



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: May 31, 2016  
Jurisdiction: Morrow County  
Local file no.: AC-097-16, AZ-098-16  
DLCD file no.: 001-16

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/26/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 33 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

**FOR DLCD USE**  
File No.: 001-16 {24296}  
Received: 5/26/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Morrow County

Local file no.: **AC-097-16; AZ-098-16; AZ(M)-099-16**

Date of adoption: May 18, 2016      Date sent: 5/26/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

- Yes: Date (use the date of last revision if a revised Form 1 was submitted): 02/22/2016
- No

Is the adopted change different from what was described in the Notice of Proposed Change?  Yes  No  
If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Carla McLane, Planning Director

Phone: 541-922-4624 E-mail: [cmclane@co.morrow.or.us](mailto:cmclane@co.morrow.or.us)

Street address: 205 NE 3<sup>rd</sup> Street City: Irrigon Zip: 97844-

## PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

### For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

Goal 3 exception to rezone a portion of the land around the Boardman Airport from Air Industrial Park to Airport Light Industrial.

### For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- Change from      to      .      acres.  A goal exception was required for this change.
- Change from      to      .      acres.  A goal exception was required for this change.
- Change from      to      .      acres.  A goal exception was required for this change.
- Change from      to      .      acres.  A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): .

- The subject property is entirely within an urban growth boundary
- The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

Morrow County Zoning Ordinance Article 3 Section 3.076 Airport Light Industrial

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from Air Industrial Park to Air Light Industrial. Acres: 1897

Change from           to           . Acres:

Change from           to           . Acres:

Change from           to           . Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:           . Acres added:           . Acres removed:

Location of affected property (T, R, Sec., TL and address): 4N 24 TL 110 and portion of TL 131

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List affected state or federal agencies, local governments and special districts: Department of Land Conservation and Development, Oregon Department of Aviation, Federal Aviation Administration, Naval Air Station Whidbey Island, Oregon Department of Transportation, Port of Morrow, Boardman, Morrow County Public Works

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

## NOTICE OF ADOPTED CHANGE – SUBMITTAL INSTRUCTIONS

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1. A Notice of Adopted Change must be received by DLCD no later than 20 days after the ordinance(s) implementing the change has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) as provided in [ORS 197.615](#) and [OAR 660-018-0040](#).

2. A Notice of Adopted Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of Adopted Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of Adopted Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 2 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist  
Dept. of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us) with the subject line “Notice of Adopted Amendment.”

Submittals may also be uploaded to DLCD’s FTP site at [http://www.oregon.gov/LCD/Pages/papa\\_submittal.aspx](http://www.oregon.gov/LCD/Pages/papa_submittal.aspx).

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 2 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of Adopted Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

6. **Content:** An administrative rule lists required content of a submittal of an adopted change ([OAR 660-018-0040\(3\)](#)). By completing this form and including the materials listed in the checklist below, the notice will include the required contents.

Where the amendments or new land use regulations, including supplementary materials, exceed 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

7. Remember to notify persons who participated in the local proceedings and requested notice of the final decision. ([ORS 197.615](#))

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**If you have any questions** or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

### **Notice checklist. Include all that apply:**

- Completed Form 2
- A copy of the final decision (including the signed ordinance(s)). This must include city *and* county decisions for UGB and urban reserve adoptions
- The findings and the text of the change to the comprehensive plan or land use regulation
- If a comprehensive plan map or zoning map is created or altered by the proposed change:
  - A map showing the area changed and applicable designations, and
  - Electronic files containing geospatial data showing the area changed, as specified in [OAR 660-018-0040\(5\)](#), if applicable
- Any supplemental information that may be useful to inform DLCD or members of the public of the effect of the actual change

BEFORE THE MORROW COUNTY COURT  
OF MORROW COUNTY

AN ORDINANCE AMENDING THE MORROW COUNTY COMPREHENSIVE PLAN, ZONING ORDINANCE, AND ZONING MAP SPECIFICALLY TAKING A GOAL 3 EXCEPTION TO REZONE A PORTION OF THE BOARDMAN AIRPORT FROM AIR INDUSTRIAL PARK TO AIRPORT LIGHT INDUSTRIAL; ADDING THE AIRPORT LIGHT INDUSTRIAL USE ZONE TO THE ZONING ORDINANCE; AND APPLYING THE AIRPORT LIGHT INDUSTRIAL USE ZONE TO THE SUBJECT PROPERTY AT THE BOARDMAN AIRPORT.

COUNTY ORDINANCE

NO. ORD-2016-3

WHEREAS, ORS 203.035 authorizes Morrow County to exercise authority within the County over matters of County concern; and

WHEREAS, Morrow County adopted a Comprehensive Land Use Plan which was acknowledged by the Land Conservation and Development Commission on January 15, 1986; and

WHEREAS, the Morrow County Planning Department received an application from the Port of Morrow to rezone a portion of the Boardman Airport; and

WHEREAS, the Morrow County Planning Commission held a public hearing to consider the request to amend the Morrow County Comprehensive Plan, Zoning Ordinance and Zoning Map on March 29, 2016, at the Port of Morrow Riverfront Center in Boardman, Oregon; and

WHEREAS, testimony in support of the changes was received and considered; and

WHEREAS, the Morrow County Planning Commission considered the request and, after deliberation, adopted Planning Commission Final Findings of Fact with a 'do adopt' recommendation to the Morrow County Court; and

WHEREAS, the Morrow County Court held a public hearing to consider the recommendation of the Morrow County Planning Commission on April 27, 2016, at the Bartholomew Building in Heppner, Oregon; and

WHEREAS, the Morrow County Court heard testimony from Mark Greenfield and Ron McKinnis in support of the proposed Goal 3 Exception to rezone a portion of the land around the Boardman Airport from Air Industrial Park to Airport Light Industrial; and

WHEREAS, the Morrow County Court did accept the Planning Commission recommendation and deliberated to a final decision with a unanimous vote.

NOW THEREFORE THE COUNTY COURT OF MORROW COUNTY ORDAINS AS FOLLOWS:

Section 1 Title of Ordinance:

This Ordinance shall be known, and may be cited, as the 2016 Boardman Airport Rezone.

Section 2 Affected Documents:

Morrow County Comprehensive Plan  
Morrow County Zoning Ordinance  
Morrow County Zoning Map

Section 3 Attached Documents:

Morrow County Comprehensive Plan Goal 3 Exception Analysis  
Morrow County Zoning Ordinance Article 3 Section 3.076 Airport Light Industrial  
Morrow County Zoning Map Airport Light Industrial

Section 4 Effective Date:

The Morrow County Court declares an emergency as an application is anticipated for development at the Boardman Airport. The land use process has already taken several months since submission of the application to rezone a portion of the Boardman Airport and further delay could impact the development time line. The effective date for this Ordinance is 30 days after its Second Reading, or June 17, 2016.


Date of First Reading: May 11, 2016

Date of Second Reading: May 18, 2016

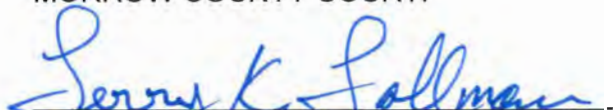
DONE AND ADOPTED BY THE MORROW COUNTY COURT THIS 18<sup>th</sup> DAY OF MAY 2016

MORROW COUNTY COURT:

ATTEST:

  
Bobbi Childers  
County Clerk



  
Terry K. Tallman, Judge

  
Leann Rea, Commissioner

  
Don Russell, Commissioner

**Final Findings of Fact**  
**Comprehensive Plan, Zoning Ordinance and Zoning Map Amendments**  
**AC-097-16, AZ-098-16, AZM-099-16**

**REQUEST:** Amend the Morrow County Comprehensive Plan, Zoning Ordinance and Zoning Map. This will require a Goal 3 exception to rezone a portion of the land around the Boardman Airport from Air Industrial Park to Airport Light Industrial. The action will also include adding the Airport Light Industrial use zone to the Zoning Ordinance and amend the Zoning Map.

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**APPLICANT AND LANDOWNER:** Port of Morrow  
P.O. Box 200  
Boardman, OR 97818

**PROPERTY DESCRIPTION:** Tax Lot 110 and a portion of Tax Lot 113 of Assessors Map 4N 24

**PROPERTY LOCATION:** The southwest corner of the Tower Road Interchange along Interstate 84 west of Boardman approximately five miles.

**I SUMMARY OF APPLICATION AND PROCESS:**

The Port of Morrow has submitted an application requesting that Morrow County adopt a new use zone authorizing uses compatible with the Boardman Airport, including light industrial uses and renewable energy projects. The request also asks that this new use zone be applied both north and south of the Boardman Airport, rezoning approximately 1900 acres of the 2700 acre tract. This request would affect the Zoning Map, but would not change the industrial designation on the Comprehensive Plan Map.

**II SUMMARY OF APPLICABLE CRITERIA**

**MORROW COUNTY COMPREHENSIVE PLAN: CRITERIA.** The following criteria must be considered before approval of an amendment to the Comprehensive Plan is given:

1. Address the Criteria found in the Morrow County Zoning Ordinance Article 8 Amendments; and
2. Show how the request complies with the relevant statewide land use planning Goals. Include evidence of coordination and compliance with State agencies regarding the statewide planning Goals.

The Morrow County Zoning Ordinance criteria follow with the necessary analysis.

Based on previous actions in and around the Boardman Airport the applicant was required to develop as part of their application necessary exception statements to fulfill an exception to Goal 3 Agricultural Lands. Rather than restating the specifics from the application, the application is attached in its entirety. Planning staff would direct readers to the portion of the application starting on page 5 that addresses Compliance with Goal Exception Criteria, followed by the portion starting on page 19 that address Compliance with Statewide Planning Goals, and then finishing with the portion starting on page 22 that addresses Compliance with Morrow County Comprehensive Plan and Land Use Regulations. Planning staff would find these criterion met.

**MORROW COUNTY ZONING ORDINANCE: SECTION 8.040.** The proponent of the application or permit has the burden of proving justification for its approval. The more drastic the request or the greater the impact of the application or permit on the neighborhood, area, or county, the greater is the burden on the applicant. The following criteria shall be considered by the Planning Commission in preparing a recommendation and by the County Court in reaching their decision.

**A. The local conditions have changed and would warrant a change in the zoning of the subject property(ies).**

The zoning of the subject property has been industrial with a focus on airport related or supporting development for nearly 50 years and was acknowledged in 1986 with Air Industrial Park zoning. This, in many respects, can be viewed as more of a refinement of the use zone than a change in the use zone. The proposed new use zone would allow any of the airport related and supporting uses currently allowed, but broaden the opportunity to other light industrial and renewable energy uses that may be a better fit at the Tower Road Interchange than at other industrial locations in Morrow County.

**B. The public services and facilities are sufficient to support a change in designation including, but not limited to, water availability relevant to both quantity and quality, waste and storm water management, other public services, and streets and roads.**

The subject property has been planned and zoned for industrial uses for about 50 years, and for airport related and supporting uses more specifically since 1986. Additional planning work was done between 2001 and 2008 to accommodate a speedway and speedway related uses. In both of these cases there was discussion about how various services would be delivered as well as how traffic would be accommodated. The Port of Morrow has on adjacent property a municipal well and has the capacity to receive waste water. Staff find this criterion met.

**1. Amendments to the zoning ordinance or zone changes which significantly affect a transportation facility shall assure that land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:**

- a. Limiting allowed land uses to be consistent with the planned function of the transportation facility or roadway;
- b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
- c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel to meet needs through other modes.

Traffic based on this amendment is anticipated to be less than what was approved as part of the speedway amendment. The provisions that have been incorporated into the Morrow County Transportation System Plan should be more than adequate for the uses proposed within this amendment. Additionally there are included in the new Airport Light Industrial use zone specific provisions to address increased traffic or a proposed use with traffic at or above 400 automobile trips per day. Staff find this criterion met.



2. **A plan or land use regulation amendment significantly affects a transportation facility if it:**
  - a. **Changes the functional classification of an existing or planned transportation facility;**
  - b. **Changes standards implementing a functional classification;**
  - c. **Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or**
  - d. **Would reduce the level of service of the facility below the minimal acceptable level identified in the Transportation System Plan.**

See answer above. Additionally the proposed uses should not trigger this type of increase in use. Planning staff would find this criterion met.

- C. **That the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports goals and policies of the Comprehensive Plan, that there is a public need for the proposal, and that the need will be best served by allowing the request. If other areas in the county are designated for a use as requested in the application, then a showing of the necessity for introducing that use into an area not now so zoned and why the owners there should bear the burden, if any, of introducing that zone into their area.**

Planning staff would refer readers to the application where this criterion is discussed in multiple locations under various requirements of the Statewide Planning Goals and the Morrow County code provisions. Planning staff generally agree with the applicants discussion of this criterion and would agree that this proposed change is consistent with the Comprehensive Plan, that there is a public need for the proposal, and that allowing this request is in the best service of the County. Planning staff would find this criterion met.

- D. **The request addresses issues concerned with public health and welfare, if any.**

Any action may have an impact to public health and welfare. This is discussed to some degree in the portion of the application that addresses the economic, social, environmental and energy needs. Planning staff would find this criterion met.

III **DLCD 35 DAY NOTICE:** February 22, 2016

IV **PROPERTY OWNER NOTICE:** March 9, 2016

V **LEGAL NOTICE:** Heppner Gazette Times and East-Oregonian  
March 9, 2016

VI **AGENCIES NOTIFIED:** Angela Houck, Tom Hogue, Jon Jinnings and Grant Young, Department of Land Conservation and Development; Teresa Penninger and Marilyn Holt, Oregon Department of Transportation; Jeff Caines, Oregon Department of Aviation; Linda Hayes-Gorman, Oregon Department of Environmental Quality; Kevin Meenaghan, CPLO, Naval Air Station Whidbey Island; Jason Ritchie and Ben Dahle, FAA Seattle; Gary Neal and Lisa Mittelsdorf, Port of Morrow; Karen Pettigrew, City of Boardman; Burke O'Brien, Morrow County Public Works; Mike Gorman, Morrow County Assessor.

**VII HEARING DATES:**

Planning Commission  
March 29, 2016  
Port of Morrow Riverfront Center  
Boardman, Oregon

County Court  
April 27, 2016  
Port of Morrow Riverfront Center  
Boardman, Oregon

**IX RECOMMENDATION:** The Planning Department recommends that the Planning Commission forward with a do adopt recommendation to the Morrow County Court.



David Sykes, Chair

4-12-2016  
Date

Attachment: Application to Amend the Morrow County Comprehensive Plan text, Zoning Ordinance and Zoning Map, and Adopt an Exception to Goal 3, with Supporting Findings of Fact and Statement of Reasons



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

### NOTICE OF DECISION

May 26, 2016

AC-097-16; AZ-098-16; AZ(M)-099-16;  
Morrow County Comprehensive Plan, Zoning Ordinance, and Zoning Map

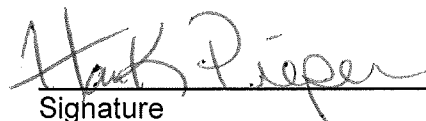
This notice is to inform you that on May 18, 2016, the Morrow County Court adopted Ordinance Number ORD-2016-3 amending the Morrow County Comprehensive Plan, Zoning Ordinance and Zoning Map. Specifically taking a Goal 3 Exception to rezone a portion of the Boardman Airport from Air Industrial Park to Airport Light Industrial, adding the Airport Light Industrial Use Zone to the Zoning Ordinance, and applying the Airport Light Industrial Use Zone to the subject property at the Boardman Airport. Enclosed is the adopted ordinance and other support documents, including maps.

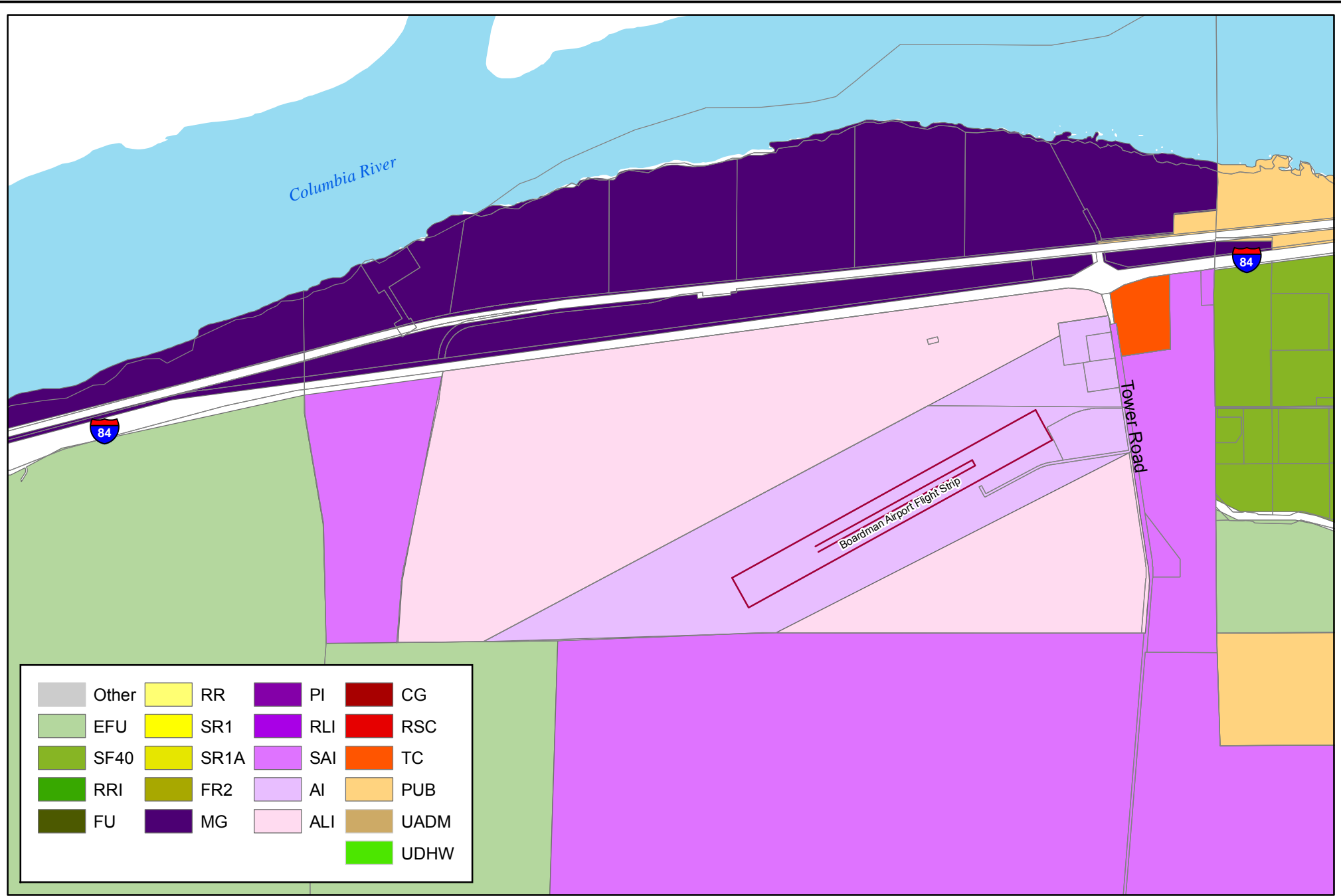
The requirements for filing an appeal of the decision to the Land Use Board of Appeals (LUBA) are set forth in ORS 197.830 to 197.845. State law and associated administrative rules promulgated by LUBA describe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that a notice of intent to appeal plan or land use regulation amendments adopted pursuant to ORS 197.610 to 197.625 "shall be filed not later than 21 days after notice of the decision sought to be reviewed is mailed or otherwise submitted to parties entitled to notice under ORS 197.615." Notice of this decision was mailed, and in some instances emailed, on May 26, 2016. The deadline to appeal is June 16, 2016.

Cordially,

  
Carla McLane  
Planning Director

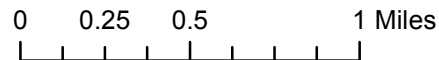
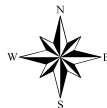
I certify that on May 26, 2016, I mailed or emailed a copy of this Notice of Decision to all persons entitled to notice of this decision.

 5/26/2016  
Signature Date



### Zoning Map

4N 24E Tax Lot 110 & 113  
New Airport Light Industrial (ALI) Zone



Morrow County Planning Department  
May 2016  
Map for Reference Use Only

### **SECTION 3.076 AIRPORT LIGHT INDUSTRIAL ZONE, ALI**

Purpose. The ALI zone is intended to permit airport-compatible light industrial uses and other airport-compatible uses on existing industrial land near the Boardman airport. Light industrial uses are manufacturing, assembly, processing, packaging and other industrial uses that do not generate noise, odor, dust, glare, or vibration in amounts that might otherwise be objectionable to nearby land uses. Airport-compatible uses are uses that do not create glare, light, smoke, dust, steam, bird attractants or electrical interference in amounts that could interfere with airport operations and airport safety.

- A. Airport Safety and Compatibility. Uses permitted within the ALI zone that are also located within the Airport Safety and Compatibility Overlay Zone shall comply with applicable standards in the Airport Safety and Compatibility Overlay Zone.
- B. Notice: Timely notice of applications for permits in the ALI zone shall be provided to the Oregon Department of Transportation, the Oregon Department of Aviation, and the United States Department of Navy.
- C. Uses Permitted Outright. In the ALI zone, the following uses are permitted outright:
  - 1. All uses permitted outright in the Air/Industrial Park Zone, AI.
  - 2. Data Center.
  - 3. Storage buildings and warehouses.
  - 4. Utility structures.
- D. Uses Permitted under Prescribed Conditions. In the ALI zone, the following uses are permitted upon demonstration of compliance with the standards in this section.
  - 1. Solar energy projects. Where the United States Department of Navy indicates that the location of solar panels would impact Navy flight operations, consideration shall be given to any design recommendations offered by the Navy.
  - 2. Light industrial uses, where the Department of Aviation does not provide evidence demonstrating that such activity would create a safety hazard or limit approved airport uses.
  - 3. Agricultural processing, where the Department of Aviation does not provide evidence demonstrating that such activity would create a safety hazard or limit approved airport uses.
  - 4. Speedway uses, subject to compliance with the standards in the Speedway Limited Use Overlay Zone.
- E. Dimensional Requirements. In the ALI zone, the following dimensional standards shall apply:

1. Minimum lot size. No limitation.
  2. Minimum lot coverage. No limitation.
  3. Minimum lot frontage. Minimum lot frontage shall be 300 feet on an arterial or collector street and 200 feet on a local street.
  4. Minimum setbacks.
    - a. Front yard setbacks. The minimum front yard setback between a structure and a street right-of-way shall be 50 feet for an arterial street, 30 feet for a collector street, and 20 feet for a local street. Structures on corner lots shall observe the minimum front yard setback for both streets.
    - b. Side and rear yard setbacks. There is no side or rear yard setback except as may be required by the Building Code or other siting requirements. Where so required, the requirements may be waived on common lot lines when adjoining lot owners enter into a joint agreement for coordinating vehicular access and parking. Party wall or adjoining building walls must meet fire separation requirements of the State of Oregon Structural Specialty Code and Fire and Life Safety Code. The joint development agreement must be approved by the Port of Morrow as to form and content and recorded in the Morrow County Clerk's office, and a copy must be provided to the Planning Department.
    - c. Railroad spur. There is no structure setback from a railroad spur where the spur will be utilized by the permitted use. Otherwise the setback shall be 20 feet.
  5. Maximum building height: No maximum height. However, no structure shall be allowed to penetrate an airport imaginary surface.
- F. Transportation Impacts. Upon request by ODOT or Morrow County, a Traffic Impact Analysis (TIA) shall be required when projects on lands zoned ALI, cumulatively, have generated more than 400 passenger car equivalent trips per day on the local street network. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. The TIA shall include: daily vehicle trips generated by existing projects and projects that are reasonably likely to occur within the ALI zone during the planning period, peak hour trip distribution at affected intersections, analysis of compliance with applicable roadway performance standards, recommended mitigation measures necessary to achieve or retain compliance with applicable roadway performance standards, and identification of triggers addressing the timing of future mitigation.

### **III. Compliance with Goal Exception Criteria.**

The requirements for statewide planning goal "reasons" exceptions are set out in ORS 197.732(1)(c), LCDC Goal 2 (Land Use Planning) Part II (Exceptions), and in administrative rules adopted by LCDC to implement these statutory and goal requirements. For this application, the relevant rule provisions are found in OAR 660, Division 4.

Under ORS 197.732(1)(c) and Goal 2 Part II, a local government may adopt a "reasons" exception to a goal if the following standards are met:

*"(1) Reasons justify why the state policy embodied in the applicable goals should not apply.*

*"(2) Areas which do not require a new exception cannot reasonably accommodate the use.*

*"(3) The long-term environmental, economic, social and energy consequences resulting from the use of 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 in areas requiring a goal exception other than the proposed site; and*

*"(4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."*

As noted previously, a "reasons" exception to Goal 3 is required for this proposal because it modifies a prior exception to Goal 3 by allowing additional uses not authorized in the original exception.

Findings of fact to demonstrate compliance with the above criteria are provided below.

#### **A. *Reasons justify why the state policy embodied in the applicable goals should not apply***

In this case, the applicable goal is Goal 3, which establishes policies intended to protect the state's agricultural land. While a Goal 3 exception is being taken here<sup>1</sup>, it should be noted that if this exception were denied, or if it were approved but challenged and overturned on an appeal, the property would retain its existing industrial designation and its existing AI zoning rather than revert back to an agricultural designation and zoning. Hence, this exception, while required by

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<sup>1</sup> Doherty v. Morrow County, 44 Or LUBA 141 (2003).

state law, will not change the existing, acknowledged industrial character of the subject property.

According to the Morrow County Soil Survey, issued December 1983, the subject site is comprised of soil types 26B, 37A, 37B and 38D, all of which are classified as Class VI or VII dryland. See Exhibit C. In eastern Oregon, Class VI drylands are considered agricultural land as defined in OAR 660-033-0020. Class VII drylands can also be considered agricultural land when irrigation is available. With the exception of about 300 acres in the southern portion of the site, irrigation is not available in this location.

Despite being considered agricultural land based on soils, this property has extensive rock outcrops and geologic formations that, according to the acknowledged 1985 Goal 3 exception, render it "not economically viable for agricultural use." These soils are subject to erosion from windstorms, and the site has only marginal value for grazing. As noted in the 1985 exception and recognized in LCDC's order acknowledging the exception, the State of Oregon has appraised the property at a value that is only approximately one-fourth the valuation of nearby dryland farms.

Due to these soil conditions, the subject property has seen very little agricultural activity. The northern portion of the property (primarily soil type 38D) has been used intermittently for a small cattle grazing operation<sup>2</sup>, mostly during winter months. The southern portion of the property (about 300 acres) was developed by the Port for agricultural purposes (i.e., irrigation infrastructure was installed) and leased for farming. However, several farming attempts were unsuccessful due to difficulties in maintaining productivity of the shallow soils. Irrigation on shallow soils can lead to salt buildup, which in turn leads to poor crop performance over time. Letters from two farming businesses who previously leased the Port's property are provided in Exhibit D. These letters document the difficulty in maintaining the land for farming. As a result of these difficulties, that portion of land is not currently being utilized for farming. It is apparent that the loss of this site to the agricultural economy is at most minimal, just as LCDC found when it approved the 1985 exception to Goal 3.<sup>3</sup>

It is noteworthy that since at least 1963, when the airport property was originally leased to Boeing, the subject property has been identified for airport improvement and economic development purposes rather than for agricultural uses. The terms of the 1984 State of Oregon lease of this property to the Port directed the Port to provide "sites for general commercial/industrial users" in order

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<sup>2</sup> The average annual net profit from cattle grazing on the approximately 1897 acres that are the subject of this application has been negligible — only about \$3,000. This is less than \$2.00 per acre. Phone conversation between consultant Mark Greenfield and Port of Morrow General Manager Gary Neal, February 17, 2016.

<sup>3</sup> Similarly, the acknowledged 2003 exception authorizing a motor speedway on this property contained findings that the use would "cause only minimal loss of productive resource lands."



to "diversify and expand economic activity in the Port of Morrow". Further, this land has been zoned for nonfarm uses since the 1985 goal exception rezoned the land to its current AI designation.

There are additional reasons why industrial development at this site would have a significant comparative advantage which would benefit the local economy and cause only minimal loss of productive resource lands. Those reasons are:

- That proposed industrial uses will have convenient access to nearby aviation, rail, river and freeway systems. The interstate network provides four-lane highway access to the site from major northwest metropolitan areas via I-84 with connections to I-5, I-82, and I-90.
- That proposed industrial uses are limited to airport-compatible light industrial uses. The proposed ALI zone does not allow heavy industrial uses that may be incompatible due to noise, dust, air emissions and other impacts. The proposed uses will also be suitable for location adjacent to the airport due to the type of use or to mitigation approaches put in place (in the proposed ALI zone) to ensure compatibility.
- The subject site is located approximately 4 miles from the Boardman urban growth boundary. As such, proposed industrial uses will have reasonable separation from the urban growth area and will therefore avoid creating impacts associated with lights or traffic.
- That proposed industrial uses will have significant comparative advantages at this location due to the cumulative effects of the outstanding transportation system, the availability of large tracts, readily available utilities and energy supplies, compatibility with surrounding land uses, and the Port's favorable capability in terms of providing financing, facility improvements and industrial development.
- This proposal would cause only minimal loss of resource lands while opening significant opportunities for additional employment and expansion and diversification of the County's traditional resource-based economy. The Port has played a significant role in broadening and diversifying the County's economy and this goal exception will allow the Port to further leverage those strengths.
- That industrial development at this location imposes few detrimental impacts upon the site and adjacent environs.

Specific to the proposed OER solar project, there are further reasons why this property presents advantages, the most notable of which is proximity to existing power infrastructure. The BPA transmission lines transect the subject property and are located at the south edge of the proposed solar project site. An existing switch station is also located on the site, enabling a direct interconnect into the BPA transmission system. The switch station was historically used to address grid disturbances that have since been resolved; it is now vacant. The availability of the switch station offers a significant benefit because it eliminates the need to build additional infrastructure. Distance to a load center (such as a city or

other area of concentrated demand) is also a primary consideration when siting a solar project such as the one proposed by OER. The subject property is located approximately 4 miles from the Boardman UGB, which is a suitable distance to maintain a buffer from urban areas but still take advantage of the existing infrastructure and low connection costs. Siting a project in close proximity to a load center increases efficiencies on the electrical grid.

In addition to the Renewable Portfolio Standard noted previously, the Oregon Department of Energy's adopted Oregon 10-Year Energy Action Plan<sup>4</sup> (2012) outlines strategies to meet renewable energy, greenhouse gas reduction and transportation objectives. One of the core strategies in the Plan is "Enhancing clean energy infrastructure development by removing finance and regulatory barriers to attract new investment and pursue promising new technologies." This exception will support the strategy by removing regulatory barriers (the current AI zoning) for the solar project to locate on the subject site.

The above reasons justify why the policies embodied in Goal 3 should not apply and the County should allow the requested zone change and the proposed airport-compatible light industrial uses. The marginal value as farmland combined with the significant potential for compatible industrial development and the history of planning this land for nonfarm uses demonstrate that preserving this land for agricultural uses does not make efficient or economic use of the land. This exception seeks to open the subject land to additional development opportunities beyond the airport-dependent and airport-related uses already permitted by zoning to maximize its advantages and minimize the loss of productive resource lands. This exception also seeks to allow a specific project, the OER solar project, to locate on the subject property and contribute to Oregon's renewable energy goals.

***B. Areas which do not require a new exception cannot reasonably accommodate the use.***

There are a number of general site requirements that are critical to the viability and success of the uses proposed in the ALI zone. Those requirements include physical site characteristics, infrastructure availability and a water source. Specifically, uses proposed in the ALI zone require (or in some cases prefer) the elements listed below<sup>5</sup>. Site requirements for the solar project are somewhat unique and are discussed separately.

- A minimum of 25 acres of contiguous developable land. For some uses (primarily food processing, warehousing and rural industrial) even larger land areas (200 acres or more) are needed or desired.
- A maximum slope of five percent (5%). Most industrial use types have a limited ability to deal with slopes.

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<sup>4</sup> [http://www.oregon.gov/energy/Pages/Ten\\_Year/Ten\\_Year\\_Energy\\_Plan.aspx](http://www.oregon.gov/energy/Pages/Ten_Year/Ten_Year_Energy_Plan.aspx)

<sup>5</sup> From the *Regional Economic Opportunities Analysis for Morrow and Umatilla Counties*, Johnson Reid, LLC. July 2013.

- Availability of a road network that will accommodate trucks is required.
- Proximity to an interstate highway system is critical, particularly for storage/warehousing uses and data centers; these uses prefer to be located within five miles of an interstate. Food processing uses prefer to be located within 30 miles of an interstate.
- Proximity to an airport. This can be especially important for light industrial uses that market their products regionally or nationally.
- The availability of an adequate water source. Data centers in particular require ample water supply.
- Availability of electricity and natural gas. Data centers in particular have significant electrical requirements.

An assessment of other industrial zoned lands in Morrow County indicates that other lands not requiring an exception are not available to reasonably accommodate the uses proposed here. The assessment included all industrial zoned lands in Morrow County 25 acres or larger. Findings from the assessment are as follows:

- Land zoned Space Age Industrial (SAI) is present in large tracts in the vicinity of the site. However, the SAI zone was developed specifically to reserve land for space age technology research and development. Uses proposed in the ALI zone (with the exception of the solar project, discussed below) are not permitted in the SAI zone, therefore the SAI zone cannot reasonably accommodate proposed uses.
- Land zoned Port Industrial (PI) is present east of Boardman between the river and I-84/Hwy 730. The PI zone was developed to reserve land for port-related industrial uses. This is land that the Port has identified as an industrial park to accommodate primarily water and rail dependent or related uses. The Port has invested a significant amount of money in water and rail infrastructure on those properties and intends to reserve available land in that area for uses that will take advantage of that infrastructure and represent the “highest and best” economic use of the Port’s investment. The proposed light industrial uses in the ALI zone do not fit that description. Therefore, the PI zone does not provide a reasonable alternative for uses proposed in the ALI zone.
- There is also PI-zoned land further east of Boardman, north of I-84 adjacent to the Umatilla Army Depot properties. That land is currently under federal ownership and jurisdiction; the timing for transfer of that land to local jurisdiction is at least two to three years away. As such, that land is not available for development cannot be considered a reasonable alternative.
- Land inside the Boardman UGB zoned Light Industrial (IND) is present in the northeast area of Boardman between I-84 and the

river. This land is generally built out and not available (vacant) for development. As such, it cannot reasonably accommodate uses proposed by the ALI zone.

- Land zoned General Industrial (MG) is present in several locations throughout Morrow County. As indicated on Figure 3, there are two areas of MG-zoned land south of the subject site surrounded by EFU land. Those properties are currently developed and therefore not available for proposed uses. There is also a large area of MG land south of the subject site, east of Tower Road and surrounded by SAI land. That property was historically used by Boeing as a radar test range and is now not in use. However, that land does not have natural gas, water or sewer service available and, as such, does not provide a reasonable alternative for proposed uses.
- There is also a narrow strip of MG land north of the subject site between I-84 and the river. The ability to develop that land is very limited by a Union Pacific railway crossing that occurs just north of the Tower Road interchange. The existing crossing is a minimal, at-grade crossing and would not be acceptable for any development to occur on the site. For development to occur, construction of an overpass would be required which would add significant cost to any project. As such, that land does not provide a reasonable alternative for the proposed uses.

For the proposed solar project specifically, there are some additional site requirements to consider:

- Proximity to existing transmission lines for interconnection
- Availability of other needed infrastructure to facilitate interconnection (a switch station, for example)
- A large contiguous parcel of land (at least 100 acres) with little to no slopes
- Proximity to a load center to maximize efficiencies, as discussed previously

Using the above criteria, and for additional reasons, there is no other location not requiring an exception that could reasonably accommodate the proposed solar project. Specifically:

- Land zoned General Industrial (MG) is not suitable because a solar project is not permitted in that zone. Further, there is no MG land with access to transmission lines and infrastructure needed to facilitate a solar project. Therefore, these lands cannot provide a reasonable alternative for this use.
- As discussed previously, the light industrial land located in Boardman (IND on Figure 3) is built out and not readily available for new projects. In addition, sites of adequate size for the solar project are not available.

- The Port Industrial (PI) zone does permit a solar project (power generating facilities are permitted outright); however, the PI land east of Boardman is land that the Port has identified as an industrial park to accommodate primarily water and rail dependent or related uses. The Port has invested a significant amount of money in water and rail infrastructure on those properties and intends to reserve available land in that area for uses that will take advantage of that infrastructure and represent the “highest and best” economic use of the Port’s investment. The proposed solar project does not fit that description.
- As noted previously, the PI-zoned property near the eastern edge of the Morrow County boundary (adjacent to the Umatilla Army Depot) is currently under federal ownership. Transfer of that land out of federal ownership is at least another two to three years away. Currently, that land is not available for development. Even if it were available for development, that property does not have direct access to a BPA transmission line and would therefore be unsuitable for the solar project.
- The Space Age Industrial (SAI) zone does allow a commercial power generating facility as a conditional use. However, the SAI-zoned land located adjacent to the subject site does not have direct interconnect access (via an existing switch station) to the BPA transmission lines and therefore is not a reasonable alternative for the OER solar project.
- The subject site has the distinct advantage of having an existing unutilized switch station that will allow the OER solar project to directly connect to the BPA transmission lines. The cost savings related to being able to utilize this existing infrastructure is significant and would not be available at other locations.

It is important to reiterate here that this exception is for land that has been designated and planned for industrial uses for more than 50 years. If this goal exception is not approved, the subject site will not revert back to agricultural land; it will remain industrial. This exception simply expands the range of airport-compatible uses allowed on the site to maximize its economic potential.

***C. The long-term environmental, economic, social and energy consequences resulting from the use of 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 in areas requiring a goal exception other than the proposed site; and***

The subject site provides favorable conditions that would be difficult to match elsewhere. These include:

- Immediate access to I-84, with direct connections to I-82, I-5 and I-90. All of these facilities contain at least four travel lanes.

- A large tract of flat, undeveloped land to accommodate the proposed uses.
- Isolation from other properties. There is virtually no development to the north, west and south of the site. The nearest dwelling is approximately 0.4 miles east of Tower Road and the Boardman urban growth boundary is less than 4 miles from Tower Road. The developed portion of the city lies about two miles east of the UGB.
- Compatible uses nearby. Immediately surrounding uses include I-84, the Columbia River, the Boardman airport, a bombing range, vacant industrial land, and non-irrigated pastureland.

The site is comprised of land that has been designated and zoned for non-resource uses for at least 50 years. Were this application to be denied, the subject property would not revert back to agricultural land and be rezoned EFU, but it would instead remain non-resource land available for airport related industrial uses as provided in the 1985 exception. For this reason, allowing the proposed uses will not remove land from the agricultural base.

### **1. Economic Consequences**

The economic consequences of allowing the uses proposed in this goal exception would generally be positive. Land that has been planned for industrial uses and earmarked for economic growth for more than 50 years would become more accessible for such purposes. As stated in the 2013 Regional Economic Opportunities Analysis for Morrow and Umatilla Counties<sup>6</sup>, the regional economy is driven largely by agriculture, transportation/distribution and power generation. This area has established a concentration of electrical power production facilities, both traditional and renewable (wind farms, primarily). The analysis also notes that data centers have demonstrated “local competitive strength” and are considered “highly economically viable in the regional economy”. Further, the analysis establishes that “sound economies are best organized around a healthy set of industry clusters.” This means, for example, that locating food processing, warehousing and some types of light manufacturing uses near agricultural uses makes good economic sense.

The uses proposed in this exception include solar energy projects, utility structures, data centers, storage and warehousing, agricultural processing and light industrial uses - all of which support the economic objectives identified in the analysis. This exception and the new ALI zone would allow a broader range of appropriate uses to locate on land that has notable advantages for the proposed uses, while minimizing impacts to the productive resource lands that are so critical to the regional economy.

Economic costs associated with the proposed uses include the cost of providing necessary facilities and services, and the cost of any transportation

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<sup>6</sup> Johnson Reid, LLC, July 2013

improvements. However, these costs would likely be lower at the subject site relative to other rural locations. This is due to the site's proximity to I-84 and Tower Road, which minimize the amount of transportation improvements that would be needed to serve new uses. The site also has electrical power and access to natural gas. A well on the airport property produces 2,220 gallons of water per minute, which is sufficient water capacity to serve additional uses. The site can be served through a lagoon treatment system or by connection to a City of Boardman sewage treatment plant. The City currently is considering building a new sewage treatment facility on property it owns along Tower Road immediately east of the airport, and future uses could connect with it at an appropriate time. It's also important to note that Morrow County's acknowledged 1985 goal exception for the Boardman airport already authorizes the provision of public facilities and services at the airport to serve planned airport related and dependent industrial and commercial uses. Since these services are already anticipated at this location, duplication is avoided, and significant money is saved over other sites.

While the economic impacts associated with the proposed uses are generally positive, there are potential adverse impacts that could occur related to access. The Tower Road interchange and Tower Road currently support a number of farming and industrial uses. These uses, including their accesses to the local transportation network, will need to be maintained as new uses develop. While the uses proposed are not anticipated to generate significant traffic, the cumulative impact of several projects developing over time could start to create issues at the Tower Road interchange. The Oregon Department of Transportation (ODOT) and Morrow County have level of service standards for their transportation facilities and new projects will be evaluated to determine their impact on the surrounding system. If significant impacts are determined, the project will be required to mitigate in order to proceed. Specifically, the proposed ALI zone contains the following language regarding transportation impacts:

*Transportation Impacts. Upon request by ODOT or Morrow County, a Traffic Impact Analysis (TIA) shall be required when projects on lands zoned ALI, cumulatively, have generated more than 400 passenger car equivalent trips per day on the local street network...*

The TIA required by the above language must include recommended mitigation measures necessary to achieve or retain compliance with applicable roadway performance standards, and identification of triggers addressing the timing of future mitigation.

Potential access issues posed by this proposal would not be unique to the subject site. At any potential site, traffic generated by new development could create access problems for nearby farms, businesses and residences. In all instances, mitigation measures would need to be devised to ensure adequate access for local businesses and residents.

## 2. Environmental Consequences

Potential environmental consequences of the proposed exception could include the loss of farmland or rangeland, impacts to natural resources, and air and water quality impacts.

Air and water quality impacts at the site should not be significantly different than at other rural sites in north-central Oregon. The air is generally clean in north-central Oregon and most areas have safe drinking water. The airport property has a municipal well with adequate capacity to accommodate additional usage. The proposed uses would be located within the Lower Umatilla Basin Groundwater Management Area. Within this area, water quality can and will be protected through the acquisition of storm water permits, DEQ review and approval of any proposed sanitary system design, application and compliance with DEQ regulations pertaining to air emissions and hazardous waste storage and spill response, and compliance with other DEQ permitting programs. These kinds of permits would similarly be required at other sites.

While air and water quality impacts would likely be similar among different sites, the same cannot be said about impacts to resource lands. Impacts to resource lands would be significantly different for the subject site as compared to other rural sites requiring goal exceptions. The entire subject property consists of land that has been designated and zoned for industrial uses. There is very little history of agricultural use on the site and recent attempts at farming the site have been unsuccessful due to poor soil conditions. Consequently, proposed development at the site would not significantly diminish quality agricultural land resources. In contrast, the same uses located elsewhere would likely require the conversion of productive farmland for nonfarm uses. This represents a significantly greater adverse impact at other properties and renders the subject site much more desirable from an environmental standpoint.

The subject site also contains no inventoried Goal 5 resources. There are no inventoried wetlands or significant wildlife habitats on the site. While areas in the region have been identified as containing habitat for the protected Washington ground squirrel, no squirrel habitat has been identified at the site, and the Oregon Department of Fish and Wildlife (ODFW) has indicated that the rocky, shallow soils present at the site render "minimal" the chances of the squirrel occupying this area. Also according to ODFW, the airport does not have adequate habitat for the protected sage grouse, and it is highly unlikely that sage grouse have ever used this land. Consequently, it is highly unlikely that environmental impacts at this site would be more adverse than at any other site. Indeed, compared to other sites containing significant natural resources, the subject site likely has significantly fewer adverse impacts.



### **3. Energy Consequences**

Locating the proposed uses on the subject site has positive energy consequences compared to other locations for a number of reasons. The site has close and convenient access to rail, river, airport, and highway freight systems, providing an energy savings in the transport of goods produced at the site. The site's close proximity to Boardman and I-84 may also help reduce the distances traveled by employees working at the site. Further, developing the subject site for the proposed uses makes efficient use of land already identified, acknowledged and approved for industrial development and a network of supporting public facilities and services. This contrasts with other potential rural sites for which the extension of public facilities and services has not already been approved. The subject site has electric, telephone and natural gas resources available at or near the site. There is no need to extend them long distances, as may be the case elsewhere.

Perhaps most importantly, this exception will allow the proposed OER solar project to move forward, which would have significant positive energy consequences. The OER solar project will produce renewable electricity that will contribute directly to the local power grid (provided by Umatilla Electric Cooperative) and reduce the need for other, non-renewable energy sources, thus supporting Oregon's green energy goals. Energy efficiencies will be more favorable at the subject site relative to other rural locations due to the availability of existing BPA infrastructure, particularly the switch station, on the site.

### **4. Social Consequences**

Possible social consequences from the proposed uses include noise, traffic, and public health concerns. Noise impacts are not anticipated to occur from the proposed uses on the site, primarily because the site is located away from any noise sensitive property. A noise sensitive property is one that is used for sleeping (a residence) or as a school, church, hospital or public library<sup>7</sup>. Properties used in industrial or agricultural activities are not generally considered noise sensitive. The nearest noise sensitive property is a residence located east of Tower Road, approximately two miles from the subject site.

Increased traffic at the Tower Road interchange from new development could also be considered a social impact. As noted previously, the uses proposed in the ALI zone are not generally high traffic generators, and cumulatively, these uses would produce less traffic than a major speedway at the site. The proposed ALI zone requires that the County provide timely notice to ODOT for all permit applications in the ALI zone. ODOT will have the opportunity to request a traffic study that identifies project impacts and recommends mitigation measures.

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<sup>7</sup> OAR 340-035-0015

Overall, social impacts at the subject site are likely similar to those that would be created at other rural sites. Noise impacts at the subject site are probably even less than those at other sites due to its distance from any noise sensitive properties. There may also be a positive social impact by allowing proposed uses at the subject site because new projects will bring new jobs in close proximity to Boardman.

***D. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.***

The subject site is almost entirely surrounded by lands that are zoned for industrial development (see Figure 2). Adjoining lands to the north, between I-84 and the Columbia River, are zoned General Industrial. Adjoining lands to the west and south are zoned Space Age Industrial, except for one small area south of the southwest corner of the airport that is zoned EFU (160 acre minimum lot size). Adjoining lands to the east are zoned Space Age Industrial. However, farther to the east are lands zoned EFU and Farm Residential 2 acre. Specifically, uses adjacent to the proposed ALI zone include:

- To the north and west, a freeway (I-84), railroad lines and right-of-way, and vacant industrial lands owned primarily by the State of Oregon. These lands are characterized by sagebrush and poor soils. A portion of these lands is used intermittently for limited seasonal grazing, but these lands are neither irrigated nor in active farm use. Farther to the west, beyond Six Mile Canyon, there are irrigated farmlands in cultivation. There is also a private storage shed between I-84 and the railway line located near the Tower Road/I-84 interchange.
- To the south there are farming activities on industrially and EFU-zoned lands, and computer-simulated aerial bombing activities on the bombing range. There are no residences in close proximity to the site.
- To the east there are vacant industrial lands, some hobby farms and some rural residential development farther towards the City of Boardman.

Potential incompatibilities resulting from the proposed uses primarily involve potential conflicts with the operations of the Boardman airport. The proposed ALI zone is designed to avoid conflicts with the airport use by limiting allowed uses to light manufacturing and similar activities that do not create safety hazards or otherwise interfere with customary aviation-related activities. Solar projects, data centers, storage and warehousing buildings, and utility structures are all generally considered airport compatible because they do not create visible air emissions or other obstacles to safe airport operation. For the light industrial and agricultural processing activities, the proposed ALI zone contains language requiring that, "...the Department of Aviation does not provide evidence demonstrating that such activity would create a safety hazard that cannot be reasonably mitigated, or would

unreasonably limit approved airport uses.” In other words, the Department of Aviation will be given opportunity to review proposed uses and provide comment to the County regarding any compatibility concerns. Furthermore, the proposed ALI zone does not include any land within the designated Airport Safety and Compatibility Overlay zone, which is designed to protect the airport and ensure safe operations.

In terms of nearby farming activity, for decades commercial scale farming has existed in immediate proximity to industrial parks in this region. The industrial activities benefit many of these farming enterprises by providing effluent for irrigation. There is no reason to believe that these two uses cannot continue to co-exist together in a compatible manner.

The proposed uses also will have no adverse impact upon resource management at present levels on lands surrounding and nearby the site. As noted, the immediately surrounding lands are not in resource uses. South of the airport, there are lands in commercial farm use that are used principally for wheat and other crops. Farther away, there are lands used for dairy production. East of the site are other properties, predominantly hobby farms that are being used primarily as pasture for horses, cattle or goats, or for crop production. The proposed uses will not interfere with resource use on those properties, primarily because of the significant separation from those properties. Additionally, by their nature, the proposed uses on the site are not incompatible with resource management of farmlands. Stated another way, agricultural activities can occur on lands adjoining the proposed uses. Here, however, the nearest resource lands are generally a mile or farther away.

Specific to the proposed solar project, glare (both at the ground and above) from the solar panels must also be considered. To address this potential issue, OER has provided the following:

- Solar panels are designed to absorb sunlight; only about 30% of the sunlight reaching the surface of a panel will be reflected. This amount of sunlight is comparable to the amount reflected by grass (25%) and is less than the amount reflected by dry sand (45%).
- Solar panels on the subject site will be tilted south, away from I-84.
- OER conducted a glare study at the subject site which included eight observation points along I-84 and Tower Road, and one flightpath associated with the Boardman Airport. No glare hazards were identified.
- The U.S. Airforce has studied glare impact from solar projects and determined that such glare is similar to “weathered white concrete” and poses minimal risk.

Furthermore, the proposed ALI zone allows a solar project only under the following prescribed condition:

*Where the United States Department of Navy indicates that the location of solar panels would impact Navy flight operations, consideration shall be given to any design recommendations offered by the Navy.*

#### **E. Amount of Land Included in Proposed Development**

The rules governing Goal 3 exceptions require that the applicant must justify the amount of land to be included in the exception. In this case, the entire site has already been planned and zoned for industrial uses as part of a larger previous exception. Absent this exception, the land will remain zoned for industrial uses. This exception seeks to maximize economic potential on the site by increasing opportunities for airport-compatible development that cannot occur under current zoning.

#### **IV. Compliance with Statewide Planning Goals**

A goal exception is a comprehensive plan amendment.<sup>8</sup> In addition to the relevant exception standards, the statewide planning goals apply to plan amendments. The goals identified below are the only goals applicable to the plan amendments requested in this application. Goals not identified do not apply.

##### **A. Goal 1 (Citizen Involvement)**

Goal 1 requires opportunity for citizens to be involved in all phases of the planning process. For plan amendments, Goal 1 is satisfied when a local government follows the public involvement procedures for plan amendments set out in its acknowledged comprehensive plan and land use regulations.

Morrow County's regulations for comprehensive plan amendments include notice to the public and to the Department of Land Conservation and Development (DLCD)<sup>9</sup>; public hearings before the Morrow County Planning Commission (which makes a recommendation to the County Court); and public hearings before the Morrow County Court. Compliance with these regulations results in compliance with Goal 1.

##### **B. Goal 2 (Land Use Planning), Part I**

Goal 2, Part I requires that actions related to land use be consistent with acknowledged comprehensive plans of cities and counties. The proposed

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<sup>8</sup> ORS 197.732(8).

<sup>9</sup> ORS 197.610 requires local governments to provide DLCD with advance notice of proposed comprehensive plan or land use regulation amendments. ORS 197.732(5) requires that each notice of a public hearing on a proposed exception shall specifically note that goal exceptions are being proposed and summarize the issues in an understandable way.

amendments' consistency with applicable provisions in Morrow County's Comprehensive Plan is demonstrated in Section V. below.

Goal 2, Part I also requires coordination with affected governments and agencies, evaluation of alternatives, and an adequate factual base. In preparing the application, the Port met with Morrow County's planning director and contacted representatives of DLCD.

The goal exception, together with the supporting documents and evidence submitted in support of the exception, provide an adequate factual base to support the proposed plan and land use regulation amendments required to adopt these exceptions. For these reasons, Goal 2, Part I is met.

**C. Goal 2 (Land Use Planning), Part II**

Goal 2, Part II sets out the standards for goal exceptions. Goal 2 Part II is implemented through OAR 660, Division 4. Goal 2, Part II is satisfied for the reasons set out in the goal exception analysis included in this application.

**D. Goal 3 (Agricultural Lands)**

Goal 3 requires counties to preserve and maintain agricultural lands for farm uses. Counties must inventory agricultural lands and protect them by adopting exclusive farm use zones consistent with ORS 215.203 et. seq.

Goal 3 does not allow nonfarm uses like industrial development on lands zoned for exclusive farm use unless a local government adopts findings justifying an exception to Goal 3. That justification is set out in the goal exception analysis included in this application. Additionally, because of the prior exception, the subject lands are not zoned for Exclusive Farm Use. Consequently, even absent this Goal 3 exception, the land would remain zoned for nonfarm industrial uses and would not revert to EFU zoning.

**E. Goal 6 (Air, Water and Land Resources Quality)**

Goal 6 addresses the quality of air, water and land resources. In the context of comprehensive plan amendments, a local government complies with Goal 6 by explaining why it is reasonable to expect that the proposed uses authorized by the amendment will be able to satisfy applicable federal and state environmental standards, including air and water quality standards.

The proposed solar project will benefit air quality by providing a clean energy source that can directly connect to the BPA transmission lines and serve the local power grid. In turn, this will reduce the amount of energy needed from coal production, which has significant air impacts.

Industrial uses at the proposed site will increase impervious surface, although by no more than could have occurred under existing zoning. Where areas are paved, water cannot penetrate the soils so it rushes over the surface. This can increase erosion, increase the movement of fine sediments, and increase pollutant loads in watercourses. However, these impacts can adequately be mitigated through the use of effective land-based stormwater treatment systems. The use of construction techniques that include temporary and permanent Best Management Practices for erosion and sediment control and spill control and prevention also can achieve compliance with clean water standards.

**F. Goal 9 (Economic Development)**

Goal 9 requires local governments to adopt comprehensive plans and policies that "contribute to a stable and healthy economy in all regions of the state." Morrow County's comprehensive plan has been acknowledged to comply with Goal 9. Rezoning the subject land to ALI will broaden the range of allowed activities at the site and support economic growth in the region. It will also allow the proposed solar project to move forward, bringing jobs and tax revenue to the County. The reasons set forth in this exception demonstrate compliance with Goal 9.

**G. Goal 12 (Transportation)**

Goal 12 is implemented through the Transportation Planning Rule (TPR), OAR 660 Division 12. Under OAR 660-012-0060, when an amendment to a comprehensive plan or land use regulation would significantly affect an existing or planned transportation facility, the local government must put in place measures to assure that allowed land uses are consistent with the identified function, capacity and performance standards of the facility.

The new uses proposed by this goal exception are less intensive than the speedway uses that have been approved for the site. The solar project will generate very little traffic at the site, and other permitted uses similarly would generate less traffic than a raceway would generate. Because the overall traffic impact would be no greater than what is now permitted at the site, there would be no significant impact, and OAR 660-012-0060 does not apply.

Furthermore, the proposed ALI zone contains the following language regarding transportation impacts:

*Transportation Impacts. Upon request by ODOT or Morrow County, a Traffic Impact Analysis (TIA) shall be required when projects on lands zoned ALI, cumulatively, have generated more than 400 passenger car equivalent trips per day on the local street network. Heavy vehicles – trucks, recreational vehicles and buses – will be defined as 2.2 passenger car equivalents. The TIA shall include: daily vehicle trips generated by existing projects and projects that are reasonably likely to occur within the ALI zone during the planning period, peak hour trip distribution at affected intersections,*

*analysis of compliance with applicable roadway performance standards, recommended mitigation measures necessary to achieve or retain compliance with applicable roadway performance standards, and identification of triggers addressing the timing of future mitigation.*

**G. Goal 13 (Energy Conservation)**

Goal 13 directs cities and counties to manage and control land and uses developed on the land to maximize the conservation of all forms of energy, based on sound economic principles. The proposed amendment will support energy conservation because the site has close and convenient access to rail, river, airport, and highway freight systems, providing an energy savings in the transport of goods produced at the site. The site's close proximity to Boardman and I-84 may also help reduce the distances traveled by employees working at the site. Further, developing the subject site for the proposed uses makes efficient use of land already identified, acknowledged and approved for industrial development and a network of supporting public facilities and services, and a solar project at the site will create a renewable energy source that helps reduce reliance on fossil fuels.

**V. Compliance with Morrow County Comprehensive Plan and Land Use Regulations**

**A. Compliance with Morrow County Comprehensive Plan**

The Morrow County Comprehensive Plan policies identified below are the policies that are relevant and applicable to the plan amendment identified in this application. No other policies apply. Some of the applicable policies contain mandatory ("shall") language. The application must demonstrate compliance with these policies to gain approval. The remaining policies are either more aspirational or directory to the County or more general in nature, directing or encouraging or supporting an action or result rather than requiring that action or result. While it is appropriate to address these policies where relevant to this application, the policies do not in themselves constitute applicable review criteria upon which approval or denial is based.

**1. Citizen Involvement.**

The Citizen Involvement Goal is to develop and implement a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. Citizen Involvement Policy 3 encourages people to attend and participate in Morrow County Planning Commission and County Court meetings and hearings. The goal and policy are satisfied through the opportunities afforded to the public to participate at public hearings before the Planning Commission and County Court on the proposed amendments, as provided for by state law and the County's land use regulations.

## **2. General Land Use.**

General Land Use Policy 9 requires that all plan and zone changes comply with all applicable statewide planning goals and County policies and procedures. This policy is satisfied for the reasons set out in the analysis of compliance with the statewide goals, the Morrow County Comprehensive Plan, and applicable County zoning provisions that are contained in this application.

## **3. Agricultural Lands.**

Agricultural Land Policy 1 is an aspirational policy that seeks to balance economic and environmental considerations, limit incompatible nonagricultural development, and maintain a high level of livability in the County. While not a mandatory review criterion, this policy is met because this application will allow economic use of land that has been planned for industrial uses for more than 50 years. It will also reduce development pressure on more valuable and productive agricultural land in Morrow County. The subject site is also surrounded primarily with land zoned for industrial uses, thereby limiting potential conflicts (due to distance) with agricultural uses in the area.

Agriculture Policy 2 permits development outside of urban growth boundaries only where conflicts with productive agricultural areas are minimal and where the development complies with the Comprehensive Plan. As described previously, conflicts between proposed industrial uses and agricultural uses are minimal.

Agriculture Policy 6 provides for the County to consider the needs of the farm community in evaluating future development projects in other sectors of the economy. Through its consideration of compliance with applicable exceptions criteria, the County has considered the impacts of the proposed plan amendment on nearby agricultural uses. As noted above, agricultural and industrial uses have co-existed well together for decades in the Boardman area.

## **4. Economy.**

A number of Economic goals and policies apply to these proposed plan amendments. Most of these goals and policies are aspirational or directory to the County, rather than mandatory to an applicant.

Economic Goals 1 and 2 and Economic Policy 1 promote the improvement and diversification of the County's industrial potential and overall economy. Goal 5 seeks diversity in local businesses, industries and commercial activities and the promotion of economic growth and stability in Morrow County. Broadening the range of allowable uses on the subject site to promote economic opportunities is consistent with these goals and this policy. Further, a number of the uses proposed



(solar project and data centers, for example) have been identified as having comparative economic advantages in this region and are considered highly viable.

Economic Goal 3 seeks to ensure an adequate water supply to economic interests. As noted previously, the subject site has access to a municipal water well that can provide water service to future uses.

Goal 9 encourages compatible land uses throughout Morrow County. Economic Goal 14 and Policy 14 recognize the importance and encourage the development potentials of the Port of Morrow. Goal 18 provides incentives for industrial growth and diversified production. Economic Goal 20 and Policy 2 seek a balance between economic and environmental considerations. The amendments further these goals by providing new industrial development opportunities on land that has been planned for industrial activity for decades and is surrounded by other industrial zoned lands.

## **5. Public Facilities and Services.**

Several Public Facilities and Services goals and policies apply to this application. These include General Policies A, B, C, D, E, F, G, and K; Utilities Policy F; Water and Sewer Policy A; and Solid Waste Policies A and B.

General Policy A provides for a level of service appropriate for, but limited to, the needs of the development to be served. General Policy B provides that such service levels support optimum (maximum density) development, and General Policy C provides that rural areas shall be provided with public facilities and services appropriate for rural use. The subject site has electrical power and access to natural gas. A well on the adjacent airport property produces 2,220 gallons of water per minute, which is sufficient water capacity to serve additional uses. The site can be served through a lagoon treatment system or by connection to a City of Boardman sewage treatment plant, when connection becomes available. Based on this information, Policies A through C will be met.

General Policy K is an aspirational policy that establishes a goal of achieving a maximum balance of public costs versus benefits and revenues in the provision of public facilities and services. While this policy is not a mandatory review criterion, it will be satisfied because industrial development locating at the industrial park will contribute to the costs of the facilities and services they use.

Water and Sewer Policy A provides that when development occurs in unincorporated areas, minimum State sanitation and health requirements be met, including an approved subsurface sewage disposal system. The site can be served through a lagoon treatment system or by connection to a City of Boardman sewage treatment plant, when connection becomes available.

## **6. Transportation.**

The Comprehensive Plan contains transportation policies and objectives. Transportation goals and policies also are included in the 1998 Morrow County Transportation System Plan, addressed in Subsection B below. Generally, transportation policies in the Comprehensive Plan will be met through the proposed language in the ALI zone that allows ODOT and Morrow County to require a traffic study when projects generate more than 400 vehicle trips per day on the surrounding local street network. The traffic study will identify project impacts and recommend appropriate mitigation measures. Policies related to the design of the transportation system are not relevant here because this project does not proposed any changes (new roads or access points) to the surrounding system.

Policy 27 of the Comprehensive Plan establishes that Morrow County shall protect the Boardman Airport from incompatible uses. This policy is met by the proposed language in the ALI zone that allows the Department of Aviation to review and comment on applications for development on the subject site.

## **7. Energy Conservation.**

Energy Conservation Policies 1 and 14 are applicable to these proposed plan and land use regulation amendments. As with many other Comprehensive Plan policies identified herein, these policies are directory or aspirational in nature, rather than mandatory to an applicant.

Energy Policy 1 encourages the use of renewable and/or efficient energy systems in all new development in the County. Policy 15 encourages plans to consider the potential of renewable resources to yield useful energy output. These policies are achieved by allowing the proposed solar energy project to locate on the subject site.

## **B. Compliance with Morrow County Transportation System Plan.**

The Morrow County Transportation System Plan (TSP) is an element of the County's Comprehensive Plan that Morrow County adopted pursuant to LCDC's Transportation Planning Rule, OAR 660, Division 12. It includes transportation related goals and policies, some of which are relevant to this application. The applicable goals and policies are identified below. Those not identified do not apply to this application.

TSP Goal 1 addresses coordination and process. The goal is to ensure that the Morrow County TSP is coordinated with other transportation providers, meets applicable regulations, and considers the needs of all transportation system users. The proposed language in the ALI zone that requires coordination with ODOT and the Department of Aviation will ensure that this goal is met.

TSP Goal 2 requires that land use planning be supported with appropriate transportation improvements. Again, this goal will be met by proposed language in the ALI zone that allows the County to require a traffic study to identify project impacts and recommend mitigating improvements.

**C. Compliance with Morrow County Zoning Ordinance.**

Section 8.040 of the Morrow County Zoning Ordinance sets out criteria for the Morrow County Planning Commission and Morrow County Court to consider, respectively, in preparing a recommendation for and reaching a decision on a proposed zoning ordinance text or map amendment. Through the discussion provided below, these matters are considered as required by the ordinance.

Section 8.040(A) considers whether local conditions have changed such that a change in the zoning is warranted. This criterion is not particularly relevant to this proposal because the issue is not local conditions, but rather that existing zoning on the site has proven to be too restrictive. This area has failed to develop over time in large part because current zoning allows only airport-related uses.<sup>10</sup> This proposed zone change will open the area for a broader range of airport-compatible uses.

Section 8.040(B) provides for the County to consider the sufficiency of public facilities and services to support a change in designation, including streets and roads. The adequacy of public facilities and services, including transportation, to support the uses allowed by the ALI zone has been established in Section III of this narrative.

Section 8.040(C) provides for the County to consider whether the proposed amendment is consistent with unamended portions of the Comprehensive Plan and supports the goals and policies of the Comprehensive Plan, and whether there is a public need for the proposal that would best be served by allowing the request. If there are other areas of the county designated for the requested use, then the County must consider why it is necessary to introduce the use into an area not now so zoned and why the owners there should bear the burden of introducing that zone into their area.

Consistency with the unamended goals and policies of the Comprehensive Plan is demonstrated in Subsection A of this Section of this application. The public need for the proposal relates primarily to economic development and preservation of high-value resource land. There is also a growing public need to gravitate toward renewable energy sources. Those needs will be best served by allowing the subject site to maximize its economic potential through development of airport-

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<sup>10</sup> Zoning also allows a speedway on this site, which was authorized under a previous goal exception. Approximately 15 years have passed since the speedway was authorized and development has not occurred.

compatible uses, including a new solar energy project. Doing so will also reduce pressures to develop more valuable resource land in the County.

Section III of this narrative contains a detailed discussion regarding alternative locations for the proposed uses and why those locations are not reasonable for the uses proposed in the ALI zone. The owner of the land to be rezoned is the Port. Encouraging economic development is a principal part of the Port's mission.

Section 8.040(D) directs the County to consider any issues related to public health and welfare. While public health and welfare issues are not anticipated to result from the proposed rezone, Section III of this narrative contains a discussion of potential social and environmental affects related to the proposal.

In addition to Section 8.040, this application considers Section 3.110 of the Zoning Ordinance, which describes the purpose and overlay zone requirements of the Limited Use (LU) Overlay Zone. The zone's purpose is to limit the list of permitted uses and activities allowed within the allowing zone to only those uses and activities that are justified in the comprehensive plan "reasons" exception statement. The "requirements" section provides that when the LU zone is applied, the uses permitted in the underlying zone shall be limited to those uses and activities specifically referenced in the ordinance adopting the LU zone. This section also authorizes the County to impose reasonable conditions that it deems necessary to carry out the provisions of the Comprehensive Plan and Zoning Ordinance. Here, a limited use overlay zone is not necessary because the proposed ALI zone limits the uses to those that are consistent with the proposed plan amendment. The ALI zone was specifically developed for airport-compatible uses.