

JUN 07 2017

UMATILLA COUNTY
RECORDS

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Amending)
 Comprehensive Plan) ORDINANCE NO. 2017-09
 to include Goal 11 Exceptions)
 for Extension of Sewer Lines of)
 the Cities of Umatilla and)
 Hermiston to the Umatilla Army)
 Depot)

WHEREAS the Board of Commissioners has adopted a Comprehensive Plan for Umatilla County;

WHEREAS an application was received from Columbia Development Authority requesting Umatilla County to allow for a sewer line extension from the City of Umatilla to the Umatilla Army Depot, which would require a reasons exception to Goal 11 in an amendment to the Comprehensive Plan text to allow for the line to service lands outside the Urban Growth Boundary (#T-17-073);

WHEREAS the Umatilla County Planning Commission held a public hearing on April 27, 2017 to review the application and the proposed amendment to the plan and recommended that the Board of Commissioners adopt the amendment;

WHEREAS an application was received from Columbia Development Authority requesting Umatilla County to allow for a sewer line extension from the City of Hermiston to the Umatilla Army Depot, which would require a reasons exception to Goal 11 in an amendment to the Comprehensive Plan text to allow for the line to service lands outside the Urban Growth Boundary (#T-17-074);

WHEREAS the Umatilla County Planning Commission held a public hearing on May 25, 2017 to review the application and the proposed amendment to the plan and recommended that the Board of Commissioners adopt the amendment;

WHEREAS the Board of Commissioners held a public hearing on both applications on June 7, 2017, to consider the proposed amendments, and voted to approve both applications.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following amendments:

1. The Umatilla County Comprehensive Plan is amended to include the following in Chapter 18:

Exception for Cities of Umatilla and Hermiston sewer line extension to Umatilla Army Depot

Under the current federal ownership, the land is not subject to Goal 11 (because federally-owned property is not subject to Oregon's statewide planning goals), and thus is clearly covered under OAR 660-011-0060(9)(b). However, the base is expected to transfer out of federal ownership within the year.

Because an exception to Goal 11 has already been approved for the Depot that would allow on-site development of urban-scale sewer facilities, the proposed sewer pipe will still be connecting two areas where sewer facilities are permitted under Goal 11, as allowed under OAR 660-011-0060(9)(b) and OAR 660-011-0060(3)(B). In *Debby Todd v. City of Florence*, LUBA No. 2006-068, LUBA held that:

The policy underlying Goal 11 seems little offended by allowing a single sewer system to serve two adjoining areas that each have the legal right and practical ability to develop urban uses and urban-level sewer facilities, notwithstanding that one area is within a UGB and the other outside the UGB.

Given the *Debby Todd v. City of Florence* decision, providing a sewer connection from within a UGB to a nearby area outside the UGB but also authorized for urban sewer service as a result of prior goal exceptions is an appropriate reason to justify an exception to Goal 11 for the extension of sewer service to the Depot.

The LUBA decision in *Debby Todd v. City of Florence* also suggests that it is not necessary to demonstrate that it is unreasonable to provide separate sewer treatment facilities for adjacent areas, each of which is authorized for urban sewer service, rather than to serve them with a single system. However, the rationale and justification for extending sewer from the City rather than treating sewer on-site at the Depot is given below.

As described in the background, the Depot has an existing localized sewage treatment system that was used by the military facilities on the site. An Infrastructure Assessment done as part of creating a redevelopment plan for the Depot (*U.S. Army Umatilla Chemical Depot Base Redevelopment Plan, Umatilla Army Depot Reuse Authority, August 2010, Section A, Part II: Section 2.3*) included the following key findings:

The Depot facility sanitary waste water system is a localized system. It consists of a combination of localized [Imhoff] septic tanks and drain fields. ... The system is capable of handling the current exiting [sic] load but may not be capable

of handling significant changes in capacity if needed by reuse alternatives.

The system seems to be adequate at the current loading density, ... but would very likely not tolerate a significant influx of industrial components to the waste stream.

Renovation and expansion of the current sanitary waste systems, other than required maintenance and permitting work, would not be considered economically or functionally feasible due to the age of the Imhoff systems. Other local septic systems on the facility should likely not be expanded beyond their current design loading in order to maintain compliance with standards in place when they were installed.

Should the population of the facility significantly increase or industrial or process systems installed at the facility, a new sanitary sewer treatment facility, with new transfer piping and infrastructure would be recommended. A new system could be sized to handle all Umatilla depot loading, as well as to handle potential expansion from other sources. This would be the most flexible and most costly option, but would provide a sanitary waste system for the long term, instead of a limited use of the present system.

In addition to the infeasibility of renovating or expanding the existing on-site treatment system to serve industrial uses, there are groundwater concerns in the area. The Army Depot property, including the industrial lands proposed to be served by the municipal wastewater line, is located within the Lower Umatilla Basin Groundwater Management Area (LUBGWMA). The LUBGWMA was designated by the Oregon Department of Environmental Quality (DEQ) in 1990 due to the high nitrates in the groundwater. Many areas within the LUBGWMA exceed federal drinking water standards for nitrate. The comprehensive report leading up to the GWMA designation identified five sources of contamination. One source was, and continues to be, nitrates leached from underground septic systems. This is noteworthy in this case because the proposed municipal wastewater line would be the only alternative to septic disposal for future development of the industrial lands. In other words, if the municipal line does not dispose of wastewater, future development would be served by numerous on-site septic systems. For some 20 years, a local committee, together with the DEQ staff, have worked to implement an Action Plan designed to remediate the high levels of nitrates. The progress is very slow. Steps are small and incremental. Allowing the Army Depot lands to be served by a municipal system and therefore avoiding further groundwater contamination from additional, new septic system contamination, will go a long way to foster the goal of minimizing nitrate contribution to the groundwater in the area.

City of Umatilla

Given the difficulties of upgrading the existing on-site facilities to serve the planned (and acknowledged) industrial uses on the property, the groundwater concerns in the area, and the costs associated with constructing an entirely new sewer treatment facility, the CDA approached the City of Umatilla to determine whether it would be feasible to extend City sewer service to the site. The City has indicated that it has adequate capacity to serve the planned land uses at the Depot.

The City has reviewed the potential industrial area and zoning within the CDA and flow projections developed for Camp Umatilla by the Oregon National Guard undergoing Goal 11 exception. The City's key sewer facilities have the ability and capacity to accept wastewater from the CDA and from the Oregon National Guard (Camp Umatilla).

Further, as a public entity, the City has the managerial and technical capacity to manage the wastewater generated from this area in accordance with State rules and regulations.

The City identified a suitable connection point roughly 2.6 miles away from the Depot (as the crow flies), and several potential alignments for a new sewer line.

The land between the Umatilla City limits and the Depot is zoned EFU. There is no reasonable route between the two that would not require a new exception.

Several alternative alignments were considered in selecting proposed alignment. The exception applies to the final route sewer pipe alignment. The length of the alignment that extends outside the City of Umatilla UGB to the Depot property is 17,146 feet.

The "I-84 Route" was dismissed because it is significantly longer than the other alternatives, making it less efficient. The "Radar Road" and "Potato Lane" routes were dismissed because they have greater impacts to active farm operations on private property than the preferred alignment. The proposed alignment remains within or abutting the City of Umatilla UGB for as long as possible before crossing into EFU zoning. It was selected as the least impactful to farm operations while maintaining an efficient route. Of the portion of the alignment outside the City of Umatilla UGB, 7,856 linear feet are within the public right of way of Powerline Road. The portion that crosses private land (roughly 9,290 linear feet) avoids irrigated areas and aligns with an existing farm vehicle pathway between fields. This portion will be contained within an easement up to 40 feet in width.

In negotiating the details of the easement and sewer line

construction with the property owner, the City of Umatilla is committed to include measures to further minimize disruptions to farm operations, such as timing construction to avoid disturbing crops, planting, and harvest activities; providing on-going access rights for the property owner to ensure the ability to continue existing farm uses within the easement; and constructing the line underground at a depth that will avoid impact to farming operations.

This demonstrates that the proposed facility will be compatible with the adjacent farm uses.

- Environmental consequences: The proposed alignment does not affect any significant natural resources. The environmental consequences of the sewer extension are anticipated to be minimal. It also avoids a small drainageway that would be crossed by some of the alternatives considered. There are no known significant Goal 5 resources along the proposed route.
- Social consequences: The extension of the sewer line is not anticipated to have any social impacts in any of the alternatives considered.
- Economic consequences: The cost of the sewer extension and any needed improvements to the existing system to accommodate the additional wastewater flows will be funded by the CDA, so there will not be an economic impact to the City of Umatilla. Keeping costs low will facilitate development at the Depot, which will have a positive economic impact on the broader area, as discussed in the findings for the goal exception for the Depot itself. The property owner whose land will be the subject of the easement will be compensated for the value of the easement, ensuring a neutral or positive economic impact to the property owner.
- Energy consequences: By minimizing the length of the pipe relative to other alignments, the proposed alignment minimizes the resources and energy required for installation of the sewer line.

This demonstrates that the proposed alignment is does not have significantly more adverse impacts than other potential alignments.

As long as the Umatilla Army Depot property included in the adopted Army Depot Plan District remains outside of the City of Umatilla's urban growth boundary, only those uses permitted in the Umatilla County and/or Morrow County Comprehensive Plan Goal exceptions for the Depot property shall be allowed to connect to the City's sewer system.

With this policy, the extension of a sewer line between the City

of Umatilla UGB and the Umatilla Army Depot exception area meets the requirement that the sewer facility justified in this exception will only be used for the purpose justified in this exception, and will only serve the uses that have been justified in the prior Goal exception for the Depot property.

City of Hermiston

Given the difficulties of upgrading the existing on-site facilities to serve the planned (and acknowledged) industrial uses on the property, the groundwater concerns in the area, and the costs associated with constructing an entirely new sewer treatment facility, the CDA has explored the potential to extend City sewer service to the site from the City of Hermiston. The City identified a suitable connection point roughly 3.25 miles away from the Depot (as the crow flies), and several potential alignments for a new sewer line.

The City has evaluated the potential impact of the additional flows to key components of the existing system. Existing Lift Station No. 8, which the new line from the Depot would connect to, has roughly 40% of its existing capacity remaining, and can accommodate the additional flows from the Depot based on the employment levels projected. The City's Recycled Water Treatment Plant (RWTP) also has sufficient capacity to handle the anticipated flows from the Depot.

The land between the Hermiston City limits and the Depot is zoned for a mix of Rural Residential (RR), Exclusive Farm Use (EFU), and light industrial (LI). However, Goal 11 and its implementing rules do not distinguish between sewer extensions outside the UGB that cross EFU land versus those that cross land with approved exceptions to Goals 3 and 4, unless that land also has an approved exception to Goal 11. In this case, regardless of the alignment selected and the intervening zoning, the sewer line will need to extend across land outside the UGB that is not eligible for sewer service in order to connect to the Depot, which is eligible for sewer service.

Both potential alignments outside the UGB are contained almost entirely within public right-of-way. For portions of the alignment within public right-of-way, construction impacts will be limited to the right-of-way, and the sewer line will be underground (except where it crosses the Umatilla River) so there will not be short-term or long-term impacts to the adjacent uses.

Potential impacts to private property are summarized below:

Preferred Alignment (Bridge Road alignment/Option 2): The only location that will cross private lands for the preferred route is in the immediate vicinity of the I-82

crossing, where it will cross a property owned by the Westland Irrigation District. The property is zoned EFU. The total size of the affected property is 47.5 acres; however, the impacted area is a small, oddly-shaped area at the southern end of the property that is nearly separated from the rest of the property by the highway overcrossing right of way. This area is not irrigated or farmed due to its shape. The impact will be limited to a brief construction impact and establishment of an access and maintenance easement, which will only limit development of structures within the easement, but not farming activities or operations. (The preferred alignment inside the UGB, which is not the subject of the goal exception, would cross urbanizable private property; this alignment was selected because it reduces the length of force main needed and allows for more logical and efficient sewer service to the affected property when it is annexed and developed.)

Westland Road Alignment (Option 1): This alternative remains entirely within public right-of-way and does not cross private property.

The I-82 crossing will be made by boring or similar method regardless of the crossing location. There will be no impact to the operation of the highway in either case.

This demonstrates that the proposed facility will be compatible with the adjacent uses. The preferred alignment has slightly more impact to private property than the other alternative; however, the impacts are negligible and do not affect areas outside the UGB that are actively farmed. The impacts are not significantly more adverse than other locations that also require an exception.

Environmental, Social, Economic and Energy Consequences

The two potential alignments have similar environmental, social, economic and energy consequences, as summarized below.

- Environmental consequences: Both potential alignments cross the Umatilla River at the location of the existing Bridge Road crossing. There is no route between the City of Hermiston and the Depot that would not require a river crossing. By crossing at the location of an existing bridge, impacts to the stream will be minimized. The sewer line would daylight just prior to the bridge and be hung on the side of the bridge, taking advantage of the existing infrastructure and minimizing disruption to the river and the adjacent riparian area. All work associated with crossing the Umatilla River would occur above the ordinary high water elevation, and care would be taken to minimize riparian area disturbance. This work would be closely

coordinated with regulatory agencies to minimize environmental impacts.

- Social consequences: The extension of the sewer line is not anticipated to have any social impacts with any of the alternatives considered.
- Economic consequences: The cost of the sewer extension and any needed improvements to the existing system to accommodate the additional wastewater flows will be funded by the CDA, so there will not be an economic impact to the City of Hermiston. The preferred alignment would provide better sewer accessibility for industrial development west of I-82 as wastewater could gravity flow from industries as opposed to installing expensive lift stations. Keeping costs low will facilitate development at the Depot, which will have a positive economic impact on the broader area, as discussed in the findings for the goal exception for the Depot itself.
- Energy consequences: Both alignments involve a mix of gravity flow and use of pump stations to convey sewage to the existing system in the City of Hermiston; however, the preferred alignment (Option 2 route down Highland Avenue) allows for a shorter length of forced sewer main, and more logical and efficient delivery of gravity sewer service to the urbanizable parcel crossed within the City's UGB. This reduces the energy needs for the City's sewer system and supports an orderly and efficient provision of public facilities inside the City's adopted UGB. As noted above, it also allows gravity service from potential industrial development west of I-82, eliminating the need for additional lift stations to serve that area, which would require more energy to operate.

The discussion above demonstrates that the proposed alignment does not have significantly more adverse environmental, social, economic and energy consequences than other potential alignments outside the UGB.

The City of Hermiston may extend sewer service to the Umatilla Army Depot property included in the adopted Army Depot Plan District. Properties abutting the sewer line between the Umatilla Army Depot and the City of Hermiston urban growth boundary are not permitted to connect to the City's sewer system as long as they remain outside the urban growth boundary. In addition, only those uses on the Army Depot site that are permitted in the Umatilla County and/or Morrow County Comprehensive Plan Goal exceptions for the Depot property and any uses located on federal land, which is not subject to Goal 11, shall be allowed to connect to the City's sewer system.

With these policies, the extension of a sewer line between the City of Hermiston UGB and the Umatilla Army Depot exception area meets the requirement that the sewer facility justified in this exception will only be used for the purpose justified in this exception, and will only serve the uses that have been justified in the prior Goal exception for the Depot property.

DATED this 7th day of June, 2017.

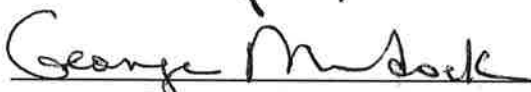
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