or lot area or dimension.

This criterion is not applicable. A transmission line does not require the establishment of a special yard, other open space, or lot area or dimension.

- (C) Designating the size, number, location and nature of vehicle access points.

The transmission line covers a large area with numerous proposed vehicle access points from state and county roadways. As a condition of approval, the applicant will be required to secure the necessary access permits from state and county jurisdictions.

- (D) Limiting the height, size or location of a building or other structure.

The applicant indicated that typical transmission poles will be approximately 80 feet above ground. No height or size limitations for the transmission pole structures are imposed.

- (E) Increasing the required street dedication, roadway width or improvements within the street right-of-way.

This criterion is not applicable. The applicant is not proposing an increase in street dedication, roadway width or improvements within the street right-of-way.

- (F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area.

This criterion is not applicable. The applicant is not proposing permanent parking or loading areas.

- (G) Limiting or otherwise designating the number, size, location, height and lighting of signs.

This criterion is not applicable. The applicant is not proposing lighted signage.

- (H) Limiting the location and intensity of outdoor lighting and requiring its shielding.

This criterion is not applicable. The applicant is not proposing outdoor lighting.

- (I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards of installation and maintenance.

This criterion is not applicable. Diking, screening, and landscaping are not proposed as part of this transmission line project.

(J) Designating the size, height, location and materials for a fence.

This criterion is not applicable. Fencing is not proposed for this transmission line project.

(K) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.

The Applicant submitted a report entitled “McNary to Walla Walla 230kV Transmission Line Wildlife, Habitat, and Rare Species Survey.” According to the report, the survey was conducted in consultation with the Oregon Department of Fish & Wildlife. The applicant noted that Pacific Power will conduct updated avian and wildlife habitat surveys in the spring of 2016 (or before construction) for the proposed project.

(L) Parking area requirements as listed in Section 152.560 to 152.562.

This criterion is not applicable. The transmission line will not create a need for parking.

UCDC 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 conditions upon a finding that circumstances warrant such additional restrictions.

(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, glare or odor.

This criterion is not applicable. Restraints to minimize environmental effects such as noise, vibration, air pollution, glare, or odor are not necessary for a transmission line.

**List of other regulatory permits required, e.g. FERC, Western Electric Coordinating Council, NERC, OSHA for safety, etc.**

Pacific Power is concurrently submitting multiple applications for permits necessary at this stage of the development process. These permits include the following:

- Section 404/Removal-Fill Joint application permit with US Army Corps of Engineers (USACE) and Oregon Department of State Lands (DSL)
- NPDES permit for stormwater discharges with Oregon Department of Environmental Quality (DEQ)
- Access permits for construction related access to/from state highways with Oregon Department of Transportation (ODOT)
- Access permits for construction related access to/from county roadways with Umatilla County Public Works Department
- Other necessary crossing permits with various stakeholders such as BPA, Union Pacific

**PRELIMINARY DECISION:**

**THE UMATILLA COUNTY PLANNING COMMISSION MAY ACCEPT THE FINDINGS CONTAINED HEREIN, AS PRESENTED AND/OR MODIFIED AT THE HEARING FOR LAND USE DECISION REQUEST #LUD-188-15 AND CONDITIONAL USE REQUEST #C-1248-15. THE PLANNING COMMISSION MAY FIND THAT THE APPLICATION COMPLIES WITH THE APPLICABLE COUNTY STANDARDS AND COULD BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:**

**Precedent Conditions**

The following "Precedent Conditions" must be completed prior to the issuance of final approval, signified by issuance of a Umatilla County Zoning Permit for each individual tax lot:

1. Submit a Weed Control Plan to eradicate weeds along the transmission route. Applicant can verify compliance with this condition by submitting a written plan approved by the County Weed Officer.
2. Comply with recommendations and obtain approval from ODOT, District 12 Office, for use of the Highway right of way during construction.
3. Obtain permit(s) from Umatilla County Public Works for use of county rights-of-way, including, but not limited to, a County Access Permit (for each roadway).
4. Sign and agree to the terms of a Road Use Agreement, if recommended by the Public Works Director. Agreement will be developed by the Public Works Director and County Counsel.
5. Submit written verification of ownership, an easement from the landowner(s) or authorization to construct the transmission line for use of all private properties. (This requirement is in addition to the authorization provided by landowners to the applicant, to submit and obtain approval for a land use application.)
6. Submit a Fire Prevention & Response Plan approved by the County Emergency Manager.
7. Comply with recommendations of the CTUIR (Confederated Tribes of the Umatilla Indian Reservation) Cultural Resources Department and the SHPO (State Historic Preservation Office), if any are offered, regarding the projects potential impacts on any known significant historical, cultural and archaeological objects. Comply with recommendations and procedures specified by the CTUIR and the SHPO regarding historic, cultural and/or archaeological artifacts uncovered during the construction process.
8. Submit a Construction Plan that includes at a minimum, the name and contact of the licensed contractors and personnel for the transmission line. Include a copy of requisite licenses and certifications.
9. Submit a plan for decommissioning of the transmission line. Decommissioning standard is to return the land to its original condition or as close to original condition as possible. Transmission lines are typically designed to remain in place in perpetuity, a

decommissioning plan provides some basis for understanding the process in the unlikely event that a line will be abandoned or not used by a utility.

10. Submit proof of insurance for the construction phase of the transmission line.
11. Coordinate and comply with recommendations of the Oregon Department of Fish & Wildlife (ODFW) regarding design of the facility and potential impacts during construction of the transmission line. Submit written comments from ODFW to verify agency approval of facility design and appropriate mitigation for construction impacts.
12. Submit a Maintenance and Operation Plan and an Emergency Plan that includes at a minimum, the Applicant name and contact information for the transmission line, and relevant licenses and certifications, and persons to contact in case of emergency.

**Subsequent Conditions**

The following “Subsequent Conditions” apply following final approval:

13. Obtain Zoning Permits from Umatilla County Planning. A Zoning Permit is required for each individual tax lot.
14. Acquire permits and comply with all other applicable county, state and federal regulatory requirements not listed above. These include, but are not limited to, permits required by the Oregon Department of Environmental Quality, the Federal Aviation Administration, the Oregon Public Utility Commission (if permits are required), Division of State Lands and the Oregon State Building Codes Department.
15. Prior to the commencement of decommissioning of the facility, Pacific Power and/or its successors, heirs and assigns, shall provide to the County a written plan indicating schedules for decommissioning, dismantling and reclamation of the project site.
16. Submit proof of insurance prior to energizing the line for the operation of the transmission line.
17. Comply with recommendations of the ODFW, if any, regarding operation and maintenance of the transmission line to avoid negative impacts to fish and wildlife.
18. Project shall be subject to an annual review and applicable fee for two years. Provided no conflicts are identified, annual review may terminate after first two years post construction.
19. Restore (i.e. grading and reseeded with native vegetation) areas disturbed by construction activities.



UMATILLA COUNTY PLANNING COMMISSION

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











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Randy Randall, *Chair*

**ATTACHMENT A – MAP SHOWING HIGH VALUE SOILS ON EFU ZONED LAND**

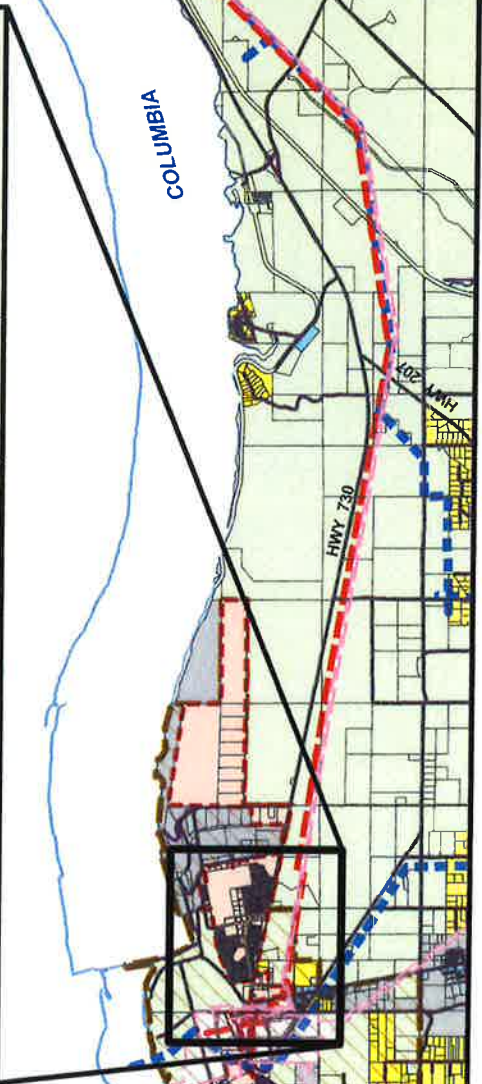
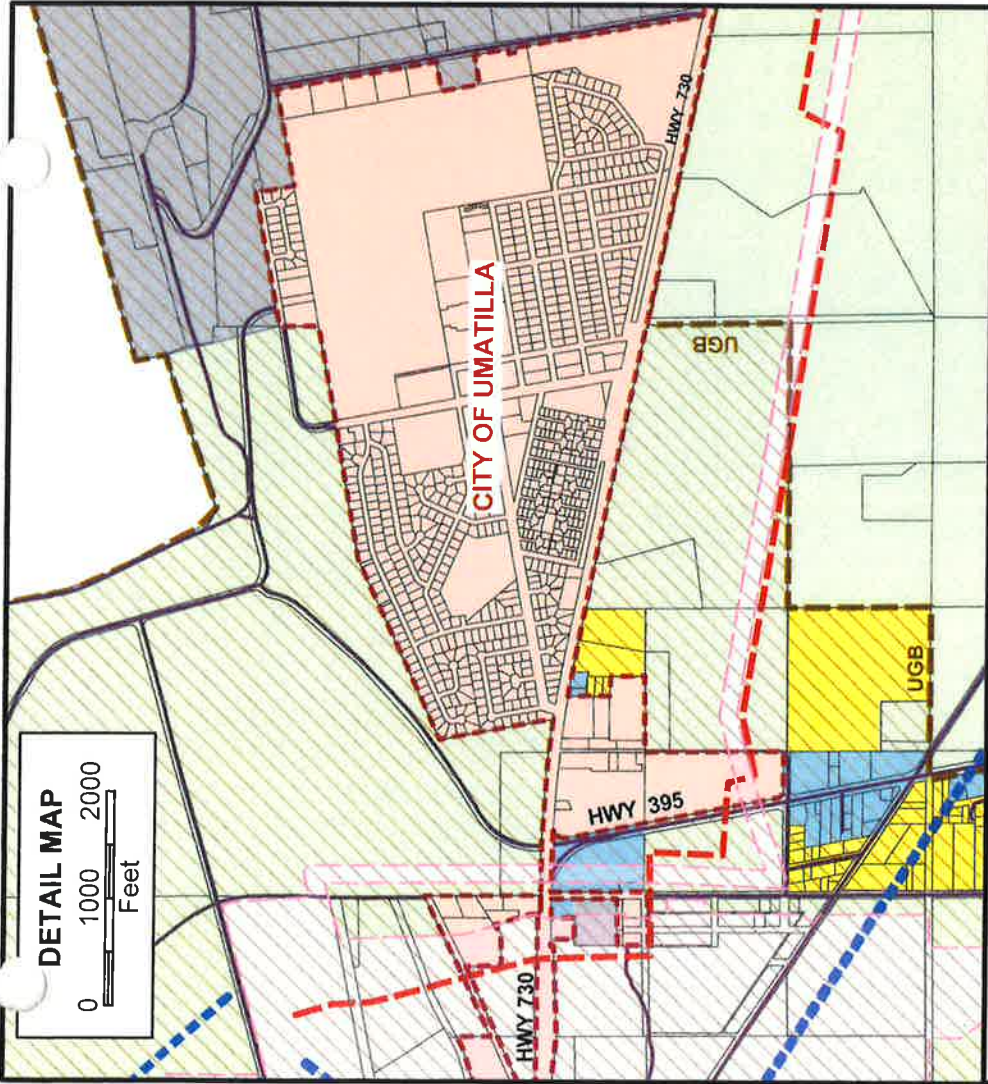
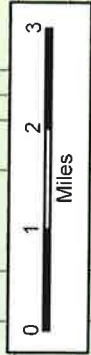
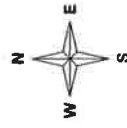
# PacifiCorp Proposed 230kv Transmission Line Wallula to McNary #LUD-188-15 / #C-1248-15

## Legend

-  PacifiCorp Proposed 230kv T-Line
-  Pacific Power Existing T-Line
-  BPA Existing Easements
-  City Limits
-  Urban Growth Boundary
-  Property Boundary
-  Exclusive Farm Use Zone
-  Industrial Zone
-  Residential Zone
-  Commercial Zone

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Prepared by the Umatilla County Planning Department, JRA  
y:\workspace\planning\vicinity maps\M-P\PacifiCorp\_LUD\_188\_15.gws

DATE: 8/28/15



# PacifiCorp Wallula to McNary Transmission Line Soils Map 1.1




## Legend

 Proposed 230kv T-Line

 Existing BPA T-line

 Property Boundaries

## Soils

 Non-High Value

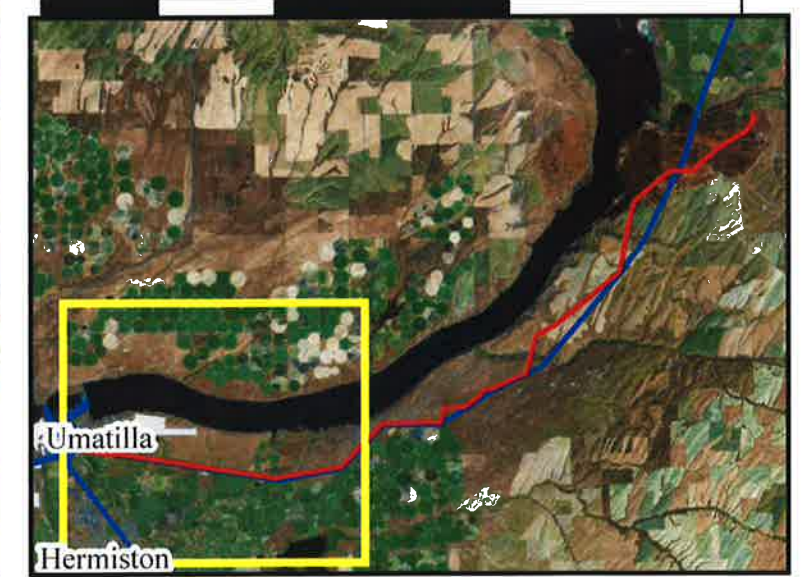
 High Value



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Miles

0 0.5 1 2 3



# PacifiCorp Wallula to McNary Transmission Line Soils Map 1.2


## Legend

 Proposed 230kv T-Line

 Existing BPA T-line

 Property Boundaries

## Soils

 Non-High Value

 High Value



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Miles

0 0.5 1 2 3

