

CITY of BOARDMAN

Community Development

STAFF REPORT

DATE: October 14, 2020

TO: Boardman Planning Commission and all interested parties

FROM: Barry C. Beyeler, Community Development Director

SUBJECT: Amazon Web Services Zone Change - PAPA 02-2020

On August 12, 2020, PerkinsCoie, on behalf of Amazon Web Services, submitted an application for a zone change for tax lot #411 of Morrow County tax map 4N 25 9. This property is currently a multiple zoned large parcel of 70.39 acres. The existing zones are 7.78 acres of Tourist Commercial zone, and 62.61 acres of General Industrial zone. The proposed request would create 70.39 acres of General Industrial zoned land.

This application had been previously had a public notice go out one for a July 30, 2020 for a Planning Commission hearing on August 19, 2020. On August 14, 2020, the city received an email from Tamra Mabbott, DLCD Eastern Regional Representative, explaining the DLCD Notice need additional information, so the hearing, at the date of this report has not been held. The Planning Commission hearing is scheduled now for October 21, 2020.

With this request requiring a change of the Zoning and Comprehensive Plan Map, it will be as a Type IV – Legislative Procedure requiring a Public Hearing at the Planning Commission level, and a Public Hearing at the City Council level, in accordance with Boardman Development Code (BDC) Chapter 4.1, § 4.1.600.

Other relevant Chapters of the BDC which are reviewed during this decision process include Chapter 2.2 – Commercial District, Chapter 2.3 - General Industrial District Chapter 3.1 – Access and Circulation, Chapter 3.2 – Landscaping, Street Trees, Fences and Walls, Chapter 3.3 – Vehicle and Bicycle Parking, Chapter 3.4 – Public Facilities Standards, and Chapter 4.10 - Traffic Impact Study. This staff report will be of the review of the relevant portions of these BDC Chapters to this particular request. BDC chapters which will, or can, meet the BDC criteria will be highlighted in green. Subjective decisions for the Commission will be highlighted in yellow, and where it would be in violation of BDC or the Comprehensive Plan will be highlighted in red.

CHAPTER 2.2 – COMMERCIAL DISTRICT

Chapter 2.2 of the BDC, §2.2.180 – Tourist Commercial Sub District in particular, contain the criterion for the Tourist Commercial. This Sub District is intended to provide services to the public traveling I-84. Uses such as restaurants, gas stations, retail markets, motels and similar uses are allowed outright. This 4.8 acres would be part of the Buildable Lands Inventory for uses, such as listed above.

The Tourist Commercial was to act as buffer between a residential zone and a General Industrial Zone when previously approved in 2018. This application would remove 7.78 acres from the Tourist Commercial Buildable Land Inventory, which is approximately 20% of the current available inventory of 37.78-acres. This property is within the Central Urban Renewal Area and has had water and sewer infrastructure improvements to support Tourist Commercial type developments, and appropriate fire flows necessary to support those activities.

CHAPTER 2.3 – GENERAL INDUSTRIAL

The entirety of Chapter 2.3 of the BDC is where General Industrial land uses are regulated. The allowable uses would be essentially the same as the uses seen in the Port of Morrow Industrial Park. Even with the annexation of 211.38 acres within the Port of Morrow Industrial Park the city is shy of larger lot industrial plots. The annexation has only somewhere between 140 - 150 acres of actual buildable land when the Messner ponds are considered and within the area annexed. The Application proposes 72.34 of General Industrial property. This property has several amenities which would be attractive for Industrial development. The city currently has and 18" water line, which could provide service to any development. The 2018 Water Improvements Project will enhance this capability with additional reliability and resilience. Wastewater services can be provided; however, with no proposed project, the needs for wastewater service needed will be assessed when a project comes forward. The property also has proximity to power for the power consuming industries which are similar to those found in the Port of Morrow, and in the recently annexed properties in the Port Industrial Park. The property would have access to industrial scale communications. All of these capabilities would make the property attractive for industrial development.

This Application would be serviceable at an industrial scale with some upgrades and line extensions dependent on a development application.

CHAPTER 3.1 – ACCESS AND CIRCULATION

Chapter 3.1 of the BDC deals with transportation planning, providing both access and circulation patterns for traffic for vehicles, bicycles and pedestrians. As there is no development associated with this application request, this is moot as Chapter 3.1 would be applied at the time of development.

This application shall meet provisions of this Chapter of BDC.

CHAPTER 3.2 – LANDSCAPING, STREET TREES, FENCES AND WALLS

Chapter 3.2 of the BDC entails the regulation of landscaping required, planting of street trees where necessary, and the construction of walls or fences for an Industrial development. As there is no development associated with this application request, this is moot as Chapter 3.2 would be applied at the time of development.

This application shall meet provisions of this Chapter of BDC.

CHAPTER 3.3 – VEHICLE AND BICYCLE PARKING

Chapter 3.3 of the BDC provides required parking for a development and the methodology for computing these requirements. As there is no development associated with

this application request, this is moot as Chapter 3.3 would be applied at the time of development.

This application shall meet provisions of this Chapter of BDC.

CHAPTER 3.4 – PUBLIC FACILITIES STANDARDS

Chapter 3.4 of the BDC is the requirements for connection to city services, such as water, wastewater, stormwater, and the coordination with other utilities. As there is no development associated with this application request, this is moot as Chapter 3.4 would be applied at the time of development.

This application shall meet provisions of this Chapter of BDC.

CHAPTER 4.10 – TRAFFIC IMPACT STUDY

Chapter 4.10 provides the conditions and methodology for when a traffic impact study must be performed to service a development. As there is no development associated with this application request, this is moot as Chapter 4.10 would be applied at the time of development.

This application shall meet provisions of this Chapter of BDC.

COMPREHENSIVE PLAN GOALS

GOAL 1 – CITIZEN INVOLVEMENT

The City of Boardman has posted the property, published in the East Oregonian, and mailed to all required and interested parties, public notice on this request on three separate occasions. First Notice April 11, 2018, after posting notice the applicant requested an extension. Second Notice May 16, 2018, after posting the applicant requested an extension. Third Notice June 28, 2018, for which this staff report is being prepared for hearing on July 18, 2018.

This application has met all of the policies in Chapter 1 of the Comprehensive Plan.

GOAL 2 – LAND USE PLANNING

This application is within the policies of Chapter 2 of the Comprehensive Plan.

GOAL 3 – AGRICULTURAL LANDS

This Chapter does not apply to the City of Boardman.

GOAL 4 – FOREST LANDS

This Chapter does apply to the City of Boardman.

GOAL 5 – NATURAL RESOURCES, SCENIC AND HISTORICAL AREAS, AND OPEN SPACES

There is an identified wetland area on the property which may require mitigation upon development; however, it appears it may not be a natural wetland, rather, manmade as part of previous irrigation of cropland in the past.

This application is within the policies of Chapter 5 of the Comprehensive Plan.

GOAL 6 - AIR, WATER AND LAND RESOURCES QUALITY

This application is within the policies of Chapter 6 of the Comprehensive Plan.

GOAL 7 - AREAS SUBJECT TO NATURAL HAZARDS

There are no identified natural hazards or policies within the City of Boardman.

GOAL 8 – RECREATIONAL NEEDS

This application is within the policies of Chapter 8 of the Comprehensive Plan.

GOAL 9 – ECONOMIC DEVELOPMENT

Although this application is aligned with some of the policies of Chapter 9 of the Comprehensive Plan, it does not meet one of the policies in Chapter 9 of the Boardman Comprehensive Plan. In particular Economic Policy #2, which states "Encourage tourist commercial activity near Interstate 84.", this application would not be within the policy.

GOAL 10 - HOUSING

This application is within the policies of Chapter 10 of the Comprehensive Plan.

GOAL 11 – PUBLIC FACILITIES AND SERVICES

This application is within the policies of Chapter 11 of the Comprehensive Plan.

GOAL 12 - TRANSPORTATION

This application is within the policies of Chapter 12 of the Comprehensive Plan.

GOAL 13 – ENERGY CONSERVATION

This application is within the policies of Chapter 13 of the Comprehensive Plan.

GOAL 14 - URBANIZATION

This application is well aligned with the policies in Chapter 14 of the Comprehensive Plan.

GOAL 15-19

Goals 15-19 do not apply to the City of Boardman.

FINDINGS OF FACT

- 1) Public Notice was posted, published in the East Oregonian and mailed to all required and interested parties on July 30, 2020, for an August 19, 2020, Public Hearing.
- 2) DLCD Eastern Oregon Regional Representative, Tamra Mabbot, informed the city the 35-day Notice was rejected and additional information needed to be submitted.
- 3) The application **is not consistent** with relevant criteria to the Tourist Commercial Sub-District, §2.2.180 of the Boardman Development Code.
- 4) This application is consistent with and will be subject to Chapter 2.3 - General Industrial upon development.
- 5) This application is consistent with and will be subject to Chapter 3.1 – Access and Circulation upon development.
- 6) This application is consistent with and will be subject to Chapter 3.2 – Landscaping, Street Trees, Fences and Walls upon development.
- 7) This application is consistent with and will be subject to Chapter 3.3 – Vehicle and Bicycle Parking upon development.
- 8) This application is consistent with and will be subject to Chapter 3.4 – Public Facilities Standards upon development.
- 9) This application is consistent with and will be subject to Chapter 4.10 – Traffic Impact Study upon development.
- 10) This application is consistent with Chapter 1 of the Boardman Comprehensive Plan.
- 11) This application is consistent with Chapter 2 of the Boardman Comprehensive Plan.
- 12) Chapter 3 of the Boardman Comprehensive Plan is not applicable.
- 13) Chapter 4 of the Boardman Comprehensive Plan is not applicable.
- 14) This application is consistent with Chapter 5 of the Boardman Comprehensive Plan.
- 15) This application is consistent with Chapter 6 of the Boardman Comprehensive Plan.
- 16) There are no identified Natural Hazards in Chapter 7 of the Boardman Comprehensive Plan.
- 17) This application is consistent with Chapter 8 of the Boardman Comprehensive Plan.
- 18) This application **is not consistent** with Chapter 9 of the Boardman Comprehensive Plan.
- 19) This application is consistent with Chapter 10 of the Boardman Comprehensive Plan.
- 20) This application is consistent with Chapter 11 of the Boardman Comprehensive Plan.

- 21) This application is consistent with Chapter 12 of the Boardman Comprehensive Plan.
- 22) This application is consistent with Chapter 13 of the Boardman Comprehensive Plan.
- 23) This application is consistent with Chapter 14 of the Boardman Comprehensive Plan.
- 24) Chapters 15-19 are applicable to the City of Boardman.
- 25) DLCD notice of alteration to proposed change received posted to PAPA Online at DLCD website on September 16, 2020.
- 26) Public Notice was sent on October 1, 2020, to all affected property owners and agencies.
- 27) Property was posted with public notice on October 1, 2020.
- 28) Public Notice was posted in 4 public reader boards on October 1, 2020.
- 29) Public Noticed was posted on the City of Boardman website on October 1, 2020.
- 30) Public Notice was published in the East Oregonian October 6, 2020.

Staff Report Posted on City of Boardman Website on October 14, 2020.

SUMMARY

This application is for a zone change a large, multi-zoned, 70.39 acre parcel. No development application is pending at this time. Any development plan which comes forward will be held to the relevant Boardman Development Code Chapters and standards at the time of application.

This application will put General Industrial within 60 feet of an existing residential Manufactured Home Park. It will also eliminate all but two tax lots #418 (1.09 ac) and #419 (1.94 ac) as the only unencumbered, or built out from all properties along SE Front Ave.

The subjective decisions for the Planning Commission are beyond Type I or Type II processes, which are handled by staff.

LIST OF ATTACHMENTS

Initial Application
Narrative in Support of Land Use Application and Exhibits
Public Notices Posted and Published
Tax Lot Map
Natural Resources Map



City of Boardman

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PUBLIC NOTICE

THE BOARDMAN PLANNING COMMISSION WILL CONDUCT A PUBLIC HEARING

WEDNESDAY, October 21, 2020 AT 7:00 PM

**Using the web-based conferencing service ZOOM on any
mobile device.**

This meeting is available to the public using:

<https://zoom.us/j/2860039400>

The purpose of this hearing is to receive public comment concerning a request for a Zone change and Map Amendment for Tax lot #411 of Morrow County Tax Map 4N 25 9. The property is a 7.78-acre parcel, currently zoned Tourist Commercial (Commercial Highway Sub District). The request is to re-zone 7.78 acres to be zoned General Industrial District. This notice was released on July 30, 2020, and has been on hold and is now being re-noticed

You are receiving this notice by mail if you own property within 250 feet of the existing property boundaries, or you have requested notice. The staff report for this hearing will be available Friday, The Preliminary Findings can be found, at www.cityofboardman.com on the city's website.

The citizens of Boardman are invited to appear at the hearing and comment on the aforementioned matter or request.

(S) Heather Baumgartner
City Clerk

Posted: October 1, 2020
Published: October 6, 2020

August 12, 2020

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VIA EMAIL

Barry C. Beyeler
Community Development Director
City of Boardman
200 City Center Circle
Boardman, OR 97818

**Re: Application for Map Amendments to General Industrial
Map No. 4N25E Section 9 Tax Lot 411 (West 7.78 Acres)
Supplemental Application Materials**

Dear Barry:

This office represents Amazon Data Services, Inc., which has submitted an application to change the zoning for the westernmost 7.78 acres of real property described as Map No. 4N25E Section 9 Tax Lot 411 ("Property") to General Industrial. Enclosed with this letter please find the following supplemental application materials:

- Narrative explaining how the application complies with applicable approval criteria, with four exhibits:
 - Exhibit 1 - Map of subject property and vicinity
 - Exhibit 2 - City Zoning Map depicting existing zoning
 - Exhibit 3 - Partition Plat 2020-004
 - Exhibit 4 - Zone Change Transportation Assessment dated August 5, 2020

With this information, we believe that the application is complete for processing. Please let us know if you have questions or if you need any additional information.

Please also confirm that you have provided notice and scheduled this matter for the Planning Commission meeting on September 16, 2020.

Barry Beyeler
August 12, 2020
Page 2

Thank you for your courtesies in this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to be 'SJK' with a stylized flourish.

Seth J. King

SJK

Encls.

cc: Client (via email) (w/encls.)

City of Boardman
Community Development Department
Narrative in Support of Land Use Application

Date: August 12, 2020

To: Planning Commission and City Council of the City of Boardman

From: Amazon Data Services, Inc., Owner and Applicant

Subject: Post Acknowledgement Plan Amendment - 4N2509, Tax Lot 411 (West 7.78 Acres)

Applicant Request

The Applicant is requesting a zone change from 4.98 acres of Tourist Commercial, 2.0 acres of Manufactured Housing Sub-District, and 0.87 acres of adjacent right-of-way to General Industrial for the westernmost 7.78 acres of real property ("Property") identified as Map No. 4N2509, Tax Lot 411 or Parcel 1 of Partition Plat 2020-004. A map of the Property is set forth in Exhibit 1. The Property's current zoning is depicted on the City Zoning Map in Exhibit 2. A copy of Partition Plat 2020-004 is in Exhibit 3.

The zone change is necessary to make the most efficient use of Tax Lot 411, which is currently divided among three different zoning designations, making future development planning more difficult. Additionally, the zone change will allow the appropriate continuation of the data center campus currently under development on the portion of Tax Lot 411 already zoned for General Industrial uses.

Buildable Lands Inventory

Tourist Commercial

The zone change proposes to rezone approximately 4.98 acres of the Property from Tourist Commercial to General Industrial. Currently, approximately 21.71 acres of land in the City are zoned Tourist Commercial. Upon adoption of this zone change request, the City will continue to have approximately 16.73 acres of developable lands designated with Tourist Commercial zoning.

Manufactured Home Sub-District

The zone change proposes to rezone approximately 2.0 acres of the Property from Residential, Manufactured Home Sub-District, to General Industrial. Upon adoption of this zone change request, the City will maintain approximately 6.91 acres of remaining

Residential, Manufactured Home Sub-District, zoning (including 2.0 acres of the Property, which is not being rezoned). Pursuant to Boardman Development Code (“BDC”) Table 2.1.1.110.A, all residential zones allow for manufactured homes on individual lots. The percentage of available residentially zoned acreage within the City was not assessed as a part of this zone change application but is substantial. Furthermore, in its most recent Buildable Lands Inventory, the City determined that there is an overall surplus of residential lands by approximately 440 acres within the City limits and surrounding UGB.

General Industrial

The zone change proposes to increase the City’s General Industrial zoning by approximately 7.78 acres through the various changes described above. Together with the adjacent property, the Property will be the only General Industrial zoned property on the south side of Interstate 84 and will result in approximately 240 acres of total General Industrial zoned property within the City.

Relevant BDC Chapters

Relevant BDC Chapters governing this request include Chapter 2.3 (General Industrial), Chapter 3.1 (Access and Circulation), Chapter 3.2 (Landscaping, Street Trees, Fences and Walls), Chapter 3.3 (Vehicle and Bicycle Parking), Chapter 3.4 (Public Facilities Standards), Chapter 4.1 (Types of Applications and Review Procedures), Chapter 4.2 (Development Review and Site Design Review), Chapter 4.7 (Land Use District Map and Text Amendments), and Chapter 4.10 (Traffic Impact Study). This narrative addresses each of these chapters in the space below.

Chapter 2.3 – General Industrial

Chapter 2.3 contains the language and tables of allowable uses and conditional uses within the General Industrial zone. The applicant intends to comply with the allowable uses within the General Industrial zone upon any future proposed development request.

Chapter 3.1 – Access and Circulation

The size of the parcel and the configuration of the parcel in relation to current access and circulation routes of the City suggest that any future development on the Property could meet access and circulation standards of the City. Consideration of appurtenant access and circulation requirements would be considered upon a Site Design Review process including Site Team review by the City. At this time the application only needs to prove that the parcel, upon approval of the zone change could comply with applicable Access and Circulation standards of the City. The application meets this

requirement simply by the size, proximity to ingress/egress routes and consideration of the Interchange Area Management Plan described under “Traffic Impact Study” below. Moreover, because the new General Industrial acreage will be aggregated with the adjacent data center campus, access and circulation for the Property will be addressed as part of that existing development.

Chapter 3.2 - Landscaping, Street Trees, Fences and Walls

The applicant intends to comply with all applicable requirements of Chapter 3.2 upon application and through the Site Design Review process. The parcel size, configuration, and the Property’s aggregation with the adjacent data center campus are enough to demonstrate that the site has sufficient land to meet any applicable Site Design Review requirements under this section.

Chapter 3.3 – Vehicle and Bicycle Parking

The applicant intends to comply with all applicable requirements of Chapter 3.3 upon application and through the Site Design Review process. The parcel size, configuration, and the Property’s aggregation with the adjacent data center campus are enough to demonstrate that the site has sufficient land to meet any applicable Site Design Review requirements under this section.

Chapter 3.4 – Public Facilities Standards

The applicant intends to comply with all applicable requirements of section 3.4 upon application and through the Site Design Review process. The parcel size, configuration, and aggregation with the adjacent data center campus are enough to demonstrate that the site has sufficient land to meet any applicable Site Design Review requirements under this section. Additionally, Applicant selected the Property for development pursuant to General Industrial zoning due to the Property’s close proximity to major power and water/wastewater infrastructure (e.g. an 18” water supply line is directly adjacent to the site). The Property is one of the only locations within the City limits that could accommodate General Industrial uses with City facilities and service due to its proximity to large utilities and main-line water delivery and wastewater disposal lines. Large utility lines of this type are unnecessary for other uses such as Tourist Commercial and Residential and are more suited to higher demand uses such as industrial.

Chapter 4.1 – Types of Applications and Review Procedures

Table 4.1.200 of the BDC calls for a Type IV Legislative process for this matter due to a change in both the Comprehensive Plan Map and Zoning Map for the City. However, in an abundance of caution, Applicant requests that the City process the request as a

quasi-judicial (Type III) application because the applicable Type III procedures provide more extensive notice to surrounding property owners and additional procedural protections for the general public. Moreover, pursuant to BDC 4.7.400, the City may impose conditions of approval on quasi-judicial zone change requests.

Chapter 4.2 – Development Review and Site Design Review

Development Review and Site Design Review criterion will be applied at the time of future development application(s). Applicant shall be required to follow all criteria and guidelines within Chapter 4.2.

Chapter 4.7 – Land Use District Map and Text Amendments

1. Approval of the request is consistent with the Statewide Planning Goals:

Post-acknowledgment plan amendments must be in compliance with the Oregon Statewide Planning Goals (“Goals”). ORS 197.175(2)(a); *1000 Friends of Oregon v. LCD, 301 Or 447, 724 P2d 268 (1986)*. This application requests a post-acknowledgment plan amendment. Therefore, the City’s decision must explain why this request is in compliance with the Goals. Alternatively, if a Goal is not applicable, the City must adopt findings explaining why that Goal is not applicable. *Davenport v. City of Tigard, 22 Or LUBA 577, 586 (1992)*. The responses below provide findings explaining why the request is in compliance with applicable Goals and why the remaining Goals are not applicable.

Goal 1: Citizen Involvement.

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Goal 1 requires local governments to adopt and administer programs to ensure the opportunity for citizens to be involved in all phases of the planning process. The City has adopted such a program for post-acknowledgment plan amendments, and it is incorporated within the City’s Comprehensive Plan and BDC and has been acknowledged by the Land Conservation and Development Commission. Among other things, the City’s program requires notice to citizens, agencies, neighbors, and other interested parties followed by multiple public hearings before the City makes a decision to approve or deny the request. These procedures will provide ample opportunity for citizen involvement in all phases of the request. The City should find that, upon compliance with the City’s notice and hearing procedures, the City has reviewed the request in a manner consistent with Goal 1. *See Wade v. Lane County, 20 Or LUBA 369, 376 (1990)* (Goal 1 is satisfied as long as the local government follows its acknowledged citizen involvement program).

Goal 2: Land Use Planning.

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Goal 2 requires establishing a land use planning process and policy framework as a basis for all land use decisions and requires an adequate factual base for all land use decisions. In the present case, the provisions of the City's Comprehensive Plan and BDC establish the land use planning process and policy framework for considering the request. Further, this narrative and its related exhibits demonstrate that the request satisfies all applicable substantive standards. As such, there is an adequate factual base for the City's decision.

Additionally, Goal 2 requires that the City coordinate its review and decision on the request with appropriate government agencies. In its review of the request, the City has provided notice and an opportunity to comment to affected government agencies, including the State Departments of Land Conservation and Development and Transportation.

The City should find that the request is consistent with Goal 2.

Goal 3: Agricultural Lands.

To maintain and preserve agricultural lands.

Goal 3 concerns protection of agricultural lands. The Property does not include any agricultural lands, and approval of the request will not impact any agricultural lands. Therefore, the City should find that Goal 3 is not applicable to the request.

Goal 4: Forest Lands.

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Goal 4 protects forest lands. The Property does not include any forest lands, and approval of the request will not impact any forest lands. Therefore, the City should find that Goal 4 is not applicable to the request.

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

To protect natural resources and conserve scenic and historic areas and open spaces.

Goal 5 protects certain types of inventoried resources. Although the City has identified a potential wetland on Tax Lot 411, it does not appear to fall within the boundaries of the Property. Moreover, even if it did fall within those boundaries, it does not appear to Applicant that the City has completed the required Goal 5 process for wetland resources, including conducting a local wetland inventory, adopting that inventory within the City's Comprehensive Plan, identifying which wetlands on the inventory are "significant" in nature, and adopting a program to achieve Goal 5 as to wetlands within the City's land use regulations. To the extent Applicant is correct, the potential wetland is not a Goal 5 resource. To the extent Applicant is incorrect and the wetland extends onto the Property and has been locally inventoried, the City may still approve the zone change, subject to a determination that the proposed new uses allowed by the zone change will not conflict with the wetland resource. The City should reach that conclusion because, under either the current or proposed zoning scenarios, Applicant will be required to coordinate with state and federal agencies to determine whether the wetland is jurisdictional, and if so, obtain required permits before impacting the wetland. Further, under either the current or proposed zoning scenarios, the City has not adopted any land use regulations concerning wetland impacts. The City has not inventoried any other Goal 5 resources on the Property. For these reasons, the City should find that the proposed amendment is consistent with Goal 5, to the extent the goal is applicable.

Goal 6: Air, Water and Land Resources Quality.

To maintain and improve the quality of the air, water and land resources of the state.

Goal 6 addresses waste and process discharges from future development and requires local governments to determine that the future discharges, when combined with existing development, would not violate (or threaten to violate) applicable state or federal environmental quality statutes, rules and standards. The request does not propose any specific development and therefore will not increase waste or process discharges. The City will assess discharges of any future development at the time such development is proposed. Thus, the City should find that Goal 6 is not applicable to the request.

Goal 7: Areas Subject to Natural Hazards.

To protect people and property from natural hazards.

The City has not identified or inventoried natural hazards in the general area of the Property. Therefore, the City should find that Goal 7 is not applicable to the request.

Goal 8: Recreational Needs.

To satisfy the recreational needs of the citizens of the state and visitors, and where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Goal 8 requires a local government to prepare an inventory of recreation needs and opportunities in the planning area based upon adequate research and analysis. There are no inventoried recreational facilities located on the Property or affected by the request. The City should find that Goal 8 is not applicable to the request.

Goal 9: Economic Development.

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

The request furthers the objectives of this goal by increasing the supply of industrial land in the City, which will facilitate economic growth and additional employment. The City should find that the request is consistent with Goal 9.

Goal 10: Housing.

To provide for the housing needs of the citizens of the state.

Goal 10 and its implementing rules require each local government to inventory the supply of buildable residential lands and to ensure that the supply of such buildable lands meets the local government's anticipated housing needs. Adoption of the amendments will reduce the supply of residential lands in the City's UGB. However, at the time the City conducted its most recent housing needs assessment, it determined that it had a significant surplus of available residentially-zoned lands within the City and UGB (over 444 more acres than the projected need during the planning period), according to the City's acknowledged housing needs assessment. See City Comprehensive Plan Chapter X (Housing) at p. 1. Adoption of the request will reduce the City's residential lands supply by approximately 2.0 acres; however, the City will

continue to have a surplus of over 400 acres of residential lands. Therefore, the City should find that the request is consistent with Goal 10.

Goal 11: Public Facilities and Services.

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The Property is located inside the City limits and has ready access to urban public services. In fact, Applicant selected the Property for development due to its proximity to adequate facilities and services that can accommodate General Industrial uses. The Property is close to an 18" water line and directly adjacent to major electricity distribution lines and a regional wastewater disposal line. Before the close of the record, Applicant will present testimony from a professional engineer that there is, or will be concurrent with development, adequate capacity in the City's existing public water, wastewater, and stormwater facilities to serve both the Property and the existing users of these systems. Based upon this evidence, the City should find that the request is consistent with Goal 11.

Goal 12: Transportation.

To provide and encourage a safe, convenient and economic transportation system.

Goal 12 is implemented by the Oregon Transportation Planning Rule ("TPR"), which requires local governments to determine whether a proposed post-acknowledgment comprehensive plan amendment will "significantly affect" any existing or planned transportation facility. OAR 660-012-0060(1). An amendment will "significantly affect" an existing or planned transportation facility if it will: (1) change the functional classification of a facility; (2) change standards implementing a functional classification system; (3) as measured at the end of the planning period, result in types or levels of travel or access that are inconsistent with the functional classification of an existing facility; or (4) degrade the performance of an existing facility either below applicable performance standards, or if already performing below these standards, degrade it further. *Id.* If a significant effect is identified, the local government must adopt measures to mitigate the significant effect. OAR 660-012-0060(2).

LUBA has stated that the initial question under the TPR is "whether the plan amendment causes a net increase in impacts on transportation facilities, comparing uses allowed under the unamended plan and zoning code with uses allowed under the amended plan and zoning code." *Griffiths v. City of Corvallis*, 50 Or LUBA 588, 593 (2005). This is commonly applied to require that an applicant compare the traffic

associated with a reasonable worst-case scenario development under the existing zoning district with a reasonable worst-case scenario under the proposed zoning district.

The City should find that the map amendments will not significantly affect any existing or planned transportation facilities. In support of this conclusion, the City Council should rely upon the “worst-case scenario” analysis prepared by Applicant’s transportation consultant, Kittelson & Associates (“Kittelson”) dated August 5, 2020, a copy of which is included in Exhibit 4. In that analysis, Kittelson compared the reasonable worst-case trip generation scenario of the Property under the existing map designations (Tourist Commercial and Residential (Manufactured Home Sub-District)) with the reasonable worst-case trip generation scenario under the proposed map designation (General Industrial). See Kittelson Memorandum dated August 5, 2020. This comparison indicated that the Property would generate fewer daily trips, fewer AM peak hour trips, and fewer PM peak hour trips under the proposed zoning designation. *Id.*

Based upon these results, Kittelson concluded that the map amendment would not significantly affect any existing or planned transportation facilities for purposes of the TPR and that no off-site transportation mitigation measures are necessary. Therefore, the City Council should find that the map amendment is consistent with Goal 12 and the TPR.

Goal 13: Energy Conservation.

To conserve energy.

In general, Goal 13 is a planning goal “directed toward the development of local government land management implementation measures which maximize energy conservation.” *Brandt v. Marion County*, 22 Or LUBA 473, 484 (1991), *aff’d in part, rev’d in part* 112 Or App 30 (1992). It does not prohibit adoption of a plan amendment that would result in a net increase in energy usage. *Setniker v. Oregon Department of Transportation*, 66 Or LUBA 54 (2012). The request is consistent with Goal 13 because the proposed amendment will provide for efficient use of land and energy by facilitating the location of industrial development near existing electric utility lines rather than placing such development far from utility line infrastructure and then extending the lines. For these reasons, the City should find that the request is consistent with Goal 13.

Goal 14: Urbanization.

To provide for an orderly and efficient transition from rural to urban land use.

Goal 14 calls for maintaining urban uses within urban growth boundaries. The Property is located inside the City limits and the City's urban growth boundary and is currently designated for urban uses. The request does not involve a change in the location of the urban growth boundary. Therefore, the City should find that the request is consistent with Goal 14.

Goal 15: Willamette River Greenway.

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Goal 15 only applies to lands along the Willamette River. The Property is not located along the Willamette River nor in the Willamette River Greenway. Approval of the request will not impact the Willamette River nor the Willamette River Greenway. Therefore, the City should find that Goal 15 is not applicable to the request.

Goal 16: Estuarine Resources.

To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and

To protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity, and benefits of Oregon's estuaries.

Goal 16 concerns estuarine resources. The Property does not include any designated estuarine resources, and the proposed amendments will not impact any estuarine resources. As a result, the City should find that Goal 16 is not applicable to the request.

Goal 17: Coastal Shorelands.

To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and

To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

Goal 17 regulates coastal shorelands. The Property does not include any designated coastal shorelands. Moreover, the proposed amendments will not impact any designated coastal shorelands. As a result, the City should find that Goal 17 is not applicable to the request.

Goal 18: Beaches and Dunes.

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and

To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.

Goal 18 concerns beaches and dunes. The Property does not include any designated beaches or dunes. Moreover, the proposed amendments will not impact any designated beaches or dunes. As a result, the City should find that Goal 18 is not applicable to the request.

Goal 19: Ocean Resources.

To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.

Goal 19 calls for the conservation of ocean resources. The Property does not include or abut any ocean resources, and the proposed amendments will not impact any ocean resources. Therefore, the City should find that Goal 19 is not applicable to the request.

Based upon these responses, the City should find that the request is consistent with the applicable Goals. This criterion is satisfied.

2. Approval of the request is consistent with the Comprehensive Plan:

This application is consistent with applicable goals and policies of the City's Comprehensive Plan as follows:

GOAL 2: LAND USE PLANNING POLICIES

3. The City has adopted the City of Boardman Development Code, a unified zoning and subdivision land use code to facilitate the development process and implement the land use goals of the City as outlined in the Comprehensive Plan.

As explained in this narrative, the application is consistent with relevant provisions of the BDC. Because the BDC implements the Comprehensive Plan, compliance with the BDC will ensure compliance with the goals and policies of the Comprehensive Plan.

8. The City will continue to work with the Port of Morrow to encourage development of industrial lands within the Urban Growth Boundary.

The Applicant seeks this zone change to aggregate the Property, which is located within the UGB, with the adjacent industrial data center campus. As a result, adoption of the zone change is consistent with this policy.

GOAL 9: ECONOMIC POLICIES

1. Advance the position of Boardman as a regional center for industry, power generation, commerce, recreation, and culture.

The proposed zone change will aggregate the Property with a large industrially-zoned parcel near the existing high-voltage BPA power lines. As a result, the zone change will facilitate use of the Property for both industry and power generation purposes. The City should find that the zone change is consistent with this policy.

3. Allow for the creation of industrial park development with adequate off-street parking, landscaping, and site screening.

If approved, this application would change the zoning of the Property to General Industrial, which would allow it to be aggregated with the adjacent developing industrial park/data center campus. The size of the General Industrial-zoned area is large enough to also allow adequate off-street parking, landscaping, and site screening. The City should find that the zone change is consistent with this policy.

4. Promote cooperation among the city, Port of Morrow, and other interested parties to facilitate the most effective uses of public facilities serving the planning area.

Approval of the zone change will facilitate development of the Property, which is an infill site. Such development will likewise facilitate utilization of existing public facilities in the planning area rather than the costly extension of utilities to areas on the urban fringe.

GOAL 10: HOUSING

Chapter 10 of the City's Comprehensive Plan includes findings and policies to guide the City toward meeting its 20-year build-out requirements for housing. The original plan was adopted by the city in 1976 with revisions made to the Housing chapter in 1989,

1990, 1991, and 2003. The substantive findings in the narrative and policies of Chapter 10 reflect the findings of housing studies and surveys commenced following the original adoption of the Comprehensive Plan and BDC.

The general finding of Goal 10 is that the City has ample lands zoned for residential uses that are either empty lots or lots that are of sufficient size to accommodate additional “in-fill” development. The Comprehensive Plan includes a buildable lands inventory completed in 1997. That inventory identified a need for between 152 and 232 acres of residentially zoned property to accommodate housing needs¹. At that time the City had 676 acres of residential zoning. As a result, the City still has more than the identified number of acres zoned for residential purposes so minimizing the residential zoning of one sub-district by 2.0 acres will not impact the City’s compliance with its own policies related to housing.

Chapter 10 also includes provisions and policies related to the types of residential units the City is to encourage/emphasize. The narrative and findings of Chapter 10 reflect an emphasis on planned unit developments, apartment complexes and low-income subsidized housing to meet the region’s growing work population. Most of the policies adopted within the Comprehensive Plan are directed towards developing zoning, development standards and programs around that emphasis area.² To meet this Comprehensive Plan Goal, the City has developed a Multi-Family Residential Sub-District³ as well as enabled multi-family structures in most of the residential zoning (*see* BDC Table 2.1.110.A) and allowed for the same type of residential development in the Commercial Zone (*see* BDC Table 2.2.110.A). This zone change does not impact any of the residential zones or Sub-Districts designed to meet what appears to be a key priority of the City’s Comprehensive Plan regarding housing.

The City’s Comprehensive Plan also identifies an interest from individuals over the age of 51 and younger people without families to reside in manufactured homes. The Comprehensive Plan does not describe the type of housing (manufactured homes) as meeting any specific need, but generally to allow for a customer preference. To accommodate this Comprehensive Plan finding the BDC allows for manufactured homes to be placed on individual lots within the Future Urban and Residential zones. Manufactured homes placed on individual lots require compliance with some additional criteria.⁴ Additionally, the City established two specialty Sub-Districts to address existing

¹ City Comprehensive Plan, Chapter 10, Page 1

² City Comprehensive Plan

³ BDC, Page 2.1.34

⁴ BDC 2.1.190 (B), Page 2.1.23

manufactured home subdivisions and parks where build-out of these developments, while not in compliance with new provisions of the BDC, would be allowed.⁵ While the zone change request does remove some Manufactured Home Sub-District zoning from the City inventory, the removal does not impact the City's ability to provide housing to all income classes nor does the removal prevent landowners from building to their preference as manufactured homes are allowed on individual lots. Additionally, if in the future, more land is desired by the City for manufactured home park development the City has established over 142 acres of Future Urban (i.e. "urban reserve") zoned property that could be developed in part to meet that customer demand.

Lastly, the City has established a Future Urban Zone⁶ to allow for transition of land from rural to urban uses. This zone maintains parcels in large lots to enable the City to rezone as necessary to accommodate anticipated or unanticipated zoning and development needs in the future. The City has +/- 138.49 acres of Future Urban zoned property within its City Limit and Urban Growth boundaries. The amount of acreage in this zone will allow the City to meet any future changes in residential zoning preferences of the City or developers in the City. The amount of acreage in Future Urban zoning proves that the City currently has ample acreage within all of its residential zoning classifications to meet its 20-year buildable land requirements and also permit the City to accommodate any changes in customer demand or residential needs over time.

Based upon the findings above, the City should find that Applicant has considered the goals and policies of Chapter 10 (Housing) of the City's Comprehensive Plan and that the proposed change in zoning will not result in any adverse impacts to City goals or minimize the City's ability to meet the housing goals of the Comprehensive Plan.

GOAL 11: PUBLIC FACILITIES POLICIES

- 1. The City shall assure urban services (water, sewer and storm drainage services and transportation infrastructure) to residential, commercial and industrial lands within the City's Urban Growth Area as these lands are urbanized.**
- 2. To minimize the cost of providing public services and infrastructure, the City shall discourage inefficient development without adequate public services and promote efficient use of urban and urbanizable land within the City's urban growth boundary, including requiring all urban development to be served by full urban services.**

⁵ BDC 2.1.500 and 2.1.600

⁶ BDC 2.1.300, Page 2.1.32

3. The City shall support development that is compatible with the City's ability to provide adequate public facilities and services.

5. The City shall promote coordination among the City, Port of Morrow, and other interested parties to facilitate the most effective uses of public facilities serving the planning area.

The Property is located inside the City limits and has ready access to urban public services. In fact, Applicant selected the Property for development due to its proximity to adequate facilities and services to accommodate General Industrial uses. The Property is close to an 18" water line and directly adjacent to major electricity distribution lines and a regional wastewater disposal line. Before the close of the record, Applicant will present testimony from a professional engineer that there is, or will be concurrent with development, adequate capacity in the City's existing public water, wastewater, and stormwater facilities to serve the Property and the existing users of these systems. Therefore, the City should find that the zone change is consistent with these policies from Comprehensive Plan Chapter 11.

The City should find that the request satisfies this criterion.

3. Approval of the request is consistent with Transportation Planning Rule or Transportation System Plan compliance:

As explained above in response to Goal 12, the Kittelson analysis in Exhibit 4 demonstrates that adoption of the zone change is consistent with the TPR. Based upon that evidence, the City should find that the request satisfies this criterion.

4. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property

Applicant selected the Property due to its proximity to adequate facilities and services to accommodate General Industrial uses. The Property is close to an 18" water line and directly adjacent to major electricity distribution lines and a regional wastewater disposal line. Before the close of the record, Applicant will present testimony from a professional engineer that there is adequate capacity in the City's existing public water, wastewater, and stormwater facilities to serve the Property and the existing users of these systems. Also, as explained in response to the previous criterion, Applicant's professional transportation engineer has analyzed the reasonable worst-case scenario transportation impacts resulting from development of the Property after the zone

change and has determined that these transportation impacts are expected to be less than could occur under existing zoning. This analysis supports the conclusion that the existing transportation system is adequate to support the proposed use. Based upon this evidence, the City should find that there is, or will be concurrent with development, adequate public facilities, services, and transportation networks to accommodate development of the Property with General Industrial uses consistent with the proposed zone change.

5. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application.

The change in the neighborhood or community is that the remainder of Tax Lot 411 is developing with data centers, and the Property provides land for on-site infrastructure and buffers associated with that campus. The City should find that the request satisfies this criterion.

Chapter 4.10 – Traffic Impact Study

As explained above, Applicant has included a TPR analysis from Kittelson, Applicant's professional transportation engineer, in Exhibit 4. That analysis concludes that the map amendment will not have a significant effect on any existing or planned transportation facilities.

This report also includes a comparison of the projected trips associated with a reasonable worst-case scenario development of the Property and remainder of Tax Lot 411 under the proposed zoning with the reasonable worst-case scenario development of these areas as identified in the City's 2009 Transportation System Plan & Boardman Main Street Interchange Area Management Plan ("IAMP"). The IAMP comparison shows that there could be more trip impacts under the proposed zoning. To avoid a detailed re-assessment and re-evaluation of the broader City transportation network, Kittelson recommends that the City impose a condition of approval limiting development on the Property to a development scenario that does not exceed the projected trip generation for the Property in the IAMP.

If required, Applicant will conduct a complete Traffic Impact Study in conjunction with its Site Design Review application for the Property.

Conclusion

For the reasons explained in this narrative and based upon the evidence included herewith, the City should approve the requested zone change of the Property to General Industrial.

August 19, 2020
Parametrix No. 233-8117-001

Mr. Seth King
Partner, Perkins Coie LLP
Via email: sking@perkinscoie.com

Re: Boardman rezone site – Tax Lot 411, Section 9, Township 4 North, Range 25 East, including 7.78-acre site

Dear Mr. King:

Parametrix has performed due diligence research for the Boardman rezone site which is Tax Lot 411, Section 9, Township 4 North, Range 25 East. This 80.2-acre tax lot is inclusive of a 7.78-acre site located along the western area, below Tax Lots 418 and 419.

Due diligence included review of existing published reports and data, as well as discussions with representatives of the Port of Morrow, the City of Boardman, Morrow County, and Boardman Rural Fire Protection District. Based on information provided by the prospective developer and research conducted to date, it is our professional opinion that development of the 80.2-acre site is technically feasible subject to site-specific design considerations. We believe it is technically feasible to:

1. Connect to the public water system to support potential demand and maintain adequate supply to serve existing users,
2. Connect to the Port of Morrow's industrial wastewater discharge system to support potential capacity need and maintain adequate capacity to serve existing users,
3. Connect to the public sanitary sewer system to support potential capacity need and maintain adequate capacity to serve existing users, and
4. Develop on-site stormwater facilities to support project requirements.

Sincerely,

PARAMETRIX



Cedar Simmons, PE
Senior Engineer

cc: Project File



Date:
Cedar Simmons 2020.08.19
12:54:57-07'00'

August 5, 2020

Project #: 25422

Barry Beyeler
City of Boardman
200 City Center Circle
Boardman, OR 97818

Re: Zone Change Transportation Assessment – PDX90 Campus

Dear Barry,

This letter provides a transportation assessment for a proposed change in zoning for a 7.78-acre site as illustrated in Figure 1 below. The site is located within the City of Boardman and is generally bounded by the Frontier Court Mobile Home Park to the west, a BPA transmission line easement to the south, highway I-84 to the north, and a data center (currently under construction) to the east.

Figure 1 - Site Vicinity Map



The site is currently undeveloped and consists of both Residential (Manufactured Home Sub District) and Tourist Commercial (Highway Sub District) zones as summarized below in Table 1. In order to be more compatible with the adjacent data center site and provide continuity to that use, all 7.78 acres are proposed to be rezoned to General Industrial.

4

City of Boardman, Morrow County, Oregon

township 4 North, Range 25 East, W.M., Section 09
Located in the South Half of SE 1/4 & the SE 1/4 of SW 1/4

For:
Amazon Data Services, Inc.
P.O. Box 80416
Seattle, Washington 98108-0416

the property being partitioned is that Portion of the land described in the Morrow County Records as File No. 2018-43011 and is as follows: All of Parcel 1 of Partition Plat 2013-06 as filed in the Partition Plat records of County of Morrow, State of Oregon.

Found Section Corner

- Found Monument as noted
 ○ Set 5.0' x 30' Rebar
 w/ Plastic Cap, PLS #2431
 ⊗ CALCULATED POINT - Not Set
 SECTION LINES
 PARTITION BOUNDARIES
 Record Per Reference Noted
 STREET CENTER LINES

1. the authorized representative of the owners of the assets as shown on this plat, do hereby dedicate the Roadway as indicated on this Plat to the City of Seaside and acknowledge that we have caused this plat to be created. We authorized that this Plat be prepared in accordance with the provisions of ORS Chapter 32, and we recognize this Plat as the Official Plat and Map of the Portion as shown in the County of Morrow, State of Oregon.

This survey is based on my *Parishioner Book* for Gary Maughan, Maughan EL AL10C. The purpose of this survey was to create a new parcel for construction of a station to support the industrial buildings being constructed on the remaining site. Since completing that *Parishioner Book*, some of the pins were destroyed by development and were replaced as part of an ALTA & Record Survey by Parametrix, Belduc. The new proposed Parcel 2 is as shown & my Bearing Base Point, 2013-056, which was set by Parametrix, Belduc, in their *Record of Survey*, 2013-1839-C. This survey was completed with a Trimble RFX, Total Station.

1. Ronald V. McKinzie, being a Registered Professional Land Surveyor of the State of Oregon, certify that I have correctly surveyed and monumented the lands more particularly described in the Legal Description shown herein according to ORS Chapter 92, of the State of Oregon. The Initial Point of this survey is the Northeast Corner of Parcel 1 of Partition Plat 2013-06 as shown & set by Parametrix, L.S. 792286.

I certify that I have examined and approved this Partition Plat on this _____ day of June, 2020.

Steph K. Matthews
Morrow County Surveyor

We, The City of Boardman approve this Partition Plat and accept the Roadway Dedication on this _____ day of June, 2020.

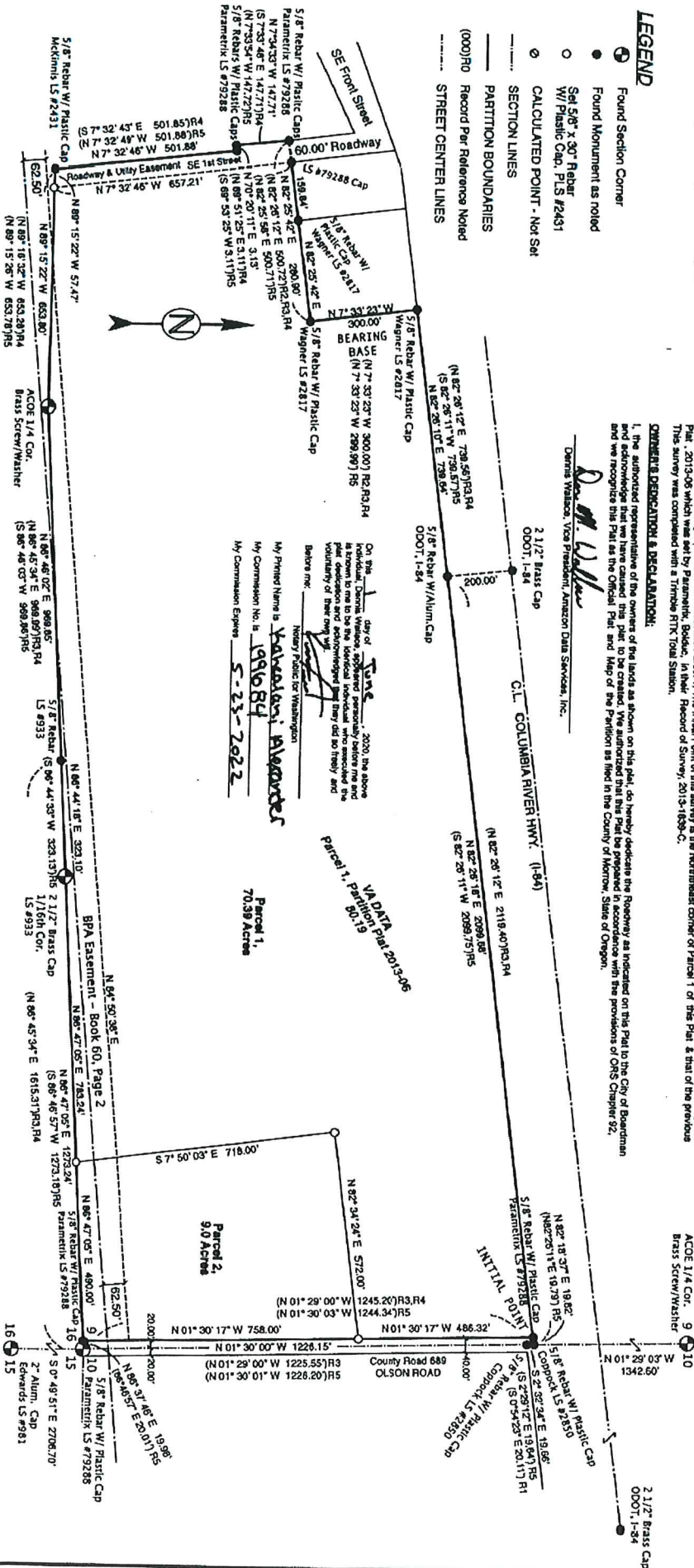
Karen Pittman
City of Boardman, City Manager

I certify that I have examined and approved this Partition Bill on this 4th day of June, 2020

Wanda B. Thurmond
West Extension Irregular District

I certify that I have examined and approved this Partition Bill on this 4 day of June, 2020

Wanda B. Thurmond
McGowan County Tax Assessor
McGowan County Tax Collector

[illegible]

REFERENCE SURVEYS:
R1 - Coppack for Docken & Patchard, C.S. #1483-C
R2 - Wagoner for Krupa Lexini, Inc, PP 2008-07, C.S. #1529-C
R3 - Wagoner for Krupa Lexini, Inc, PP 2013-01, C.S. #2013-16C
R4 - McKinnis for Maaughan, PP 2013-06, C.S. #2013-32-C
R5 - Parametric (Boddie) for AWS, C.S. #2018-1829-C

SCALE 1" = 200'

REGISTERED
PROFESSIONAL
LAND SURVEYOR
OREGON
WYNALD V. MCINNIS
JAN. 23, 1960
2431
Expires 12-31-80

Rev. 05-26-20

SCALE 1" = 200 Ft.
October, 2019

ENGINEERING • LAND SURVEYING • WATER RIGHTS
R. V. MCKINNIS ENGINEERING
79980 Pendle Loop Road
Hermiston, Oregon 97838
(541) -562-2017

