

**2 Notice of Adoption**

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

**DEPT OF**  
JUL 05 2007  
**LAND CONSERVATION AND DEVELOPMENT**  
For DLCD Use Only

Jurisdiction: Umatilla County Local file number: Z-285; T-06-029  
Date of Adoption: 7-2-07 Date Mailed: 7-3-07  
Date original Notice of Proposed Amendment was mailed to DLCD: 4-19-07

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: \_\_\_\_\_

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Rezone 17 acres from Rural Light Industrial and Rural Residential to Retail Service Center for use as a "big box" retail business. Adopt a Goal 14 Exception to allow urban development outside of an acknowledged UGA

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plan Map Changed from: LI and Rural Residential to: Commercial  
Zone Map Changed from: RLI/RR-2 to: RSC  
Location: Intersection of Hwy 11 and Stateline Rd. Acres Involved: 17  
Specify Density: Previous: 1-2 acres New: 1 acre  
Applicable Statewide Planning Goals: Goal 12, 9 & 14  
Was an Exception Adopted?  YES  NO

DLCD File No.: 003-06R(15054)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing?  Yes  No  
If no, do the statewide planning goals apply?  Yes  No  
If no, did Emergency Circumstances require immediate adoption?  Yes  No

Affected State or Federal Agencies, Local Governments or Special Districts:

OROT, DEQ, OLCD, Dept. of Ag., DLCD, City of Milton-Freewater,  
Umatilla County

Local Contact: Tamara Mabbott Phone: (503) 278-6246 Extension: \_\_\_\_\_  
Address: 216 S.E. 4th St. City: Reed City  
Zip Code + 4: 97801 - Email Address: tamara@co.umatilla.or.us

### ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST**  
**DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**  
**635 CAPITOL STREET NE, SUITE 150**  
**SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Amending )  
Comprehensive Plan and ) ORDINANCE NO. 2007-09  
to include Goal 14 Exception )  
and Comprehensive Plan Map for )  
Commercial Use for CIFF )  
Enterprises )

WHEREAS the Board of Commissioners has adopted a Comprehensive Plan for Umatilla County and also has ordained Ordinance No. 83-04, adopting the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances;

WHEREAS an application was received from CIFF Enterprises requesting Umatilla County to allow the re-zoning of rural property to allow for commercial use on property owned by Robert W. and Delores M. Jackson, and Richard W. and Janice E. Harvey, which would require an exception to Goals 3 and 14;

WHEREAS the Umatilla County Planning Commission held a public hearing on April 13, 2006 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 May 2, 2006, to consider the proposed amendment, and voted to adopt Ordinance No. 2006-13;

WHEREAS on August 21, 2006, the Oregon Department of Land Conservation and Development filed a Notice of Intent to Appeal with the Land Use Board of Appeals;

WHEREAS the county filed a motion for voluntary remand, which was granted by the Land Use Board of Appeals on April 12, 2007;

WHEREAS the Board of Commissioners held a public hearing on June 19, 2007, to consider supplemental evidence in support of the application, and voted to approve the application.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following amendment to the Umatilla County Comprehensive Plan:

To be added under the section entitled East County Commercial on Page XVIII-421:

The property (identified as Jackson/Harvey) located at the southwest intersection of State Highway 11 and Stateline Road, to be designated commercial is described as Lots 2 and 7, Grandview Orchard Tracts, as located in Section 13, Township 6 North, Range 35, East of the Willamette Meridian, Umatilla County, Oregon, excepting any roads and rights-of-way.

The County has previously approved a Goal 3 exception for the property based on the fact that the property is irrevocably committed to non-farm uses; therefore, Goal 3 does not apply. This section considers the standards applicable to an exception to Goal 14. The applicable criteria are set forth at OAR 660-014-0040.

A County can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

FINDING: The Board finds that the reason justifying the exception is that urban uses are necessary in the proposed location in order to generate economic development in furtherance of Goal 9. Testimony in the record establishes that employment growth, new business development, and ad valorem tax receipts have stagnated in the County; that approval of the exception in this location will generate economic development that will reverse these trends; that reversing these trends is in furtherance of Goal 9 and the Comprehensive Plan; and that there are no adequate alternative sites within the Urban Growth Boundary of any municipality that can achieve the County's Goal 9 objectives to the same degree as this location. Thus, the Board finds the exception necessary to achieve the important policy objective of economic development.

Additional criteria for approving a Goal 14 exception are set forth at OAR 660-014-0040(3), which provides as follows:

- (3) To approve an exception under section (2) of this rule, a county must also show:
  - (a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of

existing urban growth boundaries or by intensification of development in existing rural communities.

FINDING: Based upon evidence in the record, the Board finds that the proposed urban development is a large-format retail store commonly known as a "big box" that requires all of the following minimum site characteristics:

(a) A minimum of 18 contiguous acres that are generally rectangular in shape in order to accommodate the store, loading docks, parking areas, and still achieve buffers and setbacks that ensure compatibility. Smaller sites will undermine the County's Goal 9 objectives and compromise the long-term viability of the use by reducing available parking, restricting access, potentially disrupting adjacent uses, and providing infeasible returns to offset the investment required in the use.

(b) At least 1000 feet of depth to accommodate semi trucks delivering goods to the store. Semi trucks will be the primary means of delivery to the store, and such trucks require substantial paved areas near loading docks and free from parked cars in order to turn around and unload their wares.

(c) Adequate public facilities, which will require direct access to a four-lane arterial such as Highway 11 to accommodate the high volume of vehicular traffic generated by store customers, employees, and suppliers.

(d) Adequate public services, which will require water and sewer services.

The Board finds that the proposed location meets these characteristics.

The Board further finds that the proposed development cannot be reasonably accommodated in or through an expansion of existing urban growth boundaries. The closest urban growth boundary is that of Milton-Freewater, more than four (4) miles to the south. Testimony in the record establishes that there are no sites within the Milton-Freewater UGB large enough to site the proposed big box store. In fact, the spreadsheet of commercial and industrially zoned lots within the Milton-Freewater UGB indicates that there are no parcels within the UGB that are even close to meeting the use's minimum size requirements.

An opponent suggested an alternative site (Luisi) within

Milton-Freewater. The identified site, however, consists of several individual lots of insufficient sizes in different ownerships. The Board accepts evidence submitted by the local Realtor and applicants' representatives that the site is inappropriate for the proposed use and that there is no way to install a signalized intersection in that location. Based on all of this evidence, the Board finds that the Luisi site in Milton-Freewater could not reasonably accommodate the use.

The Board also finds that other potential alternatives within the Milton-Freewater UGB are likewise inadequate. One potential urbanized site, owned by Vernon and Penelope Rodighiero, is less than 11 acres in size and not located on Highway 11. Finally, the business park property located on the south side of the City does not provide sufficient depth to accommodate the use.

The Board also finds that, based upon substantial evidence in the record, the proposed urban development cannot be reasonably accommodated through the expansion of existing UGBs. The City of Milton-Freewater will not deliver sewer and water service to any sites outside of the City limits. Thus, such unincorporated locations will not have adequate public services and therefore cannot reasonably accommodate the proposed urban development.

The Board also finds the proposed location is uniquely situated to successfully further the County's Goal 9 objectives and related County Plan policies due to the site's location immediately adjacent to the State of Washington. The proposed retail use projects a significant market base located in Washington due to Oregon's more favorable sales tax system. Thus, the Board finds that proximity to Washington is another favorable characteristic of the proposed site.

(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the

proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

FINDING: Long-term environmental, economic, social and energy consequences will not be significantly more adverse at this site than would typically result from the same proposal being located on other undeveloped rural lands. The site is not limited by soil, air, water or energy capacity nor will the commercial use adversely affect air, water, energy and land resources of the surrounding area. The property currently is zoned for industrial and rural residential uses, and the proposed use will not result in significantly more adverse ESEE consequences than uses already allowed under the existing zoning. The surrounding area along the Highway 11 corridor already consists of a mix of industrial and commercial lands, and is largely composed of Goal 3 exception areas. The amount of land included within the boundaries of the proposed urban development is appropriate for the proposed use (and the Board finds is very close to the minimum necessary for the use), and the entire property must be rezoned in order to provide sufficient space for the development and related wastewater and sewage treatment.

(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

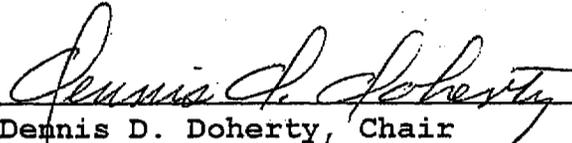
(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

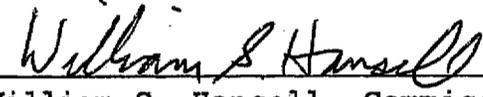
FINDING: Compatibility with adjacent uses will be ensured through the imposition of a condition of approval designed to mitigate potential impacts on nearby residential uses. Urban development at this location will not detract from the ability of nearby cities, such as Milton-Freewater, to provide public services.

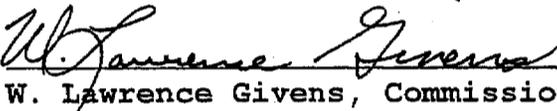
The plan designation of the property is changed from Rural Residential and Light Industrial, to Commercial, and all maps in the Comprehensive Plan are changed to reflect this amendment.

DATED this 19th day of June, 2007.

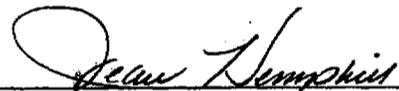
UMATILLA COUNTY BOARD OF COMMISSIONERS

  
Dennis D. Doherty, Chair

  
William S. Hansell, Commissioner

  
W. Lawrence Givens, Commissioner

ATTEST:  
OFFICE OF COUNTY RECORDS

  
Records Officer



**BEFORE THE UMATILLA COUNTY  
BOARD OF COMMISSIONERS**

	)	<b>Findings Of Fact</b>
<b>In The Matter Of</b>	)	<b>And Conclusions Of Law In</b>
<b>An Application By</b>	)	<b>Support Of Comprehensive</b>
<b>CIFF Enterprises For</b>	)	<b>Plan Map Amendment</b>
<b>Post-Acknowledgement Plan and</b>	)	<b>(File No. T-06-029) and Zoning</b>
<b>Zoning Map Amendments</b>	)	<b>Map Amendment (Umatilla</b>
	)	<b>County File No. Z-285)</b>

**I. DESCRIPTION OF APPLICATION AND SITE.**

**Applicant:** CIFF Enterprises, P.O. Box 165, Walla Walla, WA 99362

**Site Location:** Southwest corner of Stateline Road and Highway 11  
Tax Lot Nos. 300, 700 and 701

**Site Acreage:** 18.34 acres

**Comprehensive  
Plan (the "Plan")**

**Map Designation:** Light Industrial ("LI") and Rural Residential ("RR-2")

**Zoning**

**Map Designation:** Rural Light Industrial and Rural Residential

**Requests:** (1) Tax Lot 1300 (8.86 acres) – amend Plan designation from Light Industrial to Commercial and amend zoning designation from Rural Light Industrial ("RLI") to Retail Service Center ("RSC") with a Limited Use Overlay ("LU") zone.

(2) Tax Lots 700 and 701 (9.44 acres) – amend Plan designations from Rural Residential to Commercial and amend zoning designations from RR-2 to Retail Service Center ("RSC") with a Limited Use Overlay ("LU") zone.

(3) Related exception to Statewide Planning Goal ("Goal") 14, "Urbanization," to allow urban levels of use on rural land.

**II. INTRODUCTION.**

The applicant proposes to designate the site to allow development of a large-format retail use immediately adjacent to the Washington State border, which will allow

the County to compete economically with the Walla Walla, Washington urban area immediately across the Washington state line. This site is unique because no other site in Oregon, with the exception of the Portland metropolitan area, is in such close proximity to a competing urban area in an adjacent state. Neither the cities of Hermiston, Ontario, Klamath Falls nor Ashland are as close to urban areas in an adjacent state.

The site consists of three (3) tax lots. Tax lot 1300 is the northerly tax lot and contains 8.86 acres zoned RLI. Tax lot 700 is the southerly tax lot and contains 8.5 acres zoned RR-2. The third tax lot is located along an unimproved public road at the northeast corner of its intersection with Oregon Highway 11. Tax lot 701 is zoned RR-2 and contains .94 acres

The site has water rights. Sanitary sewerage disposal will be handled by a private, on-site system permitted through Umatilla County (the "County") and the Oregon Department of Environmental Quality ("DEQ"). Stormwater will be handled on site.

The site is currently in grass hay production. Three (3) curb cuts exist from the site to the state highway. The public road to the south is unimproved. The site is 4.6 miles north of the City of Milton-Freewater, Oregon. The site has two (2) water wells. Evidence in the record shows that this site can accommodate stormwater, sanitary sewage disposal and potable water needs without public (or municipal) services. The site is in close proximity to the cities of Walla Walla and College Place, Washington.

The County has previously approved Statewide Planning Goal 3, "Agricultural Lands" exceptions for the site based on findings that the property is irrevocably committed to non-agricultural uses. Therefore, an additional Goal 3 exception is not required; however, the applicant must meet the criteria for an exception to Goal 14.

### **III. PROCEDURAL STATUS.**

The entire planning file was physically before the Board of County Commissioners (the "Board"). The Umatilla County Planning Commission recommended that the Board approve this application by a vote of 7-2.

The Board opened the public hearing on May 2, 2006, following notice as required by Umatilla County Development Code and ORS 197.763. Commissioners Doherty and Holeman were present. Commissioner Hansell was absent. The Board determined that it had a quorum to proceed with the public hearing.

The Board asked for disclosure of ex parte contacts and none were revealed. The Board asked for challenges to its jurisdiction and no party objected.

The Board opened the public hearing for the applicant, followed by supporters, followed by opponents with rebuttal by the applicant. No party requested that the public

hearing be continued or the written record held open. The applicant waived its right to final written argument.

The Board closed the public hearing and tentatively approved the application by a vote of 2-0. The Board directed that the applicant propose findings for review by County staff and adoption by the Board at a later date. The applicant proposed such findings, and the County adopted same on August 2, 2006.

On August 7, 2006, the Board signed the Final Findings and Conclusions. The Department of Land Conservation and Development ("DLCD") appealed the County's decision to the State Land Use Board of Appeals. The applicant intervened in the appeal. LUBA granted the County's motion for a voluntary remand of this matter.

On June 19, 2007, the County reopened the public hearing following notice as required by the UCDC and ORS 197.763. Commissioners Doherty, Hansell, and Givens were present. The Board determined that it had a quorum to proceed with the public hearing.

The Board asked for disclosure of ex parte contacts and none were revealed. The Board asked for challenges to its jurisdiction and no party objected.

The Board opened the public hearing for the applicant, followed by supporters, followed by opponents with rebuttal by the applicant. No party requested that the public hearing be continued or the written record held open. No party raised any procedural objections to the hearing. The applicant waived its right to final written argument.

DLCD requested that the Board leave the written record open. The Board rejected this request. The Board finds that the hearing on remand is not the initial evidentiary hearing, so ORS 197.763(6) did not apply. Further, pursuant to East Lancaster Neighborhood Association for the City of Salem, 30 Or. LUBA 147 (1995), unless required by LUBA's remand order or a local regulation, a local government does not have to repeat on remand the procedures applicable to the initial proceedings. Because the Board hearing on remand from LUBA was not the initial evidentiary hearing, no applicable state or local provision required the Board to repeat the procedures applicable to the initial proceeding, including a mandatory requirement that the written record be left open upon request.

The Board closed the public hearing and tentatively approved the application by a vote of 3-0. The Board directed that the applicant propose findings for review by County staff and adoption by the Board at a later date.

#### **IV. RELIANCE ON STATUTORY PROVISIONS.**

As explained elsewhere in these findings, the Board finds that this is a unique site available for economic development in Umatilla County. The site is immediately south

of the Washington state line and within close proximity to the cities of Walla Walla and College Place, Washington. No other site already subject to a Goal 3 exception is available for development and provides for a similar opportunity for economic development. The applicant testified that he believes the site to be competitive with the Walla Walla urban area across the state line.

**A. ORS 197.340(1).**

The Board understands the objections raised by the Department of Land Conservation and Development ("DLCD") and other parties to this hearing and appreciates their testimony. However, the Board finds that ORS 197.340(1) and (2) must be considered in this application. ORS 197.340(1) provides that both DLCD and the Land Conservation and Development Commission ("LCDC") "shall give the Goals equal weight in any matter in which the Goals are required to be applied." The Board finds this to mean that Goal 9 has as much weight as Goal 14 in this proceeding. The Board finds, based on substantial evidence in the entire record, that the economic development potential of this site outweighs any concerns regarding Goal 14, especially given two important facts.

First, as already noted, this site is already subject to a Goal 3 exception and is therefore not a resource site. Moreover, it is currently zoned to allow an industrial use. Many of the potential impacts discussed at the public hearing on May 2, 2006 that can be expected from an industrial use are similar to impacts from a commercial use. Second, the Oregon Highway 11 corridor between Milton-Freewater and the Washington state line is already composed of many exception sites adjacent to the state highway and has an existing commercial and industrial development along the state highway. The Board makes two commitments through these findings.

First, the Board will carefully scrutinize future exceptions along the Oregon Highway 11 corridor. The Board believes, without making a binding decision, that it will be difficult for future applicants to justify an exception similar to this for several reasons. First, this site is appropriately sized and located to capture economic development opportunity not otherwise available in the Oregon Highway 11 corridor. Second, the Board believes there is an opportunity for one such development and more than one such development would likely be inappropriate in this corridor. Additionally, the Board recognizes that the Planning Commission and Planning Department are working on a long range study of the corridor, together with the City of Milton-Freewater. That study will include a comprehensive analysis of Goal 9 opportunities for the city and County. The minutes from the Planning Commission hearing include extensive dialogue about the opportunities along the corridor for the community, including the city and County. The Planning Commission specifically recognized the proposed zone change would provide economic stimulus, an anchor development, for future opportunities. However, while the Planning Commission expressed strong support for the zone change, they offered equal support for a long range, Goal 9 master plan for the corridor to insure a balanced land use

and economic development program. The record exemplifies the County's understanding of the land use planning program and commitment to balance the Goals and the careful consideration to support this request in that context. In other words, the County finds that the proposed zone change is wholly justified and the County is committed to ensuring a well-balanced land use and economic development program.

**B. ORS 197.340(2).**

ORS 197.340(2) provides that "the Commission and Department shall consider and recognize regional diversity and differences in regional needs when making and reviewing a land use decision or otherwise applying the goals."

The Board finds that this statute provides that the DLCD and LCDC are to recognize regional differences in making land use decisions and applying the goals. Distances between population centers are greater in eastern Oregon and the opportunities for economic development are less. A site such as this that is able to capture economic growth based on proximity to an urban area in a neighboring state must be allowed to take advantage of that economic opportunity. Moreover, while other areas of the state, such as the Willamette Valley, have urban areas closer to one another and generally larger urban areas, this area does not have those opportunities. As the Board heard at the May 2, 2006, public hearing, travel times and costs are greater and siting a commercial site such as this proximate to an urban area in an adjacent state will capture economic growth because people are unwilling to drive greater distances, especially with the current cost of gasoline. This is why the Board finds it to be true that even if the Milton-Freewater urban growth boundary had available comparable sites, the greater than four miles of additional travel would preclude development of a site such as this thereby negating the economic gain to the County and the State.

The Board also commits to engaging in a master planning process for the Oregon Highway 11 corridor so that property owners and future applicants have some understanding and guidance as to appropriate uses in this corridor. Finally, the Board finds that while the Oregon Department of Transportation ("ODOT") has identified Oregon Highway 11 as a safety corridor, this application will not worsen safety on the state highway for two reasons.

First, the Kittelson traffic impact analysis demonstrates that with appropriate mitigation, all operational standards relevant to County and State highways can be maintained. Second, the Board finds that locating a use such as this closer to or within the Milton-Freewater urban growth boundary would in fact create more congestion as opposed to locating it further away from the urban growth boundary.

In conclusion, the Board notes as explained above that this property is an existing exception site not required to be used for resource uses, already allows non-residential

uses, is adjacent to a sizable population center in a neighboring site, and is on a state highway that is lined with exception areas.

**C. ORS 197.732(1).**

The Board finds that ORS 197.732(1)(d) is satisfied. The Board finds that the proposed use is or can be made compatible with adjacent uses including measures designed to reduce adverse impacts. The Board notes that ORS 197.732(2) defines compatible as "not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses." Based on testimony received by the Board at the May 2, 2006, hearing, the Board believes it is appropriate to require that site plan review pursuant to UCDC 152.536 be subject to enhanced notice to the public and a requirement for a public hearing before the Planning Commission. While the Board recognizes that all commercial development in Umatilla County subject to site plan review (including the limited use overlay zoning district), the Board believes it will be appropriate to give surrounding residents an opportunity to respond to the site plan application at a public hearing. The Board will impose this requirement as a condition of approval.

The Board also notes that ORS 197.732(6)(a) provides that it and LCDC are bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in an approval of an exception. In this case, as explained throughout these findings, the Board finds there is substantial evidence to justify this exception.

Finally, the Board finds that ORS 197.732(8)(a) means that this approval does not establish a precedent that binds the Board to similar actions in the future. ORS 197.732(8)(a) provides that an exception is "applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability." This means that no precedent is established by this action and that each application the Board hears in the future will be subject to applicable approval criteria and facts demonstrating compliance with those approval criteria.

**V. RESPONSE TO ARGUMENTS RAISED BY DLCD.**

The Board adopts the following findings in response to issues raised by DLCD at the public hearing.

**A. Response to 2006 Issues.**

DLCD argued that the administrative rule implementing Goal 9 (OAR Chapter 660, Division 9) applies only to urban areas. The Board agrees, but notes that Goal 9 applies to both urban and rural areas. As noted above, the Board finds that balancing Goal 9 with other relevant goals, such as Goal 14, allows the Board to determine that a

Goal 9 economic development opportunity is presented by this site that is not available elsewhere in this area.

DLCD also argued that Goal 11 is implicated. Substantial evidence in the whole record demonstrates that no public facilities will be required for development of this site.

DLCD raised several issues related to the administrative rule implementing Goal 14. DLCD argued that OAR 660-014-0040(3)(a) is not met. The Board finds that this use cannot be accommodated in proximity to Milton-Freewater. The Board finds that substantial evidence demonstrates that other comparable sites were unavailable in the Milton-Freewater urban growth boundary and that such sites are not "relatively common" as indicated in DLCD's letter.

DLCD also argued that OAR 660-014-0040(3)(b) (a requirement that economic, social, energy and environment impacts be considered) was not appropriately addressed. The Board notes that findings addressing the ESEE requirements are found elsewhere in this decision. The Board also notes that this site has a significant economic and energy advantage over a comparable site in the Milton-Freewater urban growth boundary assuming such a site was available. First, because the Board believes the evidence demonstrates that the economic development opportunity exists because of proximity to the Walla Walla urban area, not driving to the Milton-Freewater area saves energy. Moreover, as the Board has already concluded, the economic development opportunity is available at this site and not in Milton-Freewater because of the increased distance and the lack of comparable available sites.

DLCD also argued that HB 2458 (2005) provided for additional development opportunities for industrial sites. The Board notes that this House Bill is not relevant to this application and that if the economic development opportunity presented to the Board is going to be implemented, it must be done so with an appropriate commercial zone. As noted elsewhere in this decision, the Board finds that applying the limited use overlay zone is appropriate to limit the uses to those justified by this exception and to control external impacts.

#### **B. Response to 2007 Issues.**

DLCD submitted a four (4) page letter dated June 19, 2007 to the Board prior to the close of the record. This section of the decision responds to the issues raised in that letter.

First, DLCD suggests that the outcome of this case is based on the fact that big box commercial retailers are a "common urban use" and that the location outside of an Urban Growth Boundary ("UGB") is detrimental to an Oregon city, the City of Milton-Freewater. The Board finds that the fact that the use is a common urban use inside an UGB does not detract from the fact that this reasons exception pursuant to ORS 197.732

demonstrates that the reasons necessary to accommodate the use outside of an existing or amended UGB for the following reasons. First, substantial evidence in the record demonstrates that a big box retailer will not locate in the City of Milton-Freewater because of the distance from the population of the City of Walla Walla, Washington. Notwithstanding that people may be willing to drive greater distances, the Board finds that the evidence demonstrates that the retailer will not locate further away from Walla Walla than across the state line. Second, for reasons explained elsewhere in this decision, there is no appropriate site inside the existing Milton-Freewater UGB or adjacent to an expanded Milton-Freewater UGB that would accommodate the proposed user. The fact that the use may be common use inside UGBs does not mean that this proposed use can be located in an UGB. Without being located on this site, the use will not locate in Umatilla County and the economic development benefits will be lost to the County.

For the reasons listed immediately above, the Board also rejects DLCD's argument that the City of Milton-Freewater will lose potential revenue if this use locates outside the UGB. Notwithstanding that the use will not locate in the City and, therefore, this action is revenue neutral as to the City of Milton-Freewater, the Board also finds based on evidence submitted at the June 19, 2007 hearing, that tax benefits will nevertheless accrue to the County and to the school district. Both taxing entities will receive real property taxes from the use if it locates on this site. The Board that these tax benefits will allow ancillary investments benefiting the City and the County in general.

Third, the evidence is that the potential user is Costco. The Board acknowledges that Costco has not submitted a letter into the record but all the testimony focuses on Costco's desire to locate at this location rather than in the state of Washington. Condition of approval 2 limits this exception site to only a large format commercial retail facility.

Fourth, DLCD states that it would welcome the opportunity to work with the County and the City to find a site within the City's existing or expanded UGB to meet the need for this reasons exception. The Board appreciates DLCD's offer but concludes that because the siting criteria requires the site to be as close as possible to Walla Walla, sites within or adjacent to the Milton-Freewater UGB do not meet the need.

Fifth, the Board finds that DLCD's arguments regarding ORS 197.340 fail to give proper reading to this statute. ORS 197.340(1) requires that DLCD and LCDC give the Goals equal weight in which the Goals are required to be applied. The Board finds that DLCD's arguments fail to give Goal 9 appropriate weight in this case. The Board's findings do not undercut or detract from its obligation to make appropriate findings on Goal 14 but this statutory provision allows the Board to make findings regarding the importance of economic development for the County. As explained elsewhere in these findings, the Board finds that there is substantial evidence in the record demonstrating that there will be economic advantages to locating this large format commercial retail use in the County that will not otherwise occur except at this site. These include tax benefits

to taxing entities, job creation and additional economic development caused by the location of this use in the County. Moreover, the Board finds that ORS 197.340(2) requires that DLCD and LCDC consider and recognize regional diversity and differences in regional needs. The Board finds based on substantial evidence in the whole record that this is a unique site. No other site in the state of Oregon outside of an UGB is adjacent to a large population center in a neighboring state. This statutory provision requires that DLCD and LCDC consider this fact which the Board finds to be supported by substantial evidence. The Board finds that this factor justifies the reasons exception for this large format commercial retail use in this location.

Sixth, the Board rejects the argument that a big box commercial development cannot be part of an economic development strategy. DLCD's letter refers to "ordinary economic development strategy." The Board is unaware of a distinction describing economic development as "ordinary." Substantial evidence in the whole record demonstrates that this part of Umatilla County will be substantially benefited by this economic development strategy.

Seventh, DLCD argues that potential customers might be willing to travel the additional distance to the City of Milton-Freewater. As the Board found above, this is an irrelevant determination of where this exception should be located. The Board finds that it is not a question of how far people will travel but whether the user will locate in Milton-Freewater given substantial evidence demonstrating that the locational siting criteria are based on proximity to population, not how far people are willing to travel.

Eighth, the Board rejects the argument that every argument regarding the need for economic development in northern Umatilla County can be made for the City of Milton-Freewater. The primary evidence in this record demonstrates that the use will not locate further away from Milton-Freewater.

For these reasons, the Board rejects the arguments raised by DLCD.

## **V. COMPLIANCE WITH APPLICABLE APPROVAL CRITERIA.**

### **A. Compliance with Goal 14 Exception Criteria.**

The County has previously approved a Goal 3 exception for the subject property based on the fact that the property is irrevocably committed to non-farm uses; therefore, Goal 3 does not apply. This section of the findings considers the standards applicable to an exception to Goal 14. The applicable criteria are set forth at OAR 660-014-0040, which is entitled "Establishment of New Urban Development on Undeveloped Rural Land."

OAR 660-014-0040(2) provides the following:

1. ***"(2) A County can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource."***

**FINDING:** The Board finds that the reason justifying the exception is that this particular urban use is necessary in the proposed location in order to generate economic development in furtherance of Goal 9. Testimony in the record establishes that employment growth, new business development, and ad valorem tax receipts have stagnated in the County; that approval of the exception in this location will generate economic development that will reverse these trends; that reversing these trends is in furtherance of Goal 9 and the County Plan; and that there are no adequate alternative sites within the Urban Growth Boundary of any municipality that can achieve the County's Goal 9 objectives to the same degree as this location. Thus, the Board finds the exception necessary to achieve the important policy objective of economic development.

The Board also rejects DLCD's argument that Goal 9 is not furthered by locating a "common" urban use outside of the UGB. The fact that large format retail stores are commonly located within UGBs has nothing to do with the relevant facts in this case. Substantial evidence demonstrates that this use will not locate within a UGB because it must be proximate to the population center of Walla Walla. The fact that there may be alternative locations within the City of Milton-Freewater exiting or expanded UGB has no material bearing on this fact and would not result in the location of this use in Milton-Freewater.

Additional criteria for approving a Goal 14 exception are set forth at OAR 660-014-0040(3), which provides as follows:

2. ***"(3) To approve an exception under section (2) of this rule, a County must also show:***
  - (a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities."***

**FINDING:** Based upon testimony in the record, the Board finds that the proposed urban development is a large-format retail store commonly known as a "big box" which requires all of the following minimum site characteristics:

- (a) A minimum of 18 contiguous acres that are generally rectangular in shape in order to accommodate the store, loading docks, parking areas, and still achieve buffers***

and setbacks that ensure compatibility. Smaller sites will undermine the County's Goal 9 objectives and compromise the long-term viability of the use by reducing available parking, restricting access, potentially disrupting adjacent uses, and providing infeasible returns to offset the investment required in the use.

(b) At least 1000 feet of depth to accommodate semi trucks delivering goods to the store. Semi trucks will be the primary means of delivery to the store, and such trucks require substantial paved areas near loading docks and free from parked cars in order to turn around and unload their wares.

DLCD argued that the locational criteria for this use are not unique. DLCD argues that other large format retail stores are sited on sites less than eighteen (18) acres with different dimensions. DLCD noted two (2) such uses within the City of Bend.

The Board rejects this argument for the following reasons. First, what other big box stores require for a site location has no bearing on what this use requires. The evidence before the Board is that the locational criteria required by this user on a site not meeting these locational criteria will not result in the use locating there.

Second, whether other sites can combine multiple small properties to create a single large site is irrelevant for two reasons. First, multiple small properties do not work without willing sellers. The Board finds no evidence that multiple small-site ownerships in the City of Milton-Freewater have willing sellers. Moreover, as noted above, sites within the City of Milton-Freewater UGB or expanded UGB would not accommodate this use because of the locational criteria for the use. Third, the two uses in the City of Bend are not controlling for two reasons. The fact that they are in a shopping center with shared parking and municipal services necessarily makes the site requirements less. The locational criteria in this site are based, in part, on the fact that public services are not available and adequate area needs to be available for subsurface sewage disposal and well zone protection. Additionally, DLCD is incorrect that these uses do not have direct access to a state highway or a four-lane arterial. The Board heard evidence that the two uses are immediately adjacent to U.S. Highway 97 and have two direct accesses to that five-lane arterial.

(c) Adequate public facilities, which will require direct access to a four-lane arterial such as Highway 11 to accommodate the high volume of vehicular traffic generated by store customers, employees, and suppliers.

(d) Adequate public services, which will require water and sewer services.

The Board finds that the proposed location meets these characteristics.

The Board finds that the proposed development cannot be reasonably accommodated in or through an expansion of existing urban growth boundaries. The

closest urban growth boundary is that of Milton-Freewater, more than four (4) miles to the south. Testimony in the record establishes that there are no sites within the Milton-Freewater UGB large enough to site the proposed big box store. In fact, the spreadsheet of commercial and industrially zoned lots within the Milton-Freewater UGB indicates that there are no parcels within the UGB that are even close to meeting the use's minimum size requirements.

One opponent, Gary Luisi, identified an alternative site within Milton-Freewater that he suggested would be appropriate for the store. However, the Board finds that the identified site consists of several individual lots of insufficient sizes in different ownerships. The Board also accepts evidence submitted by the local realtor and applicants' representatives that the site is inappropriate for the proposed use and that there is no way to install a signalized intersection in that location. Based on all of this evidence, the Board finds that the site in Milton-Freewater suggested by Mr. Luisi could not reasonably accommodate the use.

The Board also finds that other potential alternatives within the Milton-Freewater UGB are likewise inadequate. One potential urbanized site, owned by Vernon and Penelope Rodighiero, is less than 11 acres in size and not located on Highway 11. Finally, the business park property located on the south side of the City does not provide sufficient depth to accommodate the use.

The Board also finds that, based upon substantial evidence in the record, the proposed urban development cannot be reasonably accommodated through the expansion of existing UGBs. The City of Milton-Freewater will not deliver sewer and water service to any sites outside of the City limits. Thus, such unincorporated locations will not have adequate public services and therefore cannot reasonably accommodate the proposed urban development.

The Board also finds the proposed location is uniquely situated to successfully further the County's Goal 9 objectives and related County Plan policies due to the site's location immediately adjacent to the State of Washington. The proposed retail use projects a significant market base located in Washington due to Oregon's more favorable sales tax system. Thus, the Board finds that proximity to Washington is another favorable characteristic of the proposed site.

3. ***"(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:***

***(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and***

*(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area."*

**FINDING:** Long-term environmental, economic, social and energy consequences will not be significantly more adverse at this site than would typically result from the same proposal being located on other undeveloped rural lands. The site is not limited by soil, air, water or energy capacity nor will the commercial use adversely affect air, water, energy and land resources of the surrounding area. The property is currently zoned for industrial and rural residential uses, and the proposed use will not result in significantly more adverse ESEE consequences than uses already allowed under the existing zoning. The surrounding area along the Highway 11 corridor already consists of a mix of industrial and commercial lands, and is largely composed of Goal 3 exception areas. The amount of land included within the boundaries of the proposed urban development is appropriate for the proposed use (and the Board finds is very close to the minimum necessary for the use), and the entire property must be rezoned in order to provide sufficient space for the development and related wastewater and sewage treatment.

DLCD argued, without specificity, that locating a large format retailer at this site would have long term economic and social consequences for the City of Milton-Freewater to miss an opportunity for such a use and deprive the City of tax dollars and other revenue. First, DLCD failed to specify more than these general issues what long term economic and social consequences would result from locating this use at this site. Second, substantial evidence shows that this use will not locate in the City of Milton-Freewater, so there is no comparative disadvantage to the City by locating this use outside of the UGB.

The Board relies on evidence from Mr. Garton that the available sites within the City of Milton-Freewater UGB are either too small, have inadequate depth or not available to accommodate this use. Evidence from other witnesses demonstrated that this site is visible to Oregon Highway 11 with good access to the highway.

The Board also finds that the availability of land within the City of Milton-Freewater UGB is not determinative of anything relevant to this decision. The Board finds that what is determinative is the market and the market is not in the City of Milton-Freewater for this use. The County also notes that the user has its own benchmark for where the center of their customer base and this is why the City of Milton-Freewater is not an appropriate site. The Board also notes that the fact that, prior to this application, this kind of use has not been sited outside of the UGB, is evidence of the unique nature of this use and why the exception is justified for this unique site.

4. ***"(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:***

***(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and***

***(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured."***

**FINDING:** Compatibility with adjacent uses will be ensured through the imposition of a condition of approval designed to mitigate potential impacts on nearby residential uses. Urban development at this location will not detract from the ability of nearby cities, such as Milton-Freewater, to provide public services. The City of Milton-Freewater supports this proposal and, as described above, the proposed use can not be reasonably accommodated within the existing Milton-Freewater UGB or through an expansion of that UGB. Because the property is not currently zoned for resource use, and is located in an area characterized by commercial and residential uses on existing Goal 3 exception areas, the Board finds that OAR 660-014-0040(3)(c)(B) is inapplicable.

The Board find that OAR 660-014-0040(3)(d) and (e) are inapplicable, because no public facilities or services are proposed, and no urban growth boundary or establishment of a new city is proposed.

**B. Compliance with the Umatilla County Comprehensive Plan.**

UCDC 152.751 requires that map amendments must demonstrate compliance with the Plan. The Board finds that the application demonstrates compliance with the acknowledged Umatilla County Comprehensive Plan.

Comprehensive Plan Chapter XII is entitled "Economy of the County." Several of the policies support this application. Policy 5 states:

*"In close proximity to cities, yet outside of urbanizable areas, limit commercial development to those areas that meet the requirements of Goal 2 and ORS 197.732 for an exception in resource areas. Commercial developments shall also be limited to land demanding many activities that require two public services."*

This policy is satisfied for two reasons. First, this site, which is in close proximity to the City of Milton-Freewater yet outside of its urban area, satisfies Goal 2 because there is an adequate factual base to justify this exception. Also, this site is uniquely qualified in that it does not require public services and will encourage economic development along a significant state highway without impacting the capacity of that

highway. Because of its proximity to Walla Walla, it will provide additional economic development in the state of Oregon that would otherwise occur in Washington State.

Policy 9 provides:

*"Recognize the need for flexibility in planning and periodically review/update economic policies and projects."*

The Board finds that this policy is satisfied because this is a response to an identified opportunity to generate jobs and economic growth in this portion of the County.

The Board finds that the applicable policies of its comprehensive plan are satisfied.

#### **C. Compliance with UCDC Criteria.**

The application requests that the County impose the Retail/Service Commercial ("RSC") zoning district. UCDC Section 152.245 provides that the purpose of this zoning district is to provide areas outside of urban growth boundaries for specific commercial activity that require larger sites than are available inside a UGB and to provide for retail and service-oriented commercial activities to accommodate rural residents.

UCDC Section 152.246(B)(17) permits retail sales outlets. The Board finds that this application will satisfy the use requirements of the RSC zoning district.

UCDC Section 152.250 sets forth the dimensional standard for the RSC zoning district. The minimum lot size pursuant to subsection (A) is one (1) acre. The Board finds that all applicable dimensional requirements are satisfied or can be satisfied.

The applicant requests that the County impose the Limited Use Overlay ("LU") zone found in UCDC Section 152.530-152.535 to allow only retail service outlets. UCDC Section 152.530 states that the purpose of the Limited Use Overlay zone is to limit the list of permitted uses and general activities allowed in the underlying zone when a plan amendment and zone change rezones a parcel through a goal exception. The application of the LU zoning district limits the uses on this site to those justified by the exception.

The Board finds that the criteria found in UCDC Section 152.534(A)(1)-(3) are satisfied. First, the uses and general activities subject to the rezoning are required to be limited to those uses and general activities justified in the Goal exception. Second, a review of the zones in the UCDC demonstrates that no existing zone limits the use of general activities. The RSC zoning district, for example, allows a number of uses. Finally, the requirements and standards of this section apply in addition to those specified in the RSC zoning district.

**D. Compliance with the Transportation Planning Rule (the TPR").**

OAR 660-012-0060 applies to amendments to comprehensive plans and land use regulations. The purpose of the Transportation Planning Rule is to prevent significant effects to a transportation facility. The definition of significant effects is found in OAR 660-012-0060(1)(a)-(c). Case law requires that an application determine whether a significant effect applies. If substantial evidence demonstrates that a significant effect does not apply, then the TPR is satisfied. If there is a significant effect, then the applicant may nevertheless demonstrate compliance pursuant to OAR 660-012-0060(2).

The applicant has submitted a transportation impact analysis ("TIA") prepared by Kittelson & Associates, which establishes that with mitigation as identified in the TIA, no significant effect will occur. The Board specifically adopts and incorporates by reference the Kittelson TIA dated January 2006, as well as the supplemental memorandum from Del Huntington of Kittelson dated March 23, 2006, which respond to traffic-related issues raised by ODOT. The Board finds that the mitigation proposed by Kittelson will ensure that the impacted transportation facilities, in particular the intersection of Highway 11 and Stateline Road, will continue to operate acceptably and the proposed amendments will not significantly affect any facilities within the meaning of the TPR.

**E. Compliance with Statewide Planning Goals**

The requested plan amendment must demonstrate compliance with all applicable Statewide Planning Goals. The Goals are addressed below.

**1. Goal 1, "Citizen Involvement"**

**FINDING:** Goal 1 requires local government to develop a citizen involvement program to ensure the opportunity for citizens to be involved in all phases of the planning process. Because Goal 1 establishes a requirement for local government to develop a program, it is not directly applicable to this decision. However, the County's citizen involvement plan has been adopted by the County and acknowledged by the Land Conservation and Development Commission. The hearings and County evaluation process for this case has been governed by that acknowledged program. For this particular request, public hearings have been held by the Commission. The Board finds that Goal 1 has been met generally by the City and specifically in this instance.

**2. Goal 2, "Land Use Planning"**

**FINDING:** Goal 2 requires the establishment of the land use planning and policy framework as a basis for all decisions and actions. Part 2 of Goal 2 relates to the exception process that must be followed should an applicant or local jurisdiction request an exception to any particular Statewide Planning Goal. The first part of Goal 2 has been

met by acknowledgement of the Plan by the state. With respect to part 2, the applicable Goal 14 exception criteria have been addressed above.

**3. Goal 3, "Agricultural Lands"**

**FINDING:** The subject property is subject to a Goal 3 exception area and, therefore, Goal 3 is inapplicable.

**4. Goal 4, "Forest Lands"**

**FINDING:** The subject property is not forest land subject to Goal 4.

**5. Goal 5, "Open Spaces, Scenic and Historic Areas and Natural Resources"**

**FINDING:** No Goal 5 natural resources (wetlands, riparian areas, wildlife habitat, etc.) have been identified at the affected parcels. In addition, the amendment does not propose that any natural resources be put onto an inventory of significant resources.

**6. Goal 6, "Air, Water and Land Resources Quality"**

**FINDING:** The Applicant will comply with all state and federal environmental laws and regulations. Therefore, Goal 6 will be met.

**7. Goal 7, "Area Subject to Natural Disasters and Hazards"**

**FINDING:** No such areas have been identified on the site. Goal 7 is not applicable.

**8. Goal 8, "Recreational Needs"**

**FINDING:** The area is not identified as a recreational resource by the City. Goal 8 is not applicable.

**9. Goal 9, "Economic Development"**

**FINDING:** Goal 9 requires that local government provide adequate opportunities for a variety of economic activities vital to the health, welfare and prosperity of the citizens of Oregon. As addressed above, the proposed amendment will encourage economic development in Umatilla County, and will provide a number of new employment opportunities. The construction of the proposed store will also result in a number of temporary construction jobs that will benefit the County. The Board finds that the Amendment is consistent with Goal 9.

**10. Goal 11, "Public Facilities and Services"**

**FINDING:** Goal 11 requires local governments to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. The proposed amendment is consistent with Goal 11.

**11. Goal 12, "Transportation"**

**FINDING:** For purposes of this application, Goal 12 is implemented by the TPR, which is addressed in subsection II.D, above. Because the TPR is satisfied, the proposed amendments are consistent with Goal 12.

**12. Goal 13, "Energy Conservation"**

**FINDING:** Goal 13 is not applicable to this application.

**13. Goal 14, "Urbanization"**

**FINDING:** Compliance with the Goal 14 exception criteria is addressed in section II.A above, which concludes that the applicable exception criteria are satisfied.

**14. Goals 15-19**

**FINDING:** These Goals are inapplicable in Umatilla County.

The Board finds that the proposed amendments are consistent with the applicable Goals.

**VI. CONCLUSION**

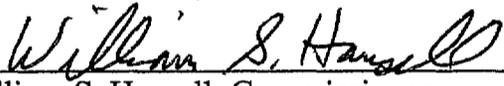
For the reasons contained herein, the Board approves this application, which provides that the three tax lots be designated commercial on the County's comprehensive plan map and rezoned retail service commercial, subject to a limited use overlay zone designation. This decision is subject to two conditions of approval as follows:

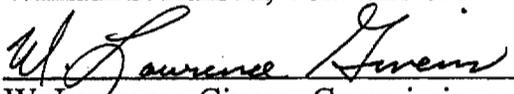
1. Development of the site shall require site plan review pursuant to UCDC section 152.536. Such approval shall be preceded by a public hearing before the planning commission with appropriate notice as required by the UCDC and ORS 197.763.

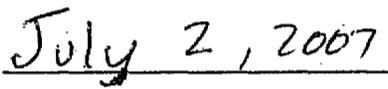
2. The only use allowed on this site shall be a large format commercial retail facility subject to site plan review as provided in condition of approval 1 above. This site shall not be used for "strip commercial" development. This limitation on permitted uses will be incorporation into a limited use overlay zone on the property. Applicant shall apply for limited use overlay zone designation for the property, no later than at the time of the site plan review.

UMATILLA COUNTY BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Dennis D. Doherty, Chair

  
\_\_\_\_\_  
William S. Hansell, Commissioner

  
\_\_\_\_\_  
W. Lawrence Givens, Commissioner

  
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DATE