



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

09/30/2013

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Umatilla County Plan Amendment
DLCD File Number 003-13

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, October 16, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Carol Johnson, Umatilla County
Jon Jinings, DLCD Community Services Specialist
Grant Young, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **20-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
	DEPT OF
	SEP 26 2013
	LAND CONSERVATION AND DEVELOPMENT
For Office Use Only	

Jurisdiction: **Umatilla County**

Local file number: **Z-298-13**

Date of Adoption: **9/24/2013**

Date Mailed: **7/18/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date:

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☒ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

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

Zone change request on 12.5 acres of land within the city of Umatilla UGB, zone change from F-1 (1972 farm zoning code) to R-1A (1972 two acre residential zoning code).

Does the Adoption differ from proposal? Please select one
No.

Plan Map Changed from: **Residential**

to: **Residential (same)**

Zone Map Changed from: **F-1 (farm zoning)**

to: **R-1A (residential)**

Location: **28428 Hwy 730, Umatilla OR - 5N2713C; Tax Lot 3200**

Acres Involved: **12.5**

Specify Density: Previous: **19**

New: **2**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-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

DLCD file No. 003-13 (19929) [17622]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Umatilla County; West Extension Irrigation District; City of Umatilla; Oregon Dept. of Transportation

Local Contact: **Carol Johnson**

Phone: (541) 278-6301 Extension:

Address: **216 SE 4th Street**

Fax Number: **541-278-5480**

City: **Pendleton**

Zip: **97801-**

E-mail Address: **carol@umatillacounty.net**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 **green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

**UMATILLA COUNTY BOARD OF COMMISSIONERS
FINAL FINDINGS AND CONCLUSIONS
NORRIS ZONING MAP AMENDMENT REQUEST, # Z-298-13, and
TYPE II LAND DIVISION REQUEST, # LD-5N-812-13
ASSESSOR'S MAP # 5N 27 13C, TAX LOT # 3200, ACCOUNT # 129177**

1. **APPLICANT:** Trena Norris, 28428 Hwy 730, Umatilla, Oregon 97882
2. **PROPERTY OWNER:** Same as above.
3. **PROPERTY LOCATION:** The Norris property is located on the south side of State Highway 730, north of the West Extension Irrigation Main Canal, approximately 1 ½ miles west of the city limits. The applicant's property and the surrounding properties are all located within the City of Umatilla Urban Growth Boundary (UGB).
4. **REQUEST/PROCESS:** The Norris land use request consists of the following two parts:
 1. A zone change from the 1972 F-1, Exclusive Farm Use Zone (19-acre minimum parcel size), to the 1972 R-1A, Two acre Residential Zone.
 2. A Type II Land Division to create a two acre parcel around one of the two existing dwellings located on the property.

Zoning applied to the City of Umatilla's UGB lands are from the 1972 Umatilla County Zoning Ordinance. Rezoning of land within Umatilla's UGB is subject to the Joint Management Agreement (JMA) between the City of Umatilla and Umatilla County. The JMA provides the procedures for processing amendments to comprehensive plans, zoning maps and land use regulations. In addition to the JMA, the Norris zone change is also subject to policies in the City of Umatilla's Comprehensive Plan and the applicable Oregon Statewide Planning Goals.

Per the JMA, amendments to zoning maps are processed by application to the County with notification to the City. The County Planning Commission provides a recommendation to the Board of County Commissioners based on the facts provided in the record and the testimony provided at the public hearing. The Board of County Commissioners also conducts a hearing and makes the final decision on whether the zone change request complies with applicable standards. If someone testifying does not agree with the Board's Final decision, the decision may be appealed to the State Land Use Board of Appeals (LUBA).

The change in zoning would allow the applicant to partition two acres around one of two existing dwellings on the property and sell the dwelling with two acres. The applicant resides in the second home on what would become a remaining parcel of 10.5 acre. Therefore the applicant is requesting approval of a Type II Land Division to partition two parcels. The land use decision on the Norris Type II Land Division is made by the Planning Commission.

5. **PARCEL SIZE:** Tax Lot 3200 = 12.5 acres

6. **PROPOSED PARCELS:** Parcel 1 = 2.0 acres; Parcel 2 = 10.5 acres
7. **COMPREHENSIVE PLAN:** City of Umatilla Comprehensive Plan Designation is Residential; no change to the comprehensive plan designation is proposed or necessary for approval of the proposed Norris rezone.
8. **CURRENT ZONING:** Umatilla County 1972 Zoning Ordinance, F-1 (Exclusive Farm Use - 19 acre minimum parcel size). *Note:* Currently the F-1 farm zone is in conflict with the City Comprehensive Plan Designation of Residential.
9. **PROPOSED ZONING:** Umatilla County 1972 Zoning Ordinance, R-1A Two Acre Residential Zone. Application of a residential zone to the applicant's property would resolve the conflict between the Comprehensive Plan Residential Designation and the current farm zoning of the property.
10. **ACCESS:** The property has two access reservations from State Highway 730. Each dwelling is currently served by an access driveway.
11. **ROAD TYPE:** State Highway 730 is classified as a *Regional Highway* and according to the *Oregon Highway Plan* functions to "provide connections and links to regions within the state, and between small urbanized areas and larger population centers through connections and links to Freeways, Expressways, or Statewide Highways.
12. **EASEMENTS:** An easement was granted to Cascade Natural Gas for a pipeline installed three feet south of the State Highway 730 right of way, across the north side of the applicant's property (Book 272, Page 555, Deed Records). Additionally, a Blanket Easement (no defined location) was granted to Umatilla Electric Cooperative in 1938, Book 120, Page, 515, Deed Records.
13. **STRUCTURES & LAND USE:** The property is developed with two dwellings, two pump houses, two barns, and one outbuilding. The parcel is also used for pasture.
14. **ADJACENT LAND USE:** The applicant's property and all of the adjacent properties are located within the city of Umatilla Urban Growth Boundary (UGB). The subject property adjoins parcels currently zoned R-1A on the west and the east. State Highway 730 adjoins the property along the north property line and the West Extension Irrigation Main Canal adjoins the property to the south. Properties to the north across State Highway 730 are zoned R-2 Suburban Residential and properties to the south across the West Extension Irrigation Canal are zoned F-1, similar to the current zoning on the subject property. (The F-1 zoned property, south of West Extension Canal, is steep and undeveloped. Farther to the south is EFU zoned land where farming can occur on less steep slopes.)

15. **LANDFORM:** Columbia Basin
16. **UTILITIES:** Umatilla Electric Cooperative is the area electrical provider and phone service is provided by Century Link.
17. **WATER/SEPTIC:** There are two wells and two on-site septic systems, one for each dwelling. Development is dependent on domestic wells and individual on-site septic systems since there are no extended urban water and sewer facilities servicing the area.

The subject property is located within the Ordinance Basalt Critical Groundwater Area, an area designated by Oregon Water Resources Department (OWRD) as having declining basalt aquifer groundwater levels. OWRD does not require a permit for a domestic well, an exempt water use. However, this could change in the future due to a continued decline in groundwater levels and may result in OWRD permitting or limiting wells in critical groundwater areas, including exempt wells.

The subject property area is also located within the Department of Environmental Quality (DEQ) designated Lower Umatilla Basin Groundwater Management Area (LUBGWMA) due to groundwater quality. Some wells within the management area are monitored and have tested higher than the Federal Drinking Water Standard for nitrates. The management of the LUBGWMA Action Plan continues to be managed by DEQ.

18. **IRRIGATION:** According to information from West Extension Irrigation District the Norris property has 10.7 acres of surface water rights.
19. **ZONING MAP AMENDMENT REVIEW PROCESS:** The following criteria apply from the Joint Management Agreement (County Ordinance #96-05 and City of Umatilla Resolution #09-96) between the County and City of Umatilla for lands within the Urban Growth Area (UGA). Applicable criteria are underlined, while responses are provided in standard text.

2.1.4.a. It is the intent of the City and County to jointly develop and adopt a single set of land use regulations and plan and zone map designations for properties within the UGA. It is the applicant's request to amend the Zoning Map. Lands within the City's UGB are zoned according to the County's 1972 Zoning Ordinance. Approval of the applicant's request to rezone the subject property from the 1972 County F-1, farm use zone, to the 1972 County R-1A, residential zone, would maintain consistency with the City's Comprehensive Plan Map designation of Residential and resolve the zoning conflict with the City's Plan Residential Designation. The rezone would likewise provide continuity with the adjoining lands zoned R-1A.

2.1.4.b. The County shall have lead responsibility for reviewing and adopting

amendments to land use regulations and to the Plan or zoning map for the UGA. Amendments may be initiated by the City, the County, or an affected person, by application to the County. The County received an amendment application for rezoning land located within the UGA from applicant and property owner, Trena Norris.

2.1.4.c. The County shall notify the City of proposed amendments at least (20) days prior to the County Planning Commission's first hearing on the proposed amendment. Notification to the City of Umatilla of the proposed rezone request and Planning Commission public hearing date will be followed as prescribed above. In addition, a copy of the Amendment Findings will be sent to the City for review and comment.

2.1.4.d. The City may comment on the proposed amendment in writing or in person before the Planning Commission. The County shall consider the City's comments in making a final recommendation to the Board of Commissioners. Comments from the City of Umatilla on the proposed amendment will be taken into consideration.

2.1.4.e. The City may review and comment on the *Planning Commission's recommendation* to the Board of Commissioner's in writing or in person at the public hearing on the amendment. The County shall consider the City's comments in making a final decision. The City will be notified of the Planning Commission's recommendation and have an opportunity to comment before a Final decision is made by the Board of County Commissioners.

2.1.4.f. The County shall notify the City of the Board's final decision within five (5) working days. The City may appeal the Board's decision to LUBA following County Ordinance, state statutes or administrative rule. The City of Umatilla will be notified of the Final Decision by the County Board of Commissioners and have opportunity for an appeal, according to the requirements of state statutes and administrative rules.

2.1.4.g. Following adoption of amendments to the land use regulations or plan and zone maps, the City is encouraged to make similar amendments to its land use regulations for consistency and shall amend or depict map amendments on City maps of the UGA. Approval of the applicant's rezone amendment would not amend the residential designation of City of Umatilla Comprehensive Plan Map. The County maintained zoning maps would be amended by the County to change the zoning on lands located within the UGA. Approval of the applicant's rezone request would result in the residential zoning of the property in conformance with the City's Comprehensive Plan Designation.

20. STATEWIDE PLANNING GOALS:

1. Citizen Involvement (Goal 1): The applicant's zone change proposal is processed through a public hearing and notice procedure. This process allows for citizen

involvement and provides a forum for citizen testimony and input on the applicant's proposal.

2. Land Use Planning (Goal 2): City and County actions on land use requests must be consistent with acknowledged local comprehensive plans. The Norris proposal to zone land R-1A, Residential, is consistent with the City of Umatilla's Comprehensive Plan Residential designation. Approval of the rezone would resolve the conflict between the Comprehensive Plan Residential Designation and the current non-residential zoning of the property.
3. Agricultural Lands (Goal 3): Statewide Planning Goal 3 is not applicable to lands within the Urban Growth Boundary. The subject properties are designated for residential use by the City of Umatilla Comprehensive Plan.
4. Open Spaces Scenic and Historic Areas and Natural Resources Goal (Goal 5): The subject property is located within the Ordinance Basalt Groundwater Area. This Critical Groundwater designation applies to the basalt aquifer. Goal 5 directs that local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. Among the specific resources to be protected are groundwater resources. The purpose and intent as defined in the Administrative Rules establishes procedures and criteria for inventorying and evaluating Goal 5 resources and for developing land use programs to conserve and protect significant Goal 5 resources.

Groundwater Resource: "Protect significant groundwater resources" means to adopt land use "programs" to help insure that reliable groundwater is available to areas planned for development and to provide a reasonable level of certainty of the carrying capacity of groundwater resources will not be exceeded. (OAR 660-023-0140(1) (c). Critical groundwater areas (CGWA's) are considered to be a significant Goal 5 resource. The OAR implies that local governments shall develop programs to protect the significant Goal 5 groundwater resource. Further the programs developed by local government are to be adopted as part of the Comprehensive Plan. Local plans require that such areas that are significant groundwater resources shall develop "programs" to protect the significant groundwater resource.

Goal 5 Implementation Process: Goal 5 requires the inventorying of Goal 5 resources. The regime as set forth in OAR 660-023, after the inventory process, includes provisions for the local government to follow the ESEE Decision Process. The steps and the standard ESEE process are as follows:

1. Identify Conflicting Uses;

2. Determine the Impact Areas;
3. Analyze the ESEE Consequences; and
4. Develop a Program to Achieve Goal 5.

It is important to note that "Goal 5 and the implementing rule are not satisfied by a case-by-case implementation approach, but require a jurisdiction-wide planning, program selection, and regulatory process." *Ramsey v. City of Portland*, 23OrLUBA 291, *aff'd*, 115 Or App 20, 23, (1992).

Programs to Achieve Goal 5: When a local government has decided to protect a Goal 5 resource such programs shall contain "clear and objective" standards. The program shall also require the necessary notice and landowner involvement prior to adoption of the program.

Ordinance Critical Groundwater Area: The Ordinance Critical Groundwater Area is by definition in the OAR a Goal 5 resource. As a result, the county is expected to adopt a program to help insure that reliable groundwater is available to areas planned for development and to provide a reasonable level of certainty that the carrying capacity of groundwater resources will not be exceeded.

The Ordinance Critical Groundwater Area is already subject to Umatilla Basin Rules. OAR 690-507-0750. The protection of the Goal 5 resource pertaining to groundwater is unique because, in effect, the Basin Rules referred to above have already set forth a "program." Although the program set forth in the Umatilla Basin Rules has not been formally adopted as part of the County Comprehensive Plan it has the same regulatory effect as a land use regulation.

County Program: Umatilla County presently has not adopted as specified in the Administrative Rule guidelines a land use program for the Ordinance Critical Groundwater Area. The County had begun implementation of one Goal 5 program by considering a "partial moratorium on rural residential development." That proposed program and ordinance was turned down by the Planning Commission. The Umatilla County Board of Commissioners appointed a task force to study the groundwater situation and develop a 2050 Plan for a sustainable water supply.

Oregon Water Resource Department (OWRD) Regulations: OWRD has adopted, by Administrative Regulation, OAR 690-507-0750, et seq, describing methods for determining and distributing the sustainable annual yield of the basalt groundwater reservoir by subarea for the Ordinance Groundwater Area. That regulation is in force and effect since May 15, 1991. One of the important restrictions is that OWRD will not accept new applications for appropriation of water from the basalt groundwater reservoir within the Ordinance Critical Groundwater Area. However, certain uses, specifically exempt domestic wells,

are expressly allowed. OWRD's August 21, 2006 letter, in response to the Kenny-Wood rezone application stated: "Domestic uses and irrigation of up to ½ acre of lawn or non-commercial garden are allowed by statute as exempt uses."

OWRD Exemption: The OWRD regulations in the Ordinance Critical Groundwater Area expressly exempts water users exempt under the provisions of ORS 537.545 pertaining to exempt or what is commonly referred to as domestic wells (OAR 690-507-0775). The construction of domestic wells for residential purposes, livestock watering and limited commercial purposes are expressly allowed within the Ordinance Critical Groundwater Area covering the Norris property.

County Exempt Well Resolution BCC 2007-17: The Water Task Force recommended the County approve a resolution relating to exempt domestic wells. As a result, the Board of Commissioners adopted Order No. BCC 2007-17, pursuant to the construction of exempt wells. The exempt well resolution includes the following recital:

"Whereas on January 6, 2005, the Umatilla County Critical Groundwater Task Force adopted a resolution and recommendation to deal with the immediate domestic water use issue and to provide security and clear and objective standards for Umatilla County citizens to develop domestic water supplies as allowed by law; . . ."

The resolution adopted by the Task Force and Board of Commissioners contains a thorough analysis and detailed background on the use and impact of exempt wells and concludes that the quantities of water used by exempt domestic wells is of such a small quantity that the county has elected to impose no regulation of such wells until a 2050 plan has been adopted. It is important to note that such 2050 plan may not necessarily limit or restrict exempt wells, however, exempt wells are, as with all other critical groundwater resources, being reviewed. The Task Force's resolution presently in effect emphasizes that domestic and other exempt uses of water consume relatively little of the alluvial and basalt aquifer waters in the critical areas as compared to nonexempt uses such as that used for municipal, industrial, and agricultural purposes. The Task Force's recommendation as adopted by the Board of Commissioner's Resolution states as follows:

"In so far as the county is required to adopt findings to approve land use permits, the county will rely on this document to defend the assumption that new exempt wells do not make a significant adverse impact on the groundwater resources. The county will assume exempt

wells are appropriate and permissible.”

Current County Policy: In the January 25, 2005 BCC Perkins Amendment and Final Findings, involving a plan and zone change and the BOC did not restrict, limit, or condition in any manner the installation of exempt domestic wells on the property subject to the zoning change. In the April 24, 2006 BCC Findings and Conclusions for Seven Hills Property, LLC adoption of minimum parcel sizes below Oregon’s statutory requirements found that “currently the State of Oregon does not regulate domestic wells on rural lands; wells are “exempt” from water permits and allowed outright. There will be a maximum of 20 new exempt wells on the tract, which is not likely to create an impact to neighboring properties.” Rural residential development in Umatilla County for both partitions and subdivisions has fallen under the BCC exempt well resolution and as a result such domestic wells have been allowed, until such time as the county or state law changes.

Preemption of State Law: The County recognizes that OWRD has the sole and exclusive right to regulate waters for public purposes within the State of Oregon. As a result, Umatilla County may not adopt an ordinance or regulation or impose a condition in conflict with the present state law. Present state law allows the construction of exempt/domestic wells. As mentioned above, while OWRD has adopted regulations in the Ordinance Critical Groundwater Area, those regulations do not regulate the construction of exempt domestic wells and expressly provide for an exemption for such wells. The county is aware that such regulations are subject to change by OWRD or by legislative process, but at present both state law and OWRD regulations clearly authorize exempt wells within the Ordinance Critical Groundwater Area.

Kennedy/Wood Zone Change Application: The Kennedy/Wood application complied with the Basin Rule which in effect is the “program” in place. As noted in the exempt well Resolution, and as noted by Commissioner Doherty, exempt wells in the CGWA’s have a “diminimus” impact to the overall resource, that is, ten additional wells would further be diminimus, upon approval of the Kennedy/Wood application.

Because there is no indication that the Norris application has not complied with Goal 5 provisions and because it is demonstrated that impacts, if any, are diminimus and because proposed water development is expressly allowed by law, the applications is in compliance with Goal 5. Further, because the Basin Rules adopted and implemented by the OWRD, are in effect, and exempt wells are expressly provided for in the rules, the County finds that there is a Goal 5 Program to protect the groundwater resource and the Norris Zone Change application complies with the Goal 5 Program.

5. Air, Water and Land Resources Quality (Goal 6): The subject property and surrounding area is within the Oregon Department of Environmental Quality (DEQ) designated Lower Umatilla Basin Groundwater Management Area (LUBGWMA) due to high nitrate levels in groundwater. Some wells within this management area are monitored and have, in the past, tested higher than the Federal Drinking Water Standard for nitrates. However, this designation has not resulted in limitations on development or farming and continues to be managed through the LUBGWMA Action Plan. DEQ is the lead state agency overseeing implementation of the Action Plan and has jurisdiction in permitting on-site septic systems. Because DEQ oversees management of the LUBGWMA Action Plan, and limitations on development and farming are not implemented, the County finds the Norris zone change application complies with Goal 6.
6. Public Facilities and Services (Goal 11): Orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The City of Umatilla's nearest water and sewer service is approximately 1.5 miles east of the subject property. Although this goal requires the orderly arrangement for public facilities, the County has been informed that there are no current plans to extend services to this area.

The proposal to change the zoning on the property would allow continued development of the property at a more rural density than what would normally be recommended should services be more readily available. Since the City has no plans to extend services to the area, and the proposed zoning density of two acres is a rural density, the same as the properties on either side of the Norris property, the County finds the Norris zone change application is compliant.

7. Transportation (Goal 12): Safe, convenient and economic transportation system. The City of Umatilla has an adopted Transportation System Plan (TSP), co-adopted by the County for application within the City's UGB.

Currently, the applicant has two Oregon Department of Transportation access reservations, one to each existing dwelling on the property. The property is developed with two dwellings and there is potential for four additional parcels and four additional single family dwellings. If fully developed, four additional single family dwellings would result in a total of 38.08 Average Daily Trips (week days), well under the 250 ADT required to activate a Traffic Impact Analysis.

The 2007 US 730 Corridor Refinement Plan identified circulation and access management for near-term and long-term safety needs. The plan resulted in

improvement strategies, implemented over time, through development and various capital improvement projects, which are anticipated to produce a safe and efficient Regional Highway status for Highway 730. Umatilla County adopted the US 730 Corridor Refinement Plan as part of the County Transportation Plan. The Plan has not been adopted by the City of Umatilla or co-adopted by the County for application within the City UGB. The County believes, by adding four dwellings at full density build-out under a zone change to R-1A residential would not cause significant impact to access and transportation facilities.

8. Urbanization (Goal 14): Orderly and efficient transition from rural to urban land use. The subject property is located within the UGB. The area is designated residential by the City Comprehensive Plan. A rezone from the 1972 F-1 farm zoning to R-1A residential zone complies with the City's Residential Comprehensive Plan designation and provides consistency in the zoning of the area.

21. CITY OF UMATILLA COMPREHENSIVE PLAN POLICIES:

The City's Comprehensive Plan sets forth the goals and policies that guide the City's land use actions which closely follow the Statewide Planning Goals reviewed above. The most significantly applicable policy that was adopted by the City and co-adopted by the County includes the following policy:

Residential (R) - This Comprehensive Plan designation will only apply outside of the City limits, within the Urban Growth Boundary. It is intended to identify land that is suitable for future residential development at urban densities upon annexation to the City. It is hoped that the zoning designations applied by Umatilla County will maintain in single ownership parcels of land that are large enough to reasonably develop for future urban uses and densities upon annexation. The appropriate City residential designation will be established when a property is proposed for annexation, based upon factors such as community needs, location with relation to adjacent streets and classification of adjacent streets, and site suitability. At present this designation does not establish regulation of property use.

Since the property is designated Residential, this section of the City's Comprehensive Plan applies to the subject property

The holding of lands in large parcels within the UGB for future urban development is a long held land use recommendation and guideline in order to better plan for the extension of urban services. In 2003 the Department of Land Conservation and Development recommended adoption of a 10-acre parcel size minimum for application within the City of Umatilla's UGB. However, a 10-acre residential parcel zone has not been adopted. And in the case of the applicant's property, a 10-acre parcel zoning would not allow the

two existing dwellings, currently developed on the 12.5 acres, to be divided onto separate parcels. Therefore, given that the subject property is situated between R-1A two acre residential zoning (east and west), the proposed rezoning of the applicant's property to R-1A seems to be the only course to accomplish the applicant's goal of creating separate parcels around existing dwellings located on the 12.5 acre property.

The rezoning of the applicant's property from farm to residential zoning would also result in resolving a "conflict" between the current farm zoning and the City's Residential Plan Designation. Application of the R-1A residential zone likewise would be consistent with the R-1A zoning applied to properties on both sides of the applicant's parcel.

22. **NOTIFIED AGENCIES:** Department of Land Conservation and Development, Oregon Department of Transportation, Oregon Department of Water Resources, Oregon Department of Environmental Quality, City of Umatilla, Umatilla Rural Fire District, Umatilla County Public Works, Umatilla County Assessor, West Extension Irrigation District, Umatilla Electric and Cascade Natural Gas
23. **COMMENTS RECEIVED:** None.
24. **THE UMATILLA COUNTY DEVELOPMENT CODE STANDARDS FOR LAND DIVISIONS. Type II approval criteria, found in UCDC Section 152.684 are reviewed below.** The following standards of approval are underlined followed by Findings in standard text.

§ 152.684 STANDARDS FOR APPROVAL.

In granting approval of a Type II Land Division, the Planning Director shall find that the Type II Tentative Plan and required supplementary material comply with the following:

- A. Complies with applicable elements of the Comprehensive Plan, including, but not limited to, policies listed in the public facilities and services and the transportation elements of the Comprehensive Plan. The City of Umatilla Comprehensive Plan and City TSP applies to lands within the UGB of the City of Umatilla. However, the City's TSP does not specifically address transportation and access development within the UGB. Currently, the applicant has two Oregon Department of Transportation access reservations, one to each existing dwelling on the property. The US 730 Corridor Refinement Plan also identified the access reservation to the applicant's home, located farthest south from Highway 730, as a field access. This access may provide access to the pasture area but also importantly provides driveway access to the applicant's home. The proposed land division results in each parcel continuing to use the existing access approaches and driveways. Future land divisions of the 10.5 acre parcel would likely need access via an access easement, connected to one of the existing access reservations.

In addition, approval of the rezone from farm to residential would resolve the conflict

between the current zoning of the property and the City Comprehensive Plan Designation.

- B. If approved, will permit development on the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances. The applicant's proposed partition does not affect adjacent development potential that could occur to the extent allowed by the current zoning and land use regulations.
- C. Complies with the zoning requirements or a proposed change thereto associated with the partition map proposal. The proposed zone change would require the zoning map to be amended to reflect the zone change approval to the R-1A Zone. New parcels created through approval of the Type II Land Division would be required to meet the minimum R-1A zone parcel size of two acres. The applicant's partition plan shows that this two acre zoning acreage requirement is met and exceeded.
- D. Complies with provisions of § 152.019, Traffic Impact Analysis, when applicable. A Traffic Impact Analysis is necessary when more than 250 average daily trips (ADT) are generated by potential development (UCDC § 152.019). The projected residential trips resulting from development of single family dwellings¹ at full build out of the 12.5 acres would result in a total of six dwellings. The property is now developed with two dwellings; therefore, there is potential for four additional parcels and four additional single family dwellings. Four additional single family dwellings would result in a total of 38.08 Average Daily Trips (week days), well under the 250 ADT required to activate a Traffic Impact Analysis. A requirement for a Traffic Impact Analysis is not applicable.
- E. Roads and recorded easements for access purposes are laid out so as to conform, within the limits of the development standards, to the plats of subdivisions and maps of partitions already approved for adjoining property unless the Planning Director determines it is in the public interest to modify the road pattern; The applicant is not proposing road easements for access purposes. Each proposed parcel has access to the public road (Highway 730). In addition, there are no subdivision or partition plat approvals on adjoining properties in which the applicant must modify a road pattern for access.
- F. Dedicated road or public recorded easement shall be provided to each parcel and conform to right-of-way and improvement standards as follows:
 - (1) If a recorded easement for access purposes in a Type II Land Division will serve three or fewer parcels and will not likely serve other parcels or lots due to existing conditions, such as topography or the size or shape of land, or the parcels are not buildable, the easement or right-of-way is required to be improved to meet the Option 1 or "P-1" county Road standard as provided in §152.648 (D). The easement or right-of-way shall be a minimum of 30 foot wide and improved with a surface width of at least 16-feet.

¹ A single family dwelling generates, week days, approximately 9.52 Average Daily Trips (ADT).

- (2) If the partition is located within a rural fire district or a hospital district which provides service, emergency vehicle considerations for recorded easements which dead-end shall provide either circle drives or driveway turn-arounds. The Planning Director or Public Works Director shall determine which type of emergency vehicle access above is most appropriate. Circle drives and turnarounds shall be improved to the same standard as the road they serve as provided in §152.648 (D), shall be kept clear and shall be of adequate circumference to provide turn around space for emergency vehicles.
 - (3) If a public road or recorded easement for access purposes in a Type II Land Division will serve four or more parcels and will likely serve additional parcels or lots, or likely be an extension of a future road as specified in a future road plan, the right-of-way or easement shall be required to be improved to meet the Option 2 or "P-2" County Road Standard as provided in §152.648 (D). The 60-ft right-of-way or easement shall be improved with a surface width of at least 22-feet. All 60-foot rights-of-way or easements are to be named prior to final approval of the partition plat and the road name must be included on the final partition plat map. Road signs are to be paid for prior to the final partition plat approval.
 - (4) Recorded easements or dedicated public roads required in the Type II Land Division may warrant the installation of road signs at intersections with named or numbered county roads, state highways, or with other existing easements or public roads within or abutting the partitioned land. The Public Works Director will determine if road signs are necessary at these intersections. Such signs shall be of a type approved by the Public Works Director. Easement or public road names or numbers shall be the same as existing named or numbered county or public roads if an extension of such county or public road. All other road names or numbers shall be selected by the Planning Director as provided in Umatilla County Code of Ordinance, Chapter 93. Road signs shall be installed by the County, provided the partitioner pays for the cost and maintenance of the sign. The applicant is not proposing a recorded access easement to serve the two proposed parcels. Each dwelling has an access reservation to State Highway 730 and each dwelling and proposed parcel will continue to be served by long established driveways.
 - (5) Existing County or Public Roads shall be improved pursuant to the requirements of this chapter. See J below.
 - (6) Shall obtain necessary approval and/or permits from either the State Highway Department or County Public Works Director for location, design, and improvement standards of access points onto County Roads, (approved) public roads, or state highways. The applicant currently has two Oregon Department of Transportation access reservations, one to each dwelling on the property. In 2007, the US 730 Corridor Refinement Plan identified the access reservation to the applicant's home, located farthest south from Highway 730, as a field access. This access may provide access to the pasture area on the property but it also, importantly, provides driveway access to the applicant's home. Access is currently in place for both proposed parcels.
- G. Each parcel under four acres in size, both those partitioned or the remaining piece which are

to be for residential purposes, have a site suitability approval from the Department of Environmental Quality. A waiver to this requirement may be granted if the applicant makes a written request to the Planning Director and the Planning Director finds:

- (1) The parcel, four acres or under, is to be used for non-residential purposes and the owner's signature to this effect is on the partition form;
 - (2) The parcel remaining has an existing dwelling and zoning densities will not permit additional dwellings. One proposed parcel is a two acre parcel created around an existing dwelling. Therefore, site suitability is not required for the proposed two acre parcel, currently developed with a dwelling, as provided in number (2) above. The 10.5 acre parcel is also developed with a dwelling and likewise is not required to complete site suitability due to the present of the dwelling, as well as, due to the large parcel size. However, it should be noted that all parcels need areas for replacement drainfields in the event a current drainfield fails. The applicant's proposed parcels appear to have ample area for replacement drainfields.
- H. Shall provide easements along existing irrigation ditches that traverse or abut the partition where no such easements have yet been recorded. The purpose of the easement shall be for perpetual maintenance of the ditch and if within an irrigation district, said easement width and purpose shall be approved by the Irrigation District Board. The application information provides that the property is also in pasture; however, water rights information was not provided for the property. West Extension Irrigation District serves the area and a copy of the staff report and Findings will be sent to the West Extension Irrigation District for District comment regarding easement requirement or other irrigation water requirements. Complying with West Extension Irrigation Water easement requirements will be a condition of approval.
- I. Considers energy conservation measures (e.g. road, lot and building orientation for solar and wind usage) unless vegetation, topography, terrain, or adjacent development will not allow these energy conservation measures. The proposed parcel sizes are adequate to accommodate on-site energy conservation measures.
- J. All required improvements have signed agreements with the Board of Commissioners to meet the standards of this chapter or improvements specified by the Planning Commission or Public Works Director, and are recorded in the Recorder's Office at the time, and as a condition of approval for a Type II Land Division. As development occurs, additional road impacts, future upgrading and road realignment often become necessary. Typically, an Irrevocable Consent Agreement (ICA) is required by the county for adjoining land owners' involvement in the future financial participation in the upgrading and possible realignment of access easements and adjoining county roads. At this time, the applicant does not propose, or need, an access easement to provide access to the two proposed parcels. In addition, the property does not adjoin a county road; therefore, at this time an ICA is not a requirement of approval of the applicant's proposed Type II Land Division.
- K. Adequately addresses any known development limitations within the proposed Type II Land

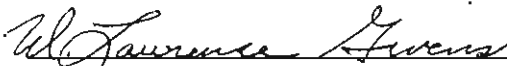
Division, outlining appropriate measures to mitigate the limitation. All parcels will meet or exceed the R-1A zone parcel size minimum of two acres. The remnant 10.5 acre parcel slopes from south to north toward State Highway 730; however, the parcel is not considered steep or to have unusual topography. There are no known development limitations in which mitigation would be required.

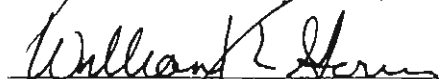
- L. Addresses the comments of the appropriate water agency if the proposed Type II Land Division has a water right. (See H. above)

ZONE CHANGE DECISION: BASED ON THE ABOVE STATED FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UMATILLA COUNTY BOARD OF COMMISSIONERS HEREBY APPROVES THE NORRIS ZONING MAP AMENDMENT, Z-298-13.

DATED this 24 day of SEPTEMBER, 2013.

UMATILLA COUNTY BOARD OF COMMISSIONERS


W. Lawrence Givens, Commissioner


William J. Elfering, Commissioner


George L. Murdock, Commissioner

LAND DIVISION DECISION: BASED UPON THE ABOVE FINDINGS THE NORRIS TYPE II LAND DIVISION REQUEST, #LD-5N-812-13, IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

Precedent Conditions: The following precedent conditions must be fulfilled prior to final approval of this request, signified by the recording of the Final Partition Plat:

1. Receive rezone approval for the subject parcel to amend the UGB Zoning Map to R-1A, Two acre Residential Zoning, prior to submitting a Partition Plat.

2. Submit written documentation from West Extension Irrigation District that easement and irrigation water rights plans are acceptable, or in lieu of written documentation, the District may verify it's satisfaction of the applicant's easement and water rights plan by placing the appropriate District signature on the Final Partition Plat.
3. Submit a Preliminary Partition Plat to the County for review and comment.
4. Pay and pre-pay all taxes prior to recording the Final Partition Plat.

Subsequent Condition: The following subsequent condition must be fulfilled following satisfaction of all precedent conditions and approval of the Preliminary Partition Plat.

5. Record a Final Partition Plat, prior to signing deeds.

Dated this _____ day of _____, 2013.

UMATILLA COUNTY PLANNING COMMISSION

Randy Randall, *Planning Commission Chair*

Attachments:

SEP 24 2013

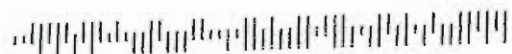
THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

In the Matter of Amending)
Zoning Map from Exclusive Farm) ORDINANCE NO. 2013-09
Use to Residential for Trena)
Norris)

ATTEST:
OFFICE OF COUNTY RECORDS

Juan Chubb
Records Officer





U.S. POSTAGE  RITNEY BOWES
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Umatilla County
Department of
Land Use Planning
216 SE 4th Street
Pendleton, OR 97801

Attn: Plan Amendment Specialist
Dept of Land Conservation and
Development
635 Capitol St NE, Ste 150
Salem, OR 97301-2540

DEPT OF

SEP 26 2013

LAND CONSERVATION
AND DEVELOPMENT