Umatilla County

Department of Land Use Planning

AGENDA

Umatilla County Planning Commission
Public Hearing
Thursday, January 23, 2014, 6:30 p.m.
Justice Center Media Room
Pendleton, OR

Members of Planning Commission
Randy Randall, Chair
Gary Rhinhart, Vice-Chair
John Standley
Tammie Williams
Don Wysocki
David Lee
Don Marlatt
Suni Danforth
Cecil Thorne

Members of Planning Staff
Tamra Mabbott, Planning Director
Carol Johnson, Senior Planner

1. Call to Order

2. Approval of Minutes.

3. New Hearing:

- TYPE III LAND DIVISION, REPLAT REQUEST, #LD-5N-819-13; Port of Umatilla, Applicant. The Port of Umatilla requests approval of a replat of Lot 1 of Draper Subdivision, Book 15, Page 22, identified as Tax Lot 200 on Map Assessor's 5N2814B, and Lot 7 of the Port Terminal Subdivision Plat, Book 15, Page 60, identified as Tax Lot 2600 on Assessor's Map 5N2811. The applicant's replat proposal adds the southeast corner of Lot 7 into adjoining Lot 1. The property is located at the southwest corner of the intersection of Bud Draper Drive and Roxbury Road. Lot 7 is within the City of Umatilla's Urban Growth Boundary, and Lot 1 is within the City of Umatilla. The Joint Management Agreement between Umatilla County and the City of Umatilla authorizes the County to process Land Use Requests within the City's Urban Growth Boundary. The Replat approval standards are found in the Umatilla County Development Code Section 152.697 (C).

4. Hearing continued from December 19, 2013:

- REQUEST FOR A PUBLIC HEARING, #LUD-163-13. East End Rod & Gun Club submitted an application to continue operation of firearms training facility located at 54752 Milton Cemetery Road, approximately one mile east of Milton Freewater on tax lot 1200 of Assessor's Map 5N 36. The Planning Director issued a preliminary approval of the Land Use Permit and sent notice to adjacent property owners and agencies. Subsequently, a REQUEST FOR A PUBLIC HEARING was submitted on November 8, 2013. The standards of review for the Land Use Permit are found in the Umatilla County Development Code, Section 152.617(II)(5) and 152.063.

Adjourn

Next Scheduled Meeting:

Thursday, February 27, 2014, 6:30 p.m., Justice Center Media Room, Pendleton, OR

UMATILLA COUNTY
PLANNING COMMISSION
HEARING

THURSDAY,
JANUARY 23, 2014

#LD-5N-819-13
PORT OF UMATILLA
REPLAT REQUEST

PORT OF UMATILLA REPLAT
TYPE III LAND DIVISION - REPLAT, #LD-5N-819-13
JANUARY 23, 2014 PLANNING COMMISSION HEARING
PACKET LIST

1. Staff Memo, page 1
2. Vicinity Map, page 2
3. Applicant's Preliminary Replat Survey Map, page 3
4. City Comprehensive Plan Path Plan Map, page 4
5. Google Vicinity Map, page 5
6. Staff Report, pages 6 through 10

Umatilla County

Department of Land Use Planning

DIRECTOR
TAMRA MABBOTT

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

January 16, 2014

MEMO

To: Umatilla County Planning Commissioners
From: Carol Johnson, Senior Planner

Re: January 23, 2014, Planning Commission Hearing,
Port of Umatilla, Applicant
Replat Type III Land Division, # LD-5N-819-13

cc: Doug Olsen, County Counsel
Tamra Mabbott, Planning Director

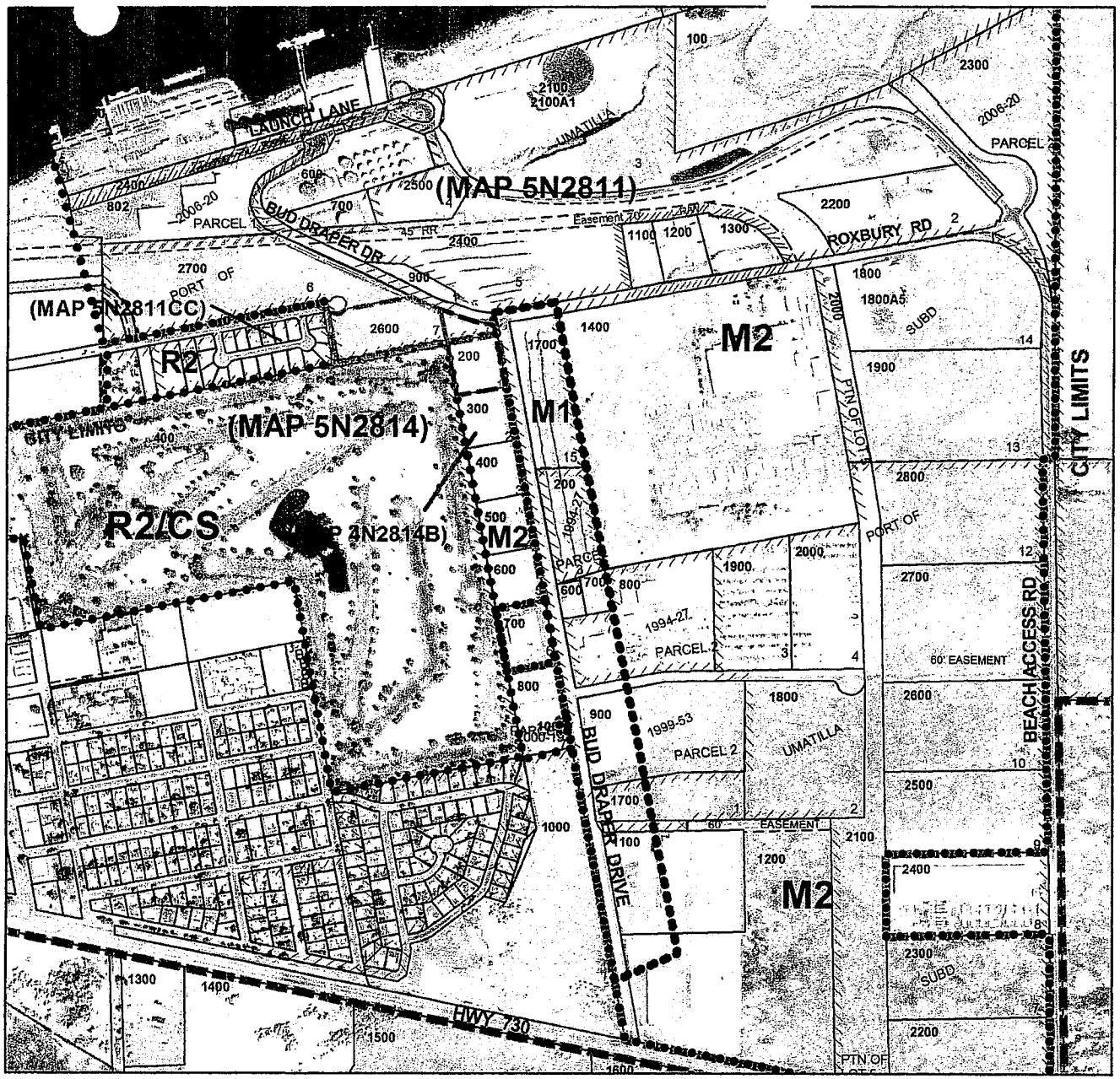
Request:
The Port of Umatilla is requesting a replat of Lot 1 of the Draper Subdivision and Lot 7 of the Port Terminal Subdivision. A replat survey of the subdivision lots is required when exterior lot lines are reconfigured.

Location:
The lots proposed for replat are located along the west side of Bud Draper Drive near the intersection of Bud Draper and Roxbury Road. The Port property is within the Urban Growth Boundary (UGB) of the City of Umatilla. [Umatilla County is the authorized land use permitting agency for lands within the City's UGB.]

Standards:
The Standards of Approval are found in the Umatilla County Development Code Section 152.697(C), Type III Land Divisions. The Replat Standards generally consist of complying with the Industrial Zone development requirements (i.e., parcel/lot minimum size, setbacks, etc.), conformance to the existing development scheme of the area including the logical extension of existing roads and public facilities within, and adjoining the site. In addition, the applicant is required to supply a survey plat that meets county and state regulations.

Conditions:
The proposed Conditions of Approval consider participation in future road improvements and require the recording of the final survey plat.

Decision:
The decision made by the Planning Commission is final unless timely appealed to the Board of Commissioners.



LAND DIVISION APPLICATION #LD-5N-819-13
PORT OF UMATILLA, APPLICANT
MAP 5N2811, TAX LOT 2600 & MAP 5N2814B, TAX LOT 200

2012 AERIAL PHOTO

NEW LOT 1 NEW LOT 2

PROPERTY OWNERS WITHIN 100' NOTICE OF SUBJECT PARCELS

MAP 5N2811

900	PENDLETON GRAIN GROWERS INC
1700	UMATILLA PORT OF
2400	BOISE WHITE PAPER C/O PORT OF UMATILLA
2600	PORT OF UMATILLA
2700	PORT OF UMATILLA

MAP 5N2811CC

1800	BARTON GEORGE H ETAL
1900	ZADE MARVIN L & MARILYNN C
2000	BARTON GEORGE H ETAL
2100	HARRIS C KENDALL & VIRGINIA L

MAP 5N2814

400	BIG RIVER GOLF COURSE LLC

MAP 5N2814B

200	UMATILLA PORT OF
300	UMATILLA PORT OF

N
W E
S

0 500 1000 1500
Feet

DATE: 12/13/13

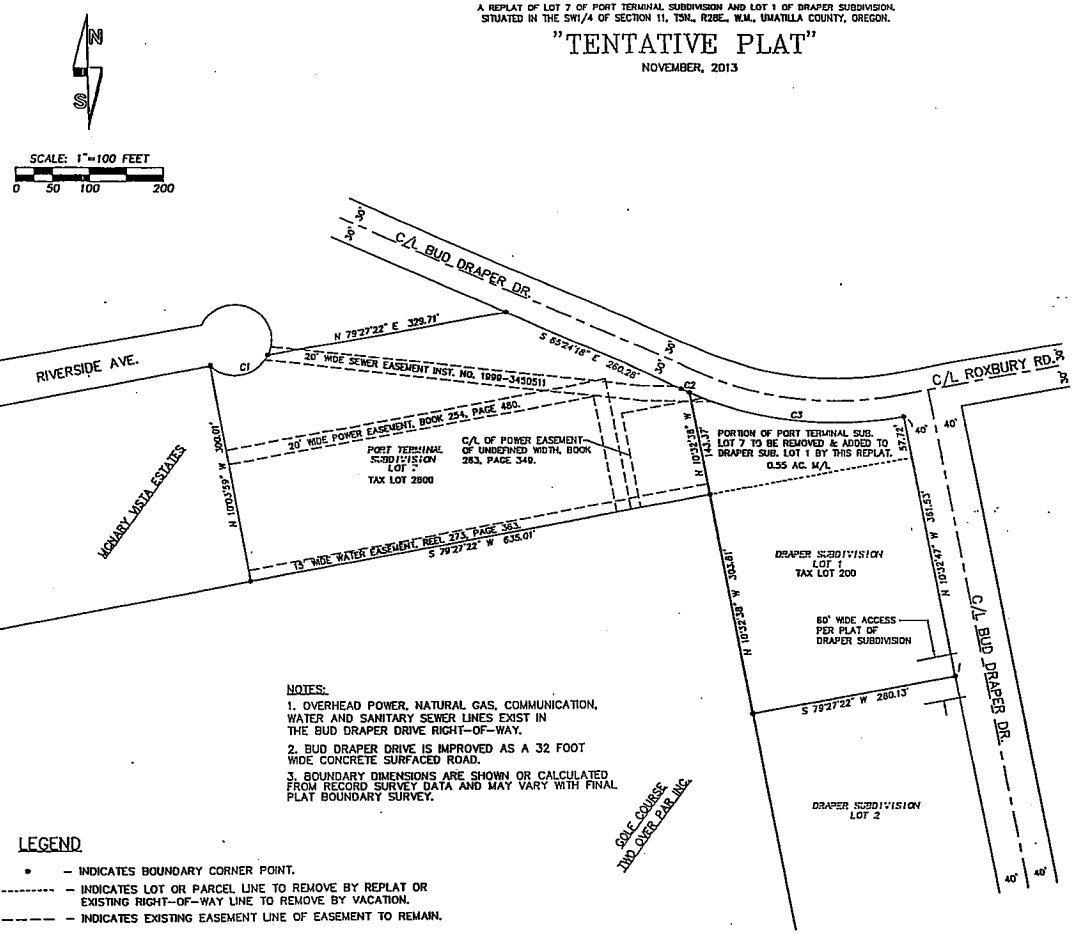
MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only.
Created by J.Alford, Umatilla County Planning Dept. 12/13/13
y:workspace/planning/vicinity maps/M-P/PortUmatilla_LD_5N_819_13.gws

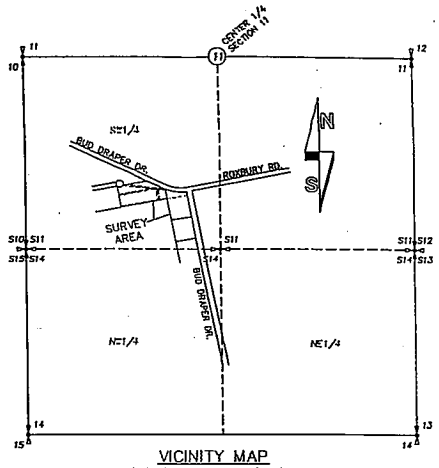
DRAPER LOT 1 REPLAT

A REPLAT OF LOT 7 OF PORT TERMINAL SUBDIVISION AND LOT 1 OF DRAPER SUBDIVISION, SITUATED IN THE SW1/4 OF SECTION 11, T5N., R28E., W.M., UMATILLA COUNTY, OREGON.

"TENTATIVE PLAT"

NOVEMBER, 2013





VICINITY MAP

SECTION 11 & 14, T5N., R28E., W.M., UMATILLA COUNTY, OREGON.

SCALE: 1" = 1000'±

NOTES:

1. OVERHEAD POWER, NATURAL GAS, COMMUNICATION, WATER AND SANITARY SEWER LINES EXIST IN THE BUD DRAPER DRIVE RIGHT-OF-WAY.
2. BUD DRAPER DRIVE IS IMPROVED AS A 32 FOOT WIDE CONCRETE SURFACED ROAD.
3. BOUNDARY DIMENSIONS ARE SHOWN OR CALCULATED FROM RECORD SURVEY DATA AND MAY VARY WITH FINAL PLAT BOUNDARY SURVEY.

OWNERSHIP BY TAX LOT:

TAX LOT 200 TAX MAP NO. 5N 28 14B: PORT OF UMATILLA.
TAX LOT 2600 TAX MAP NO. 5N 28 11: PORT OF UMATILLA.

ORIGINAL ACREAGE:

TAX LOT 2600 = 4.49 ACRES±.
TAX LOT 200 = 1.95 ACRES±.

REVISED ACREAGE:

TAX LOT 2600 = 3.94 ACRES±.
TAX LOT 200 = 2.50 ACRES±.

LEGEND

- • — INDICATES BOUNDARY CORNER POINT.
- --------- — INDICATES LOT OR PARCEL LINE TO REMOVE BY REPLAT OR EXISTING RIGHT-OF-WAY LINE TO REMOVE BY VACATION.
- _____ — INDICATES EXISTING EASEMENT LINE OF EASEMENT TO REMAIN.

CURVE TABLE

NO	DELTA	RADIUS	LENGTH	CHORD	CHORD BRG
C1	106°15'57"	50.00'	92.73'	80.00'	S 79°27'07" W
C2	1°21'45"	507.47'	12.07'	12.07'	N 66°05'10" W
C3	33°32'56"	507.47'	297.14'	292.92'	N 83°32'31" W

REGISTERED PROFESSIONAL LAND SURVEYOR

FOR TENTATIVE

OREGON
NOVEMBER 29, 2010
JASON M. WELLS
54657PLS
RENEWS 6/30/14

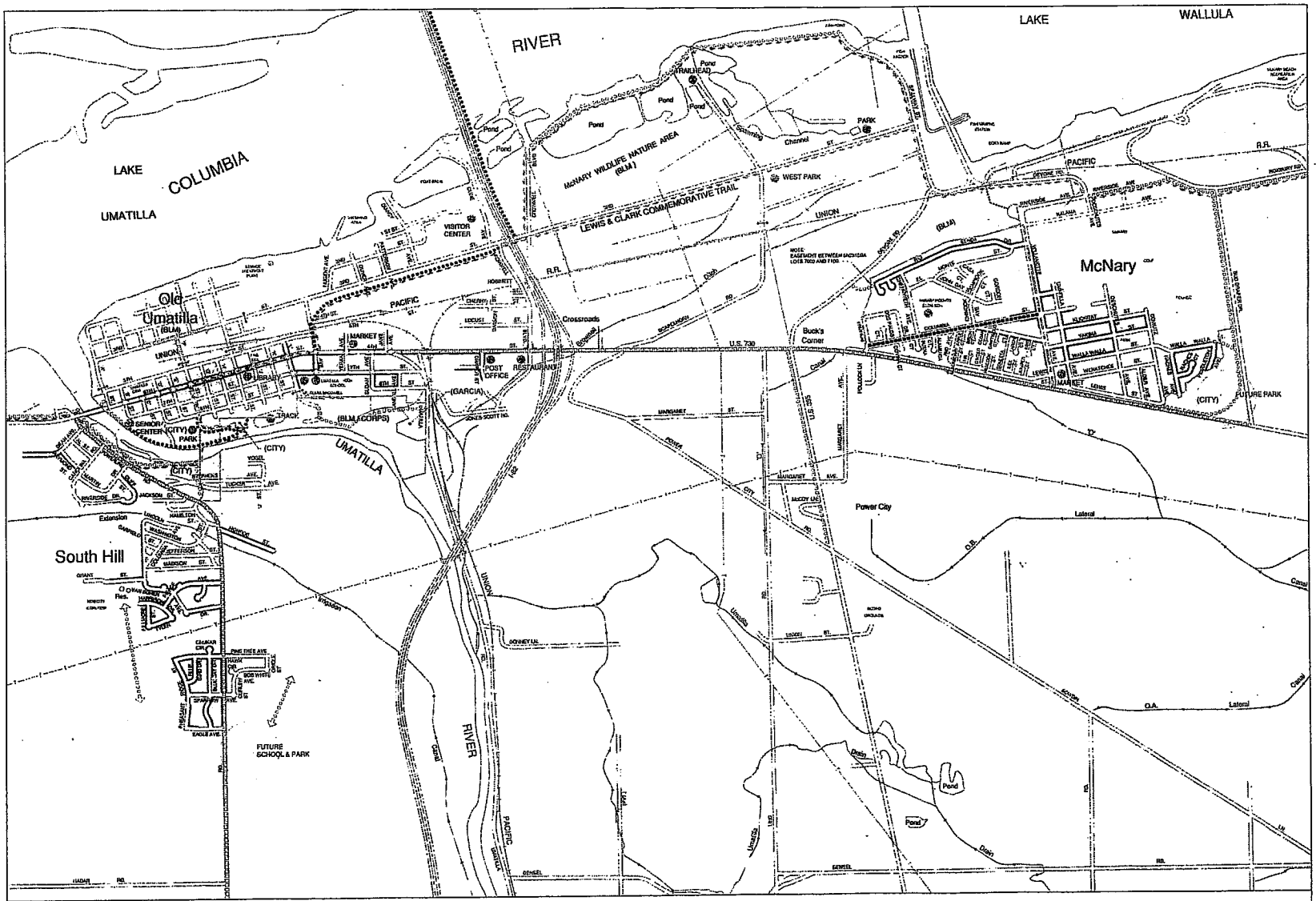
WELLS SURVEYING
1 SW NYE AVENUE, SUITE B
P.O. BOX 1695
PENDLETON, OR 97801
PHONE: (541) 276-6362

DATE: 11/13	DR. BY: JMW
CK. BY: WRW	NO: 13-1465

PROJECT: \PORT TERMINAL TENT

TENTATIVE PLAT OF DRAPER LOT 1 REPLAT PREPARED FOR THE PORT OF UMATILLA

3



CITY OF UMATILLA
PEDESTRIAN AND BICYCLE PLAN
EXISTING AND FUTURE FACILITIES

DAVID EVANS AND ASSOCIATES INC.
709 NW Wall Street, Suite 102
Bend, Oregon 97701 (541) 389-7614

PROJECT AREA (SEE TEXT)

DOWNTOWN CORE

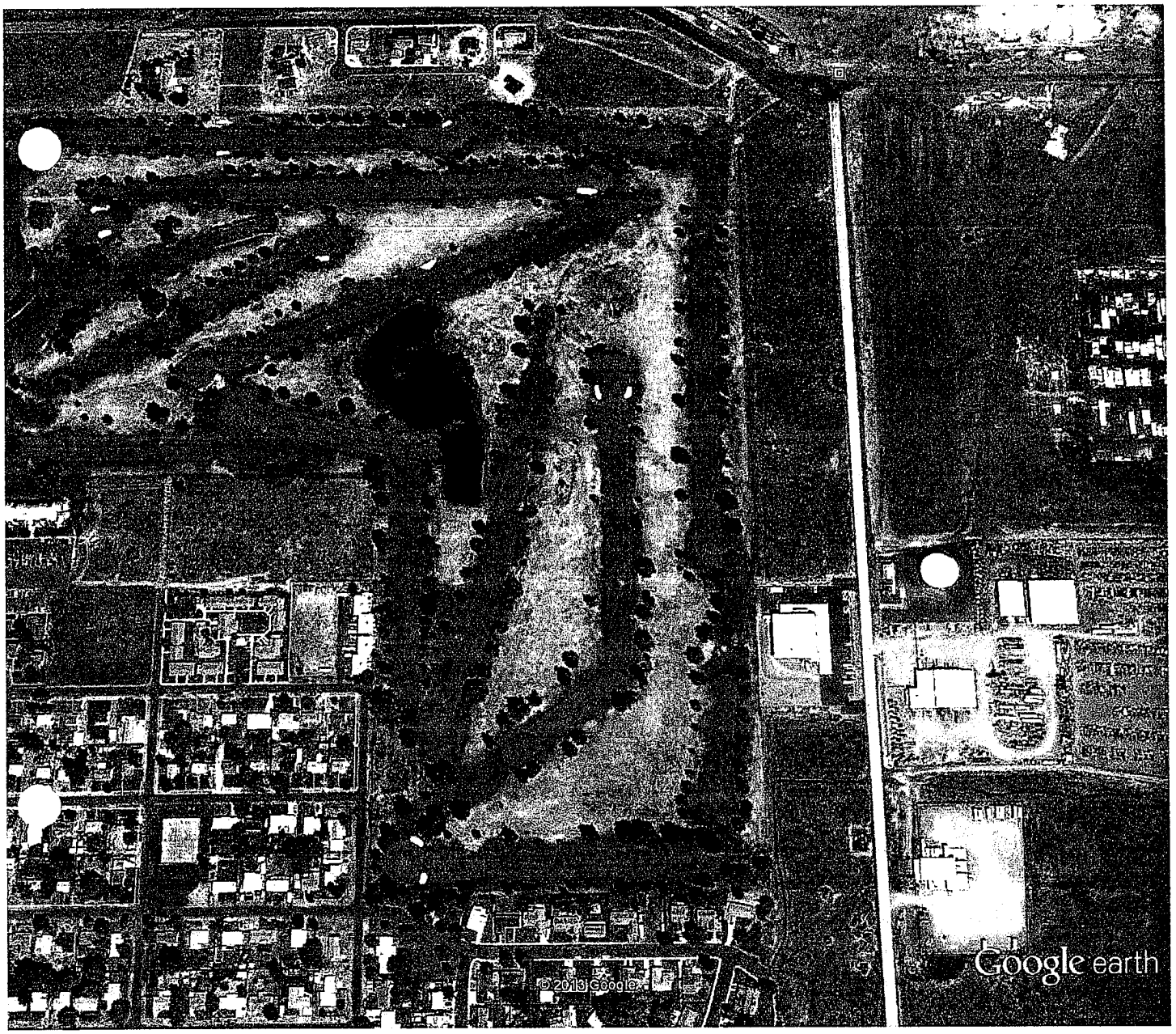
- DESTINATION
- FUTURE DESTINATION
- BIKE LANE
- FUTURE BIKE LANE
- SIDEWALK
- MULTI-USE PATH
- FUTURE MULTI-USE PATH
- USER TRAIL
- RIGHT-OF-WAY
- PROPERTY BOUNDARY (APPROX.)
- ( ) PROPERTY OWNER
- LEWIS & CLARK COMMEMORATIVE TRAIL

NORTH

0 500 1000 2000

UMAT0001.DWG JRL 11/25/02

Appendix
12.4-B-1



Google earth

feet 1000

meters 400

UMATILLA COUNTY PLANNING COMMISSION
PRELIMINARY FINDINGS AND CONCLUSIONS
Port of Umatilla Replat of Lot 1 of the Draper Subdivision,
and Lot 7 of the Port Terminal Subdivision, #LD-5N-819-13
ASSESSORS MAP # 5N 28 11, TAX LOT #2600
ASSESSORS MAP #5N 28 14B, TAX LOT #200

1. **APPLICANT:** Port of Umatilla, P. O. Box 879, Umatilla, Oregon 97882

2. **AGENT:** J.R. Cook, 3750 S.W. Marshall Place, Pendleton, Oregon 97801

3. **OWNERSHIP:** Port of Umatilla
Map # 5N 28 11, Tax Lot #2600
Map # 5N 28 14B, Tax Lot #200

4. **PROPERTY LOCATION:** Subject Property is located in the Port of Umatilla Industrial Park on the southwest corner of the intersection of Bud Draper Drive and Roxbury Road.

5. **REQUEST:** The request is a replat Lot 1 of the Draper Subdivision and Lot 7 of the Port Terminal Subdivision. Due to that exterior lot lines of each lot will be reconfigured a replat is necessary. (See map for reconfigured new lots.) The name of the proposed replat is the "Draper Lot 1 Replat."

6. **EXISTING ACREAGE:** **Lot 7:** Tax Lot # 2600 = 4.49 acres
Lot 1: Tax Lot # 200 = 1.95 acres

7. **RESULTING ACREAGE:** **New Lot 2:** (Tax Lot # 2600) = 3.94 acres
New Lot 1: (Tax Lot # 200) = 2.50 acres

8. **COMPREHENSIVE PLAN:** City of Umatilla, Industrial

9. **PROPERTY ZONING:** Heavy Industrial (M2)

10. **ACCESS:** The property receives access via Bud Draper Drive.

11. **ROAD TYPE:** Bud Draper Drive, County Road No. 1289, is a hard surface road improved to industrial standards.

12. **PROPERTY EASEMENTS:** Water sewer and utility easements terminate in the northwest corner of the proposed replatted lot.

13. **TRAIL ROUTES:** The Lewis & Clark Commemorative Trail route has been identified as crossing some of the industrial lands owned and managed by the Port of Umatilla. A

Memorandum of Understanding (MOU), signed by the Port of Umatilla, February 10, 2004[1], describes the route as running south along the east side of the McNary Golf Course to a Umatilla City water line easement, then proceeding east across Bud Draper Drive and continuing east along the City water line easement. Following this description would place the route along the west side of the Draper Subdivision and Lot 1 (tax lot 200). This section of the trail route identified along the east side of the golf course is not developed or improved.

The City of Umatilla Comprehensive Plan Appendix 12.4-B-1, "Pedestrian and Bicycle Plan of Existing and Future Facilities" map shows a different route through the Port area for the Lewis & Clark Commemorative Trail. This map shows the trail location running east along the north side of Lot 7 (tax lot 2600), crossing Bud Draper Drive and continuing east along Roxbury Road. This section of trail route along Lot 7 and Roxbury Road is not developed or improved. In addition to the Lewis & Clark Commemorative Trail there are other paths identified on the map as multi-use paths.

A 2013 Goggle map of the Port area shows a developed path located much farther south than the section of Lewis & Clark trail described in the MOU and Comprehensive Plan map. The improved path located to the south extends from the east termination of Walla Walla Street and runs north along the east side of the golf course and then turns east. This developed path route appears to be a multi-use path and is approximately ¼ mile south of Lot 1. (See maps.)

14. **EXISTING LAND USE**: Currently the property is vacant. The applicant proposes a replat to accommodate access requirements for development of a future warehousing facility.

15. **UTILITIES**: The area is served by Pacific Power and Light, Umatilla Electric Cooperative Association, CenturyLink Communications and Cascade Natural Gas

16. **WATER/SEWER**: Water and sewer are available in the area, with limitations, via the City of Umatilla.

17. **STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE:**
The criteria for approval contained in Section 152.697(C), Type III Land Divisions, are provided in underlined text. The evaluation responses follow in standard text.

(1) Complies with applicable elements of the Comprehensive Plan;

(2) Complies with applicable provisions listed in the zoning regulations of the Umatilla County Development Code Chapter; The City of Umatilla's state-acknowledged Comprehensive Plan allows the subject property and properties to the north and south of the applicant's property to be designated and zoned industrial. The proposed replat lot size is consistent with industrial dimensional standards.

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[1] Hand written on the MOU was an expiration date of January 1, 2007 for the trail agreement. This expiration date was written and initialed by a Port of Umatilla representative.

(3) Conforms and fits into the existing development scheme in the area, including logical extension of existing roads and public facilities within and adjoining the site; Lot 1 has legal access from Bud Draper Drive. Additionally, the applicant is required to sign and record for future financial participation in the upgrading of Bud Draper Drive, County Road No. 1289. The Irrevocable Consent Agreement runs with the property and is binding on the heirs, assigns and all other successors in interest to the owner of the property, according to the interest of the property and does not operate as a personal contract of the owner. Therefore, by the Board of Commissioners and the property owners signing the ICA agreement fulfills the County Development Code standard for an improvement agreement for the Type III Land Division.

(4) Complies with the standards and criteria of Section 152.667 (Forest/Multiple use Areas), if applicable due to the size, scope, and/or location of the request. The proposed Replat properties are not located within a Forest/Multiple use designated area. Therefore, the standards found in Section 152.667 for Forest/Multiple Use areas are not applicable.

(D) *Decision on a tentative replat plan.* The findings and conclusions of the Planning Commission shall include two copies of the tentative plan upon which the decision is noted and any conditions described. One copy shall be returned to the applicant, while the other is retained by the Planning Department. Approval by the Planning Commission shall be final upon signing of the findings, and stands as the county's official action unless appealed. Approval of the tentative plan shall not constitute acceptance of the final replat for recording. However, such approval shall be binding upon the county for purposes of preparation of the replat, and the county may require only such changes in the replat as are necessary for compliance with the terms of its approval of the tentative plan. The above decision for the tentative replat plan will be followed.

18. PROPERTY OWNERS & AGENCIES NOTIFIED: January 3, 2014

19. PLANNING COMMISSION HEARING DATE: January 23, 2014

20. AGENCIES NOTIFIED: Department of Environmental Quality, Oregon Water Resources, County Public Works Director, County Assessor, City of Umatilla, Umatilla Rural Fire District, Pacific Power & Light, Cascade Natural Gas, Umatilla Electric Co-op., and Century Link

21. COMMENTS: Emailed comments from the City of Umatilla to the applicant's agent were provided. The comments concerned a waterline easement and the route for the Lewis & Clark Commemorative Trail.

The City questioned why an existing waterline along the south side of Lot 7 was not shown on the preliminary replat survey and also expressed that it was desirable to identify and dedicate an easement for the exact Lewis & Clark Commemorative Trail route section along the north side of Lot 7 as part of the replat.

County Response Waterline Utility Easement:
The utility easement for an established waterline is required to be shown on the Final Replat Survey and is included as a condition of approval for the Replat.

County Response Lewis & Clark Commemorative Trail Easement Dedication:
The Lewis & Clark Commemorative Trail is shown on the City of Umatilla's Comprehensive Plan Appendix 12.4-B-1, "Pedestrian and Bicycle Plan of Existing and Future Facilities" map. The trail route section shown on the map along the north side of Lot 7 conflicts with the route identified in the Memorandum of Understanding trail agreement. It appears that the Lewis & Clark Commemorative Trail routes follow a variety of landmarks including rights-of-way, utility easements and traverses properties following agreed upon routes identified in the Memorandum of Understanding. (County Planning Staff was unable to locate a recorded easement dedication for any of the Lewis & Clark Commemorative Trail route.)

The County Planning Department believes the MOU stakeholders, including the City of Umatilla and the Port of Umatilla, should once again convene and pursue agreements and trail easements, supported by accurate legal descriptions, for the Lewis & Clark Commemorative Trail route. Accurately identifying and recording easements for the trail route would eliminate confusion between the route identified in the MOU agreement and the route shown on the City Comprehensive Plan Map. If the County Planning Department requires, as the City suggests, the section of the trail be dedicated along the north side of Lot 7 and the trail stakeholders decide the trail route should be elsewhere then recording an easement dedication on the applicant's replat would be pointless.

Additionally, and more importantly, a condition of approval for dedication of land for public use requires the permitting authority to find an essential nexus[2] between the proposed development and the required (condition) dedication. The City of Umatilla did not provide reasons relating the public dedication request to the impact of the applicant's replat. If a nexus is established then the local government must perform a rough proportionality analysis[3] to determine a balance between the impact of the development and the required public dedication.

Due to discrepancies in the trail route across the industrial areas of the Port properties, and also because the Port of Umatilla set a 2007 date for expiration of the trail agreement, and further because a nexus determination was not established between the applicant's replat request and the city's request for public dedication of the trail easement, the County Planning Department finds it cannot require as a condition of approval an easement dedication for public use for the Lewis & Clark Commemorative Trail across the applicant's property.

The County Planning Department also finds that the pursuit of recording easements and

[2] Nollan v. California Coastal Comm. 483 U.S. 825 (1987)
[3] Dolan v. City of Tigard, 512 U.S. 374 (1994)

dedications for the Lewis & Clark Commemorative Trail route should be pursued through stakeholder agreements and dedications by the property owners outside of the applicant's replat request.

DECISION: BASED UPON THE ABOVE STATED FINDINGS AND CONCLUSIONS, THE UMATILLA COUNTY PLANNING COMMISSION APPROVES THE PORT OF UMATILLA REPLAT, TYPE III LAND DIVISION REQUEST, #LD-5N-819-13, SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

The following **"precedent condition"** must be fulfilled prior to final approval of this request.

1. Sign and record an Irrevocable Consent Agreement for future financial participation in improvements to Bud Draper Drive, County Road No. 1289.

2. Submit a Subdivision Replat complying with State and County regulations. The survey shall show all easements including the utility easement along the existing waterline, road names and include the replat name, *Draper Lot 1 Replat.*

The following **"subsequent condition"** must be fulfilled for final approval of the Replat.

3. Record the Subdivision Replat, prior to conveying Lots and recording deeds.

UMATILLA COUNTY PLANNING COMMISSION

Dated _____day of _____, 20____

_____
Randy Randall, *Planning Commission Chairman*

Mailed _____day of _____, 20____

UMATILLA COUNTY
PLANNING COMMISSION
HEARING

THURSDAY,
JANUARY 23, 2014

#LUD-163-13
LAND USE DECISION
EAST END ROD & GUN CLUB
continued

January 15, 2014

MEMO

TO: Planning Commission

Interested Persons

FROM: Tamra Mabbott

RE: Continued Hearing for LUD-163-13 / East End Rod N Gun Club

The public hearing for LUD-163-13 was continued from the December 19, 2013 to January 23, 2014.

This memo and attached materials are intended to supplement the packets mailed on December 12th. For persons interested in reviewing materials submitted prior to the December 19th hearing, please go to the county website: http://www.co.umatilla.or.us/planning/Planpackets/19_december2013.pdf

BACKGROUND: On October 15, 2013, staff mailed a Public Notice with preliminary Findings and preliminary approval for an application filed by the East End Rod N Gun Club. The Land Use application request was to allow the continuation of a "firearms training facility" as allowed under the provisions of ORS 197.770. The request also included a 35-acre expansion of the use.

On November 5, 2013, a request for a hearing was filed by neighboring property owners, Dennis Rea and Nathan Rea. The Reas have retained an attorney to represent them before the Planning Commission.

On December 19, 2013 Planning Commission held a hearing on LUD-163-13. Commission voted to continue the hearing to January 23, 2014. At the December hearing, commission received testimony in favor and in opposition, and allowed the Gun Club an opportunity for a rebuttal. Numerous exhibits have been submitted since December 19th and are attached. The record remains open until the hearing is closed. The applicant requested that the application be modified to exclude the 35-acre expansion area.

CURRENT: Planning Commission asked specifically for additional information on three topics. Those topics are listed below, followed by a brief response

1. Additional information about the court case referenced by Mr. Patrick Gregg (Conrady versus Lincoln County, A150995, December 18, 2013).
    a. A copy of the case is attached.
    b. The facts of the case focus on the authority of local government to regulate discharging of firearms and the legislative history of ORS 166.176(2). It is not primarily a land use case, although land use is referenced on several pages. On page 22, the Court concluded that the Lincoln County land use ordinance is not preempted by ORS 166.170, et al. In other words, the landowner would indeed be subject to the Lincoln County land use ordinance which requires a land use permit for a shooting range.
    c. Mike Robinson, Attorney for the Gun Club, and Patrick Gregg, Attorney for the Rea Family, will provide legal interpretation and assessment of the case relevancy.

2. Additional information about the training and certifications that were being conducted in 1995.
    a. The Gun Club has indicated they will provide additional information at the hearing.

3. The footprint of the operation in 1995.
    a. The Gun Club will provide additional information at the hearing.

January 23, 2014 Hearing At the January 23, 2014 hearing, Planning Commission will reopen the hearing. At the close of the December Hearing, Chairman Randall stated that the commission did not need to revisit noise and safety issues. The written record has remained open and will be until the hearing is closed.

RECORD TABLE OF CONTENTS/New Exhibits: See attached.

East End Rod and Gun Club Exhibit List **#LUD-163-13**
Exhibit list includes items submitted after the original packet was mailed to Commission on December 12, 2013

Exhibit #	Description of Exhibit
1	Letter dated December 13, 2013, received December 16, 2013, from Lawrence Ranches, Inc. signed by Susan Lawrence Talbot. Neighboring property owner in opposition.
2	Letter dated/received December 17, 2013 from Sheri M. Miller, interested person in support.
3	Letter dated/received December 17, 2013 from Don Zimmerman, Boy Scout Troop 305, in support.
4	Letter received December 17, 2013 from Sam and Donna LeFore, Sam Lefore Fruit Farms, Inc., owners of property within two miles. Includes map. In opposition with recommended conditions if approved.
5	December 17, 2013 email from Dave Reeves and Tamara LeFore-Reeves, residents of Milton-Freewater, concerned about expansion.
6	Letter received December 17, 2013 from Kelly Peterson, Walla Walla resident and owner of neighboring farmland. Opposed to expansion.
7	Letter dated December 16, 2013, received December 18, 2013, from Sharon M. Schultz, owner of adjacent farmland. Concerns about facility, opposed to expansion, request denial.
8	December 16, 2013 letter received December 19, 2013, from Mike Davis, Oregon State Police SWAT and Explosive Disposal Unit, retired. In support.
9	Letter received December 19, 2013 from Mike Cibart, EERGC Member, in support.
10	Letter received December 19, 2013 from Larry Zalaznik, EERGC Director in charge of shotgun games. In support.
11	Letter reveived December 19, 2013, from Jan Bledsoe of VonDerAhe, Inc., representing subject landowners. In support.
12	Letter received December 19, 2013, from Larry Duckett, EERGC member, in support.
13	Letter dated December 17, 2013, received December 19, 2013, from Lt. Douglas Jones, US Dept of Veterans Affairs Police, Walla Walla. In support.
14	Letter received December 19, 2013, from John Shafer, 4-H shooting instructor, in support.
15	Letter dated December 16, 2013, received December December 19, 2013 from Robert Blach, Walla Walla Fun Club, in support.
16	December 19, 2013 Time Deposit Inquiry for East End Rod & Gun Club.
17	December 19, 2013 letter from Chad Ray, EERGC Member, in support.
18	Letter submitted December 19, 2013 from Scott Gilmore, Milton-Freewater Resident, in support.
19	Letter submitted December 19, 2013, from Stacy Alexander, NRA Certified Instructor, in support.
20	2012 Aerial Photo, Umatilla County Oregon, showing subject property and one-mile vicinity.
21	List of landowners within one mile of VonDerAhe property.
22	Photos submitted by Dennis Rea and Nathan Rea.
23	Oversize Exhibit (audio cd) submitted by Dennis Rea and Nathan Rea.
	New Exhibits Submitted After December 19th hearing. These items are to be entered into record at January Hearing
24	Soil Capability class map of subject property (presented to commission at hearing but not formally adopted into record).
25	Letter dated December 21, 2013 from Jim Hartford, EERGC member and NRA member. In support.
26	Letter dated December 27, 2013, received December 30, 2013, from Grant Asher, Concealed

Firearms Instructor, Retired Chief of Police from City of Hermiston, in support

27 Final Opinion, Oregon Court of Appeals, Conrady versus Lincoln County, December 18, 2013.

28 Letter dated January 8, 2014 from Jonathan Phillips, EERGC member . In support. (email)

29 Letter dated January 8, 2014 from Theodore Richerzhagen III, EERGC member. In support. (email)

30 Letter dated January 8, 2014 from Anthony Remboldt, EERGC member. In support. (email)

31 Letter dated January 8, 2014 from Arlene Isaacson, EERGC member. In support. (email)

32 Letter dated January 8, 2014 from Mark Mebes, EERGC member. In support. (email)

33 Letter dated January 8, 2014 from Greggory S. Bond, EERGC member. In support. (email)

34 Letter dated January 8, 2014 from Steve Filkins, EERGC member. In support. (email)

35 Letter dated January 9, 2014 from Paul Roquet, EERGC member. In support. (email)

36 Letter w/photos dated January 9, 2014 from Ken Sloan, EERGC member. In support. (email)

37 Letter dated January 8, 2014 from Richard A. Ullian, EERGC member. In support. (USPS)

38 Letter dated January 9, 2014 from Paul Stephens, EERGC member. In support (email)

39 EERGC Articles of Incorporation; EERGC By laws; EERGC Property Insurance documents submitted by Verl Pressnall on January 10, 2014. (email)

40 Letter dated January 10, 2014 from Brian Schnick, EERGC member. In support. (email)

41 Letter received January 10, 2014 from Casey McClellan, EERGC member. In support. (USPS)

42 Letter received January 10, 2014 from Lorne Harvey, EERGC member. In support. (USPS)

43 Letter received January 10, 2014 from Adam Sherman, EERGC member. In support (USPS)

44 Letter received January 10, 2014 from Douglas Humphrey, EERGC member. In support (USPS)

45 Letter dated January 8, 2014 from Rich Eagon, EERGC member. In support. Received 01/10/14 (email)

46 Letter dated January 10, 2014 from Terry Hayes, EERGC member. In support. (email)

47 Letter dated January 11, 2014 from Berton K Kinman, surrounding property owner. In opposition. (email)

48 Letter dated January 11, 2014 from Brian Lovgren, EERGC member. In support. (email)

49 Letter dated January 12, 2014 from David Juhasz, EERGC member. In support. (email)

50 Letter received January 13, 2014 from Michael Ferguson, EERGC member. In support. (USPS)

51 Letter received January 13, 2014 from Steve Brinker, EERGC member. In support. (USPS)

52 Letter dated January 9, 2014 from Jess & Sandi Roddick, EERGC members. In support. Received 01/13/14 (USPS)

53 Letter dated January 9, 2014 from Paul E Roquet, EERGC member. In support. Received 01/13/14 (USPS)

54 Letter dated January 10, 2014 from Lucian Turner, EERGC member. In support. Received 01/13/14 (USPS)

55 Letter received January 13, 2014 from Jim Buettner, EERGC member. In support. (USPS)

56 Letter dated January 8, 2014 from Darrel Unrue, EERGC member. In support. Received 01/13/14 (USPS)

57 Letter dated January 9, 2014 from Richard Backlund, EERGC member. In support. Received 01/13/14 (USPS)

58 Letter dated January 12, 2014 from Deanna D Ferguson, EERGC proponent. In support. Received 01/14/14 (USPS)

59 Letter dated January 13, 2014 from Bill Timmermann, EERGC member. In support. Received 01/14/14 (USPS)

60 Letter received January 14, 2014 from Patrick Gregg, Attorney for Rea family. In opposition. Counter delivery.

61 Notarized statement received January 15, 2014 from Gary VanBlokland, EERGC and NRA member. In support. (USPS)

62 Letter received January 15, 2014 from Joseph C Harshman, EERGC member. In support (USPS)

63 Letter received January 15, 2014 from Walt Caton, EERGC member. In support (USPS)

64 Letter received January 15, 2014 from Richard McCann, EERGC and FWWM gun club member. In support (USPS)

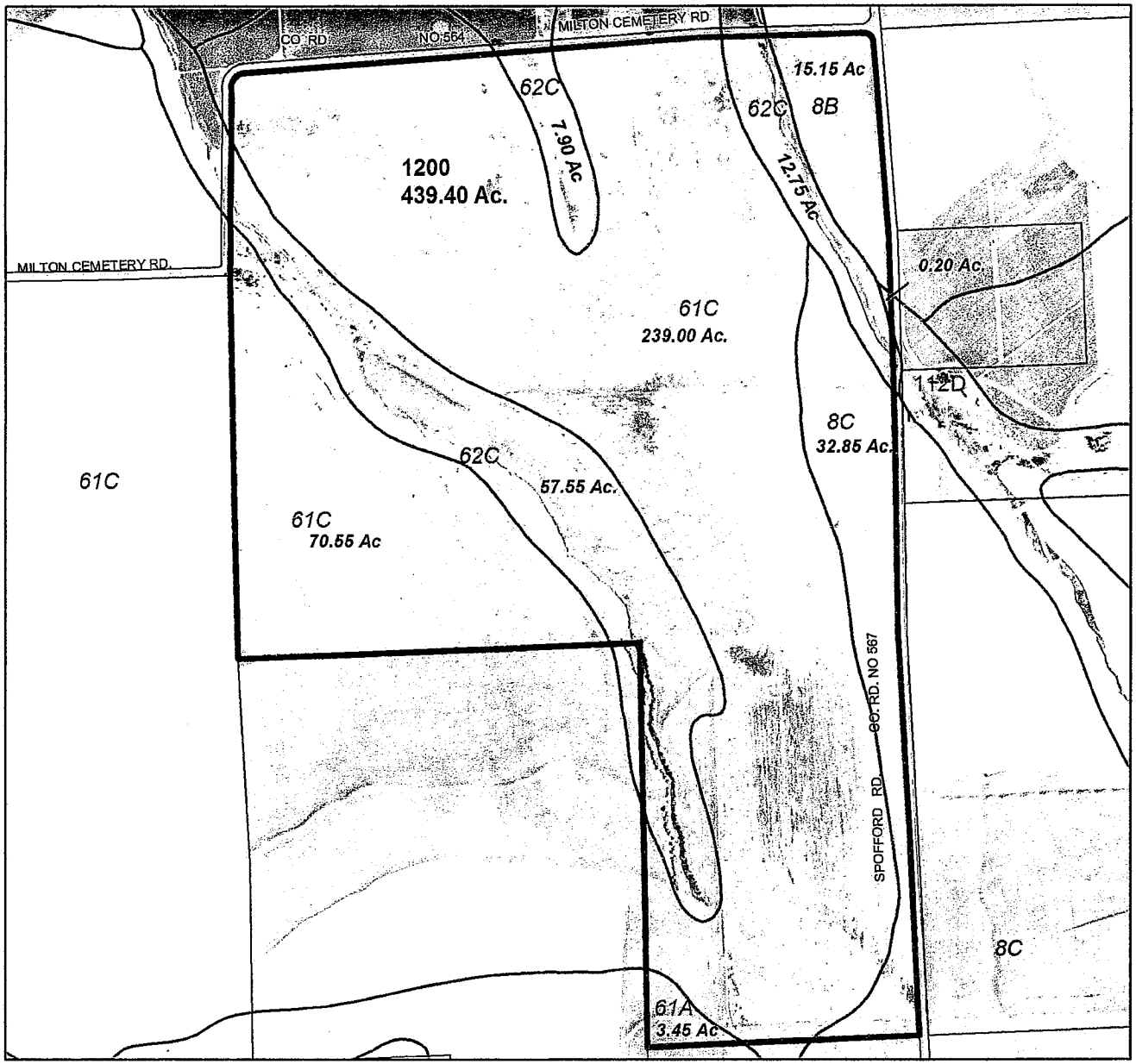
65 Letter received January 15, 2014 from Evert Stanley Ray, EERGC member. In support (USPS)

66 Letter received January 15, 2014 from April Dyntera, EERGC member. In support (USPS)

67 Email correspondence between Verl Pressnall, EERGC President and Rick Saager, Milton Freewater Rural Fire Department Chief stating there have been no emergency responses at the EERGC. Received 01/15/14 by email to Tamra Mabbott, Planning Dir.

68 Letter received January 16, 2014 from Sheldon Ferguson, EERGC member. In support. Also included is a list of signatures of people in support of EERGC. (email)

69 Letter and exhibits received January 16, 2014 from Michael Robinson, Attorney for EERGC. In support. (email)



LAND USE DECISION #LUD-163-13
EAST END ROD & GUN CLUB RANGE

Subject Parcel

Soil Survey

Dry Land Capability Class

61C - Class 2e
309.55 Ac.

62C - Class 3e
78.20 Ac.

8C - Class 3e
32.85 Ac.

8B - Class 2e
15.15 Ac.

61A - Class 2c
3.45 Ac.

112D - Class 4s
0.20 Ac.

RECEIVED
DEC 19 2013
UMATILLA COUNTY
PLANNING DEPARTMENT

2012 AERIAL PHOTO

N
W E
S

0 500 1000 1500
Feet

Date: 9/18/13

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by J. Alford, Umatilla County Planning Department 9/18/13

y:workspace/planning/vicinity maps/E-H/EastEnd_Rod_GunClub_soils2.gws

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DEC 19 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Saturday, December 21, 2013

Umatilla County Department of Land Use Planning
Planning Commissioners
216 SE 4th St.
Pendleton, OR 97801

RE: Letter In Favor of "East End Rod & Gun Club"

Dear Commissioners,

I am an active member of the East End Rod & Club and the NRA. I have used firearms personally and professionally for the last 50 years. I have trained, instructed, qualified and competed at dozens of firearm range facilities from Quantico, Virginia to Ft. Lewis, Washington. I have hunted in Washington, Oregon and Idaho.

Please know how fortunate we all are to have the East End Rod & Gun Club at its existing location and with its present operating procedures, focus on safe firearm usage, marksmanship and heritage. Because of it, area adults and youth are able to not only continue their sport enjoyment but become appropriately and safely introduced to the various shooting sports. My wife and daughters included.

The East End Rod and Gun Club location, natural topography, coupled with appropriately placed earth berm backgrounds, alley dividers and associated range layout make for an extremely safe shooting environment. Established range rules procedures and practices along with very conscientious members make it even more so. I have volunteered as range safety officer and weapons familiarity instructor.

Economically, the East End Rod and Gun Club has been a boon to Milton-Freewater. I routinely purchase firearms & ammunition, firearms associated items, gas and meals in Milton-Freewater. I frequently shop Milton-Freewater businesses just because I'm in the area.

For the benefit of many, the continued presence and practices of the range should be wholeheartedly endorsed.

Sincerely

Jim Hartford
304 SE Highland Pk Dr
College Place, WA 99324

#29

RECEIVED

DEC 3 0 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

December 27, 2013

To Whom It May Concern:

I have been instructing gun classes since the late 80's. I instructed at Blue Mountain Community College for students getting their degree in Criminal Justice. The class was a shooting class and we used the old Pendleton Police Range on the Holdman Road. About 1994 I started doing the Oregon Concealed Firearms training for persons wanting to obtain an Oregon Concealed Handgun License. In this class I required my students to shoot 150 rounds. Finding a location to do this was practically impossible. If it was a class associated with the college, I could use the Pendleton Police Range even after it was moved from Holdman Road to the new location up above the Pendleton Airport.

I put 1200 persons through the Oregon concealed firearms training and every one of them fired live ammunition except for maybe 5 of them. Where did I take these people to shoot? Gravel pits, private property, out by the weigh station on Hwy 730 in the Hermiston area other locations that were not really good places to shoot for the most part. A small hill, bank of dirt or whatever for a backstop and you had a place for shooting firearms. Were they good locations, no, but it was what you had to work with.

Then in the fall of 2008 I started instructing the Utah and Oregon concealed firearms training and in the last 5 years have put over 5000 gun owners through this class. These are people wanting to carry a concealed firearm. When I did this I did away with the shooting part of the class, mainly because of too many students and not enough time and places to go and create a good and safe experience for the student. It became a strictly lecture type class. Shooting was not a part of it, but I strongly urged and highly recommended my students needed to go out and practice with their firearms, especially if they were going to carry concealed. The question was always, "Where can we go and practice?" Not an easy question to answer.

Then somewhere in 2009 the East End Rod and Gun Club contacted me and wanted to set up some classes for their members and the general public in the Milton-Freewater area. This is when I met Verl Pressnall and got the opportunity to do classes and go to the range in the Milton-Freewater area. Over the last 3 or 4 years the membership in the club has grown and they have continued through hard work of Verl and other members to develop the East End Rod and Gun Club into a safe and fun place to go with your family, young and old, to shoot your firearms. This range is in an ideal location and accessible to citizens of Umatilla County. In my presentation at all gun training classes I herald the East End Rod and Gun Club as one of the best places to go and shoot in a safe environment.

Take the East End Rod and Gun Club range away from the use of citizens in Umatilla County is not in the best interest of the county and its citizens. People are still going to go out and shoot firearms and the locations they choose will not be safe for them, their families and other citizens of the county.

#26

I strongly urge whoever has the power to make this decision that the East End Rod and Gun Club is given the authority to continue on with activities that they provide for the citizens of Umatilla County. It is a safe and much needed asset for the citizens, gun owners, families and others to enjoy. We have the right to own firearms; let's just do it in a safe location, and one of them being the East End Rod and Gun Club's range.

Thank you for your time.

Grant Asher
Utah/Oregon Concealed Firearms Instructor,
Retired Chief of Police from the City of Hermiston and
a concerned resident of Umatilla County

ASHER INVESTIGATIONS, LLC
Firearms Training
PO Box 1106
Pendleton, OR 97801

FILED: December 18, 2013

IN THE COURT OF APPEALS OF THE STATE OF OREGON

GERALD ALEX CONRADY,
Plaintiff-Appellant,

and

KATHY ANN CONRADY,
Plaintiff,

v.

LINCOLN COUNTY,
Defendant-Respondent.

RECEIVED

DEC 19 2013

UMATILLA COUNTY
PLANNING DEPARTMENT

Lincoln County Circuit Court
111143

A150995

Charles P. Littlehales, Judge.

Argued and submitted on June 06, 2013.

Russell L. Baldwin argued the cause and filed the briefs for appellant.

Kristin H. Yuille argued the cause and filed the brief for respondent.

Before Duncan, Presiding Judge, and Haselton, Chief Judge, and Armstrong, Judge.

DUNCAN, P. J.

Affirmed.

DUNCAN, P. J.

Under Lincoln County's zoning regulations, a "firearms training facility" is allowed as a conditional use within areas zoned for timber conservation, and a property owner who wishes to establish a firearms training facility in such an area must apply for a conditional use permit. The question in this case is whether that permit requirement is preempted under state law--more specifically, under ORS 166.170, ORS 166.171, and ORS 166.176, three statutes that concern preemption of local firearms regulation. The circuit court issued a declaratory judgment ruling that the county's ordinance was not preempted. For the reasons that follow, we agree and affirm the judgment of the circuit court.

I. BACKGROUND

For purposes of this appeal, the relevant background facts are not in dispute. Plaintiffs own real property in Lincoln County that is zoned for timber conservation (T-C), and they intended to operate a shooting range on that property.[1] The county insisted that, in order to operate a shooting range lawfully, plaintiffs first had to obtain a conditional use permit for a "firearms training facility," as required by county code. The relevant ordinance, Lincoln County Code (LCC) 1.1375(2)(m), was enacted in 1994 and provides:

"(2) Conditional Uses Permitted

[1] Only plaintiff Gerald Alex Conrady appeals. For ease of reference, we do not distinguish between "plaintiff" and "plaintiffs" for purposes of appeal.

"The following uses may be permitted [in a T-C zone] subject to provisions of subsection (3) of this section and applicable provisions of LLC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

"* * * * *

"(m) Firearms training facility."

LCC 1.1601, in turn, provides that the "[l]ocation and operation of designated conditional uses shall be subject to review and authorized only by issuance of a Conditional Use Permit," and LCC 1.1605 to 1.1630 set forth additional standards and procedures for obtaining a conditional use permit.

Plaintiffs took the position that LCC 1.1375(2)(m) was void under state law and that the county could not lawfully require them to obtain a conditional use permit prior to using the property as a shooting range. To support their position, plaintiffs relied on three statutes that, in their view, established that the county was preempted from requiring conditional use permits for shooting ranges. As detailed below, the first of those statutes, ORS 166.170, was enacted in 1995 and sets forth a general rule that the state--and not a local government--is authorized to regulate the sale, acquisition, transfer, ownership, possession, storage, transportation, or use of firearms, except when expressly authorized by the legislature. The second statute, ORS 166.171, was enacted at the same time and provides express authority for counties to regulate the discharge of firearms within their boundaries, but that authority is subject to exceptions--notably, an exception that preempts counties from applying their ordinances to "[a] person discharging a firearm on a public or private shooting range, shooting gallery or other area designed and built for the purpose

of target shooting." ORS 166.171(2)(d). The third statute, ORS 166.176, was enacted two years later and, generally speaking, allows counties to enforce certain ordinances related to the discharge of firearms that were adopted before the earlier statutes, ORS 166.170 and ORS 166.171, went into effect. However, ORS 166.176 also includes an exception concerning shooting ranges. ORS 166.176(2) ("Subsection (1) of this section does not apply to * * * [o]rdinances regulating, restricting or prohibiting the discharge of firearms on a shooting range or in a shooting gallery or other area designed and built for the purpose of target shooting.").

The county disagreed with plaintiffs' reading of those preemption statutes, particularly with regard to the scope of the shooting-range exceptions in ORS 166.171(2)(d) and ORS 166.176(2), and adhered to its position that the permit requirement in LCC 1.1375(2)(m) was valid. Eventually, plaintiffs filed this action to resolve the parties' dispute regarding the effect of ORS 166.170, ORS 166.171, and ORS 166.176. Their complaint requested a declaration "that [the county] is preempted by state law from requiring plaintiffs to have a conditional use permit prior to lawfully discharging firearms on plaintiffs' rural property."

The parties essentially agreed that the preemption question could be decided as a matter of law, and plaintiffs and the county each filed a motion for summary judgment. Plaintiffs, for their part, argued that the preemption statutes demonstrated clear legislative intent to exempt shooting ranges from all county regulation. The county, on the other hand, argued that, although the shooting-range exceptions in the preemption

statutes limit the county's ability to regulate what happens *on* an established shooting range, the county still has the authority to decide whether to permit a shooting range in the first instance--*i.e.*, to require a conditional use permit for the operation of a firearms training facility in a T-C zone.

The circuit court agreed with the county's understanding of the preemption statutes:

> "With respect to the Plaintiffs' and the [county's] claims for declaratory relief, the Court declares that the Lincoln County Code 1.1375(2)(m) requirement to obtain a conditional use permit for a shooting range as a firearms training facility in a Timber Conservation Zone is not preempted by ORS 166.170, [ORS] 166.171, and ORS 166.176[.]"

Plaintiffs now appeal that judgment, reprising their arguments regarding the effect of the preemption statutes on LCC 1.1375(2)(m).[2]

II. ANALYSIS

The question before us is whether the legislature, by enacting ORS 166.170, ORS 166.171, and ORS 166.176, intended to preempt a county zoning ordinance that requires a landowner to obtain a conditional use permit before using the land as a shooting range. In wending our way through the preemption statutes, we apply the methodology described in *State v. Gaines*, 346 Or 160, 171-72, 206 P3d 1042 (2009), discerning the legislature's intent by focusing first on the text, context, and any useful legislative history, then proceeding to general maxims of statutory construction if the

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[2] Plaintiffs also asserted a quiet title claim in their complaint, which the trial court dismissed. To the extent that plaintiffs separately challenge the dismissal of that claim in this appeal, we reject that challenge without discussion.

legislature's intent remains obscure.

As noted, the preemption statutes implicated in this action were enacted in the mid-1990s. Two of those statutes, ORS 166.170 and ORS 166.171, were enacted together in 1995 as part of the same bill, House Bill (HB) 2784. As we have observed in prior cases, the legislative history of HB 2784 is replete with references to the overarching problem at which the bill was aimed: the "patchwork" of local regulations facing gun owners who traveled throughout the state. *See, e.g., Doe v. Medford School Dist. 549C*, 232 Or App 38, 57, 221 P3d 787 (2009) (quoting legislative history that confirms "the focus of the legislature was on avoiding a patchwork quilt of local government laws inconsistently regulating the use of firearms" and that the "carriers of HB 2784 made that same point repeatedly" (emphasis omitted)). To that end, the first section of the enacted bill, now codified as ORS 166.170, sets forth the general rule of preemption for firearms-related regulations:

> "(1) Except as expressly authorized by state statute, the authority to regulate in any matter whatsoever the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition, is vested solely in the Legislative Assembly.
>
> "(2) Except as expressly authorized by state statute, no county, city or other municipal corporation or district may enact civil or criminal ordinances, including but not limited to zoning ordinances, to regulate, restrict or prohibit the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition. Ordinances that are contrary to this subsection are void."

Much of plaintiffs' argument focuses on that general preemption statute and

our application of the statute in *Oregon Firearms v. Board of Higher Education*, 245 Or App 713, 264 P3d 160 (2011). In that case, we held that ORS 166.170 preempted an administrative rule of the Oregon State Board of Higher Education and the Oregon University System that imposed sanctions on persons who possessed or used firearms on university property. We reasoned that the administrative rule was "an exercise of an 'authority to regulate' firearms that is *not expressly authorized by the Legislative Assembly*, and that it is preempted by ORS 166.170(1)." 245 Or App at 723 (emphasis added). In plaintiffs' view, "[t]his court need not revisit its prior determination in [*Oregon Firearms*] to correctly apply the legislative mandate."

However, as the county points out, there is a crucial difference between this case and *Oregon Firearms*: The government actors in that case, the Oregon State Board of Higher Education and the Oregon University System, were not *cities or counties*. The second and third sections of HB 2784, codified, respectively, as ORS 166.171 and ORS 166.172, created different rules for those local governments. ORS 166.171(1) expressly authorizes counties to "adopt ordinances to regulate, restrict or prohibit the *discharge of firearms* within their boundaries." (Emphasis added.) ORS 166.172(1) provides the same express authorization to cities. In both cases, however, the express authorization is subject to exceptions. With regard to counties, ORS 166.171(2) provides:

> "Ordinances adopted under subsection (1) of this section *may not apply to or affect*:
>
> > "(a) A person discharging a firearm in the lawful defense of person or property.

"(b) A person discharging a firearm in the course of lawful hunting.

"(c) A landowner and guests of the landowner discharging a firearm, when the discharge will not endanger adjacent persons or property.

"(d) *A person discharging a firearm on a public or private shooting range, shooting gallery or other area designed and built for the purpose of target shooting.*

"(e) A person discharging a firearm in the course of target shooting on public land that is not inside an urban growth boundary or the boundary of a city, if the discharge will not endanger persons or property."[3]

(Emphasis added.) ORS 166.172(2) provides a shorter list of exceptions for cities, but likewise includes an exception for "[a] person discharging a firearm on a public or private shooting range, shooting gallery or other area designed and built for the purpose of target shooting." ORS 166.172(2)(b).

In its next regular session, the legislature specifically revisited the sweeping preemptive effect of its 1995 legislation on county ordinances. As we will describe in more detail, the change was prompted because one county in particular--Deschutes County--was concerned that the 1995 statutes had invalidated a local ordinance that allowed for the creation of "no-shooting zones" within the county. In response to that concern, the legislature enacted ORS 166.176, which essentially "grandfathered in" certain county ordinances that antedated the 1995 statutes. ORS 166.176(1) sets forth

[3] Another exception was later added for "[a]n employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife." Or Laws 2009, ch 556, § 1. That addition is not material to our analysis.

that savings clause:

> "(1) Nothing in ORS 166.170 or 166.171 is intended to preempt, invalidate or in any way affect the operation of any provision of a county ordinance that was in effect on November 2, 1995, to the extent that the provision:
>
> > "(a) Established a procedure for regulating, restricting or prohibiting the discharge of firearms; or
> >
> > "(b) Regulated, restricted or prohibited the discharge of firearms."

The savings clause is subject to an exception, one that is almost identical to the exceptions in ORS 166.171(2)(d) and ORS 166.172(2)(b) for "[a] person discharging a firearm on a public or private shooting range, shooting gallery or other area designed and built for the purpose of target shooting." The exception to the savings clause in ORS 166.176(2)(a) provides:

> "Subsection (1) of this section does not apply to * * * [o]rdinances regulating, restricting or prohibiting the discharge of firearms on a shooting range or in a shooting gallery or other area designed and built for the purpose of target shooting."[4]

All that is to say that, in this case—and unlike in *Oregon Firearms*—the question is not whether the general preemption statute, ORS 166.170, preempts a state agency from regulating the discharge of firearms. Counties have express authority to do so, subject to enumerated exceptions; and, in the case of county ordinances in effect on

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[4] As part of the same 2009 law that amended ORS 166.171, *see* ___ Or App at ___ n 3 (slip op at __ n 3), the legislature added a corresponding exception to ORS 166.176 for "[a]n employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife." Or Laws 2009, ch 556, § 4. The change is not material to our analysis.

November 2, 1995, those exceptions are limited to a single relevant exception: the shooting-range exception in ORS 166.176(2)(a).

Thus, the inquiry before us narrows considerably. The zoning ordinance that plaintiffs asked the court to declare preempted, LCC 1.1375(2)(m), was adopted in 1994. The ordinance operates to restrict the discharge of firearms by preventing plaintiffs from using their property as a shooting range without obtaining a conditional use permit.[5] Therefore, unless an exception to the savings clause applies, "[n]othing in ORS 166.170 or 166.171 is intended to preempt, invalidate or in any way affect the operation of" the county's conditional use requirement "to the extent that the provision" either "[e]stablished a procedure for regulating, restricting or prohibiting the discharge of firearms" or "[r]egulated, restricted or prohibited the discharge of firearms." ORS 166.176(1)(a), (b). Said differently, ORS 166.176(1) expressly saves the county's ordinance from preemption under ORS 166.170 and ORS 166.171, unless ORS 166.176(2)(a) provides otherwise.

We turn, then, to the meaning of ORS 166.176(2)(a). Again, that provision states that the savings clause "does not apply to * * * [o]rdinances regulating, restricting or prohibiting the discharge of firearms on a shooting range or in a shooting gallery or other area designed and built for the purpose of target shooting." As they did below, the parties offer competing views of that shooting-range exception. In the county's view, the

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[5] Plaintiffs have never disputed that the county's conditional use requirement is an ordinance that regulates, restricts, or prohibits the discharge of firearms--indeed, that is plaintiffs' very complaint.

exception, like its related exceptions in ORS 166.171(2)(d) and ORS 166.172(2)(b), was aimed at preempting local regulation of the discharge of firearms by persons on established target-shooting facilities. The county argues that the legislature, by couching the exception in terms of areas "designed and built" for the purpose of target shooting, intended for local governments to continue regulating *where* that discharge of firearms could occur--*i.e.*, counties could continue to restrict where a target-shooting facility could be built.

The county's proffered distinction--between regulating the existence of the target-shooting facility, on the one hand, and regulating what happens at existing facilities, on the other--finds some support in the text and context of the statute. As the county points out, ORS 166.176(2)(a) and the related exceptions in ORS 166.171(2)(d) and ORS 166.172(2)(b) refer to ordinances that regulate the discharge of firearms on a "shooting range," "shooting gallery," or "other area designed and built for the purpose of target shooting." ORS 166.176(2)(a); ORS 166.171(2)(d); ORS 166.172(2)(b). The legislature was specific about the characteristic that all the excepted locations--"shooting ranges," "shooting galleries" and "other" areas--have in common: They have been "designed and built" for the purpose of target shooting. *See Bellikka v. Green*, 306 Or 630, 636, 762 P2d 997 (1988) ("[W]hen the legislature chooses to state both a general standard and a list of specifics, the specifics do more than place their particular subjects beyond the dispute; they also refer the scope of the general standard to matters of the same kind, often phrased in Latin as '*ejusdem generis*.'"). It is plausible, then, that the legislature, by carving out an exception for the discharge of firearms at facilities "designed and built for

the purpose of target shooting," was concerned only with the activities that occurred on existing target-shooting facilities, and did not intend to preempt local governments from deciding where those facilities could lawfully exist.

The better textual support for the county's position, though, is that ORS 166.176(2)(a) refers specifically to ordinances that regulate, restrict, or prohibit the discharge of firearms "on" a shooting range or "in" a shooting gallery or other area designed and built for the purpose of target shooting. The related exception in ORS 166.171(2)(d) is even more specific, referring to ordinances that apply to "*[a] person discharging a firearm on* a public or private shooting range, shooting gallery or other area designed and built for the purpose of target shooting." (Emphasis added.) Read in context, the exceptions plausibly can be understood as an effort to create uniformity through statewide regulation of what occurs *on* or *in* target-shooting facilities, not as a restriction on where a local government must permit those facilities. That is, the exceptions can be read as limitations on the ability of a county to apply local regulations to persons who are discharging firearms at established target-shooting facilities, but not as preempting the ability of local governments to restrict where those facilities may be established in the first instance.[6]

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[6] As a matter of further context, a number of related firearms statutes similarly carve out protections for activities that occur on established or designated shooting facilities. For instance, ORS 166.220(2)(c) has stated since 1991 that the crime of unlawful use of a weapon does not apply to "[p]ersons discharging firearms * * * upon public or private shooting ranges, shooting galleries or other areas *designated and built* for the purpose of target shooting." (Emphasis added.) Likewise, ORS 166.260(3)(a) provides that the crime of unlawful possession of a weapon does not apply to "[m]embers of any club or

Plaintiffs, on the other hand, interpret ORS 166.176(2)(a) to sweep up *any* county regulation of target-shooting facilities, including zoning restrictions like LCC 1.1375(2)(m).[7] The text of the statute lends itself to that broader interpretation, as well. Nothing in ORS 166.176(2)(a) explicitly refers to the circumstances under which a shooting range, shooting gallery, or other target shooting area is considered to have been "designed

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organization, for the purpose of practicing shooting at targets *upon the established target ranges*, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges." (Emphasis added.) Although those statutes do not bear directly on the statutory construction question before us, they provide some support for the county's view that the legislature would have distinguished between where a shooting gallery or shooting range is established or designated, on the one hand, and what activities can be regulated at those established ranges, on the other.

[7] The precise contours of plaintiffs' interpretation are unclear. Plaintiffs devote most of their briefing to the 1995 preemption statutes and do not proffer any interpretation of the text of ORS 166.176. The closest they come to addressing the meaning of that statute is to quote from an opinion by the Land Use Board of Appeals (LUBA), *Sherwood v. Washington*, 36 Or LUBA 656 (2000), in which the board opined,

> "ORS 166.176(1) begins by restoring county authority to regulate, restrict or prohibit firearms or to adopt county legislation that establishes a procedure for doing so, provided such county legislation was 'in effect on November 2, 1995.' ORS 166.176(1) would appear to authorize the disputed conditions [concerning noise limitations on the shooting range], which were adopted in 1992 and 1993. However, ORS 166.176(2) specifically limits the authority granted by ORS 166.176(1) so that it does not include authority to regulate an 'area designed and built for the purpose of target shooting.' When ORS 166.176 is read with ORS 166.170 and 166.171, the preemption imposed on county regulation of 'target shooting' by ORS 166.170 remains."

(Footnotes omitted.) LUBA's analysis in *Sherwood*, which involved noise limitations on a *previously permitted* shooting range, does not inform our inquiry into whether the legislature also intended to preempt conditional use requirements as to target-shooting facilities that have not yet been established. In any event, contrary to plaintiffs' suggestion, LUBA is not a court, and we are not bound by LUBA's reasoning.

and built" for the purpose of target shooting, or explicitly requires that it was "designed and built" lawfully. Thus, it is plausible that the legislature intended ORS 166.176(2)(a) and ORS 166.171(2)(d) not only to preempt counties from applying local regulations to activities on target-shooting facilities, but also to preempt ordinances that restrict where those facilities can be established.

We turn, then, to the pertinent legislative history for clues as to legislative intent. Initially, we note that the legislative history of the 1995 preemption statutes themselves is not particularly helpful in determining what the legislature had in mind when it first enacted the exceptions concerning shooting ranges. Although House members actually discussed the potential preemptive effect of HB 2784 on zoning of shooting ranges, their floor and committee discussions yield inconclusive evidence of what the legislature ultimately understood to be the bill's effect. During a work session in the House Judiciary Committee, one of the committee members, Representative Prozanski, raised concerns that the language of the bill, as drafted, could be construed as preempting local governments from having any say as to where shooting ranges could be located. Tape Recording, House Committee on Judiciary, HB 2784, Apr 3, 1995, Tape 15, Side A (statement of Rep Floyd Prozanski). After committee counsel agreed that the language of the bill would allow cities to regulate the discharge of firearms but not the siting of shooting ranges, Representative Prozanski pressed the issue with his legislative colleagues, asking whether that was indeed the intent of the drafters. The committee chair, Representative Parks, responded obliquely to the question, reiterating that the

purpose of the bill was to recognize the constitutional rights of gun owners and create uniform regulation. Tape Recording, House Committee on Judiciary, HB 2784, Apr 3, 1995, Tape 15, Side A (statement of Rep Del Parks). After Representative Prozanski inquired whether statewide siting standards would be enacted, another representative, Representative Johnston, confirmed that, in his view, the language of the bill would not allow a local government to "say you can put them here but not there." Tape Recording, House Committee on Judiciary, HB 2784, Apr 3, 1995, Tape 15, Side A (statement of Rep Bryan Johnston).

When HB 2784 reached the House floor, Representative Prozanski rose in opposition to the bill, on the ground that the current draft "will not allow cities to do any type of zoning of * * * what I would call the zoning of shooting galleries within a residential zone." Tape Recording, House Floor Debate, HB 2784, Apr 12, 1995, Tape 82, Side A (statement of Rep Floyd Prozanski). He expressed a desire to "make certain that this bill is in fact within the intent of the drafters and does not prevent and exclude a local municipality from having some type of zoning regulations over shooting galleries * * *." *Id.* Shortly thereafter, another representative, Representative Ross, asked a question of the bill's carrier, Representative Tarno, regarding a line in the staff measure summary of the bill that stated, "Prohibits cities and counties from regulating the possession of firearms in public places rented, leased or otherwise occupied by a person." Referring to that line of the summary, Representative Ross specifically asked Representative Tarno, "Would this mean that counties could not regulate or prohibit

firing ranges in rented areas in a residential area?" *Id.* (statement of Rep Barbara Ross). Representative Tarno responded in the negative, and his explanation ran contrary to Representative Prozanski's earlier remarks about the inability of local governments to restrict the location of shooting ranges. Representative Tarno stated, "The counties still have the option of having a county ordinance that prohibits the discharge within designated areas. The counties could establish an approved range." *Id.* (statement of Rep Veral Tarno). Another legislator, Representative Tiernen, immediately rose to "further elaborate on what the carrier just stated." *Id.* (statement of Rep Bob Tiernen). In the process, he suggested that opposition to the bill was unfounded, stating, "First off, this does not permit [*sic*] local jurisdictions from regulating the discharge of firearms, whether it's through a shooting gallery, or backyard rabble rousings, or drive-by shootings." *Id.* What the bill accomplished instead, he submitted, was a uniform system of regulations that would allow gun owners to travel throughout the state. *Id.*

Given the cross-cutting remarks on the House floor, we cannot say with any certainty what the House understood to be the effect of HB 2784 on the siting of shooting ranges, let alone what the legislature as a whole understood. It is possible that a majority of the House agreed with Representative Prozanski's understanding of the bill and passed it nonetheless; it is also possible that, based on the carrier's assurances, the legislators did not understand (or intend) the bill to have any effect on the ability of local governments to restrict the areas in which an "approved range" could be established.

That inconclusive testimony from the House is the extent of the relevant

legislative history for HB 2784. On the Senate side, the bill passed with minor amendments and without any substantive discussion in committees or during the floor debates regarding local regulation of target-shooting facilities.[8] The amended bill was then passed by the House, subsequently vetoed by the Governor, and then passed over his objection during the 1995 Special Session, but the scope of the exception concerning shooting ranges was not further discussed.

There is, however, legislative history concerning a separate bill passed in the 1995 Regular Session, HB 2876, later codified at ORS 197.770, that suggests that the 1995 legislature did not understand the preemption bill, HB 2784, to preempt city and county zoning of shooting ranges. That parallel bill, HB 2876, concerned the siting of "firearms training facilities." As initially proposed, HB 2876 would have required local governments to permit firearms training facilities on any land not zoned exclusively for residential uses. It was subsequently amended to provide instead that existing firearms training facilities would be allowed to continue operating. As enacted, HB 2876 provided:

> "(1) Any firearms training facility in existence on the effective date of this 1995 Act shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.
>
> "(2) For purposes of this section, a 'firearms training facility' is an

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[8] During a public hearing on the bill, a representative of the League of Oregon Cities testified in opposition to the bill and noted that "shooting range" is not well defined under Oregon statutes; the issue was not further discussed. Tape Recording, Senate Committee on Rules and Elections, HB 2784, May 17, 1995, Tape 72, Side A (statement of Sarah Hackett).

> indoor or outdoor facility that provides training courses and issues certifications required [for certain enumerated purposes.]"

Or Laws 1995, ch 475, § 2. In the debate on the House floor, the bill's carrier, Representative Adams, clarified that the bill specifically referred to those facilities "in existence" and would not include expansion of existing facilities. Tape Recording, House Floor Debate, HB 2876, May 15, 1995, Tape 140, Side B (statement of Rep Ron Adams). The obvious implication, both from his remarks and from the text of the statute itself, is that firearms training facilities that were not in existence would continue to be subject to local zoning restrictions, as would those facilities that were in existence but had ceased being used as firearms training facilities as defined in the statute.[9]

We appreciate that HB 2784 and HB 2876 were considered in different committees and were passed by the legislature on different dates.[10] That said, we find it highly unlikely that the same 1995 legislature would have passed a bill that *expressly* required local governments to allow firearms training facilities to continue operating, but then *implicitly* went even further than that, by preempting any zoning regulation of

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[9] Plaintiffs suggest, by way of a footnote, that the county's interpretation of the term "firearms training facility" in LCC 1.1375(2)(m) is somehow inconsistent with the legislative definition of that term in ORS 197.770(2). The county's interpretation of "firearms training facility" is not properly before us in this case. In any event, we note that ORS 197.770(2), set out previously, ___ Or App ___ (slip op at 16), was enacted after the county's ordinance. We fail to see why that statute would limit the county's understanding of a preexisting term in its own county code.

[10] The Senate initially passed the preemption bill only six days after the bill concerning the siting of firearm training facilities, with no mention of any overlap concerning zoning of shooting ranges.

firearms training facilities or any other target-shooting facility.[11]

Lastly, in terms of legislative history, we look at the history of ORS 166.176(2)(a) itself. That history, to which we previously alluded, ___ Or App at ___ (slip op at 7), strongly suggests that the legislature, at least as of 1997, understood the shooting-range exception in ORS 166.176(2) to operate more narrowly than plaintiffs contend. After ORS 166.170 and ORS 166.171 were passed during the 1995 Special Session, representatives from Deschutes County, including Representative Luke, proposed a bill to remedy an "unintended consequence" of those statutes--namely, that they had preempted a Deschutes County ordinance that had been "carefully crafted" by the various stakeholders in that area. Tape Recording, House Committee on Judiciary, Subcommittee on Criminal Law, HB 2649, Apr 18, 1997, Tape 91, Side B (statement of Rep Dennis Luke). The county's ordinance, which had existed in some form since 1975, had allowed for the creation of "restricted areas" in which the discharge of firearms was generally prohibited. Deschutes County Code (DCC) 9.08.050. The restricted areas,

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[11] In the same vein, as part of the 1995 Special Session, the legislature also enacted *former* ORS 467.135, Or Laws 1995, ch 3, § 40b (Spec Sess), which provided that

> "[a]ny local government or special district ordinance or regulation now in effect or subsequently adopted that makes a shooting range a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to a shooting range for which no action or claim is allowed under ORS 467.130 and 467.132."

If, as plaintiffs contend, the 1995 preemption statutes were intended to preempt all local regulations concerning shooting ranges, then *former* ORS 467.135 (subsequently repealed and reenacted in a Special Session in 1996, Or Laws 1996, ch 8, §§ 9, 10 (Spec Sess)), would have been superfluous.

known as no-shooting zones, were no longer enforceable by the county after the enactment of the 1995 statutes, which had preempted county prohibitions on the discharge of firearms by, among others, "[a] landowner and guests of the landowner discharging a firearm, when the discharge will not endanger adjacent persons or property." ORS 166.171(2)(c). Representative Luke assured the subcommittee that he had spoken to the original sponsors of the 1995 legislation, and that they did not object to the legislative fix.

On the House floor, Representative Luke carried the bill and again explained that it was intended to restore the ability of Deschutes County (and any other counties with similar ordinances) to enforce preexisting regulations that would prohibit the discharge of firearms in rural subdivisions. Tape Recording, House Floor Debate, HB 2649, May 7, 1997, Tape 97, Side B (statement of Rep Dennis Luke). The statutory change, Representative Luke explained, was not intended to undo the 1995 preemption statutes; he also stated that the bill would not cover shooting galleries, but he did not further elaborate on that exception. *Id.* The bill passed the House unanimously.

The legislative history on the Senate side reveals a similar focus on Deschutes County's ordinance. Before the Senate Committee on Crime and Corrections, the Deschutes County Sheriff appeared in support of the bill and explained that it was necessary to restore the no-shooting zones within the county, which the 1995 preemption statutes had made illegal. Tape Recording, Senate Committee on Crime and Corrections, HB 2649, May 21, 1997, Tape 126, Side A (statement of Greg Brown, Deschutes County Sheriff).

Representative Luke also spoke to the Senate committee in support of the bill, explaining that, under Deschutes County's ordinance, voters within rural subdivisions had the ability to create "no-shooting zones" by obtaining the signatures of registered voters in the area. He told the committee that homeowners in Deschutes County were interested in restoring those zones; he further represented that he had spoken to the sponsors of the 1995 legislation, that it had not been their intent to preempt the county's ordinance, and that they did not object to the bill. *Id.* (statement of Rep Dennis Luke). As in the House, the bill passed the Senate overwhelmingly.

Although the legislators did not directly address the ability of a county to restrict where shooting ranges are located, the often-expressed goal--to reestablish no-shooting zones in Deschutes County--strongly suggests that the legislature did not understand the shooting-range exception to operate so expansively as to preempt the ability of a county to decide where shooting ranges could be located. If the legislature was intent on restoring the ability of a county to prohibit landowners and their guests from discharging firearms, *cf.* ORS 166.171(2)(c) (preempting such regulation), it would be a curious drafting decision to include, as part of that fix, an exception that nevertheless allows those same landowners to circumvent the ban on discharge simply by setting up a small shooting range on their property. That is, a shooting-range exception that would preempt a county's ability to regulate where a shooting range could be lawfully established--thereby effectively allowing property owners to open backyard shooting ranges, shooting galleries, or other target-shooting areas anywhere in the county, including within a no-shooting zone--would

significantly undermine the efficacy of the very ordinance that HB 2649 was intended to save. It is more likely, given the express purpose of the bill, that the legislature understood the exception in ORS 166.176(2) to preempt county regulation of the discharge of firearms on *lawfully established* shooting ranges. Indeed, Deschutes County's code includes that very limitation; it expressly provides that the restrictions in no-shooting zones do not apply to "[a] *lawfully established* firing range." DCC 9.08.040(A)(3) (emphasis added).

Although the legislative history of ORS 166.176(2), and the parallel history of the 1995 statute concerning siting of firearms training facilities, strongly suggest to us that the legislature intended the shooting-range exception to operate more narrowly than plaintiffs contend, it does not conclusively resolve the ambiguity in the text of ORS 166.176(2). We therefore turn to relevant canons of construction to determine the meaning of the statute. *Gaines*, 346 Or at 171-72; *see Doe*, 232 Or App at 60 (turning to relevant maxims of statutory construction to resolve ambiguities regarding firearms preemption statutes). And here, the pertinent canon likewise points toward a narrower construction of the shooting-range exceptions in the firearms preemption statutes.

We assume that the legislature did not intend an unreasonable result. *Doe*, 232 Or App at 60 (citing *State v. Bordeaux*, 220 Or App 165, 175, 185 P3d 524 (2008), and *State v. Vasquez-Rubio*, 323 Or 275, 282-83, 917 P2d 494 (1996)).[12] Under plaintiffs'

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[12] The county urges us to resolve any ambiguity based on the "well settled" presumption that "a state statute will not preempt a local civil regulation unless the intent to do so is express or because the local regulation cannot operate concurrently with state law." Whatever "home rule" preference might otherwise exist has been negated by ORS 166.170, which provides that, except as expressly authorized by statute, the authority to

proposed construction of the shooting-range exception, the legislature preempted all local ordinances concerning the siting of shooting ranges and did not replace those local ordinances with any statewide standards. That interpretation of ORS 166.171 and ORS 166.176, coupled with the general preemptive effect of ORS 166.170, would mean that a local government could not enact or enforce an ordinance intended to prevent a business from opening a commercial shooting range next to a home, or a school, or a hospital. Property owners would be able to open backyard shooting ranges in the middle of a residential street--including in Deschutes County, where landowners who would otherwise be prevented from discharging firearms on their property could simply design and build a target-shooting range to circumvent the county's otherwise enforceable no-shooting restrictions. Those outcomes seem far afield from the concerns addressed by the legislature in 1995 and 1997 and lead us to conclude that, had the legislature actually intended those results, it would have said so explicitly in the statute itself--especially in 1997, when it restored the ability of a county to create no-shooting zones.

We therefore conclude, as the circuit court did, that the county's ordinance, LCC 1.1375(2)(m), is not preempted by ORS 166.170, ORS 166.171, or ORS 166.176. LCC 1.1375(2)(m), which requires property owners to obtain a conditional use permit to operate a "firearms training facility" in a T-C zone, is not an "[o]rdinance regulating, restricting or prohibiting the discharge of firearms *on* a shooting range or *in* a shooting gallery or other area designed and built for the purpose of target shooting" under ORS

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regulate the use of firearms "is vested solely in the Legislative Assembly."

166.176(2)(a). (Emphases added.) Accordingly, the savings clause in ORS 166.176(1) applies in this case, and the county's ordinance is not preempted by ORS 166.170 or ORS 166.171. For that reason, we affirm the circuit court's declaratory judgment.[13]

Affirmed.

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[13] Plaintiffs advance two other assignments of error that do not merit significant discussion. In their second assignment of error, plaintiffs submit that the court did not adequately explain its reasoning in granting summary judgment. We fail to see how that purported shortcoming, even if it were the case, would amount to reversible error; the issue before us is one of law that we decide without deference to the circuit court's explanation. In their third assignment, plaintiffs contend that the court erred "in granting to County relief which it had not requested: declaratory judgment in its favor on the merits." The court, however, did no more than plaintiffs requested. They invoked the circuit court's authority to declare whether the county's code provision was preempted. The court decided the issue adversely to them--correctly so--and declared as much in its judgment.

-------- Original Message --------
Subject: East End Rod & Gun Club Land Use
Date: Wed, 8 Jan 2014 01:03:02 -0800
From: Jonathan Phillips <jphillips9981@gmail.com>
To:tamra@co.umatilla.or.us

RECEIVED
JAN 0 8 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this in the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

#28

Pg 2

Thank You

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UMATILLA COUN
PLANNING DEPARTM

1/8/14

Tamara Mabbott
Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th ST
Pendleton, OF 97801

Dear Tamara:

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms. The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training also use our range.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it. As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore, which any farmer should understand. Many of our members only have weekdays off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this in the only safe place for them to come and shoot as well as feel safe bringing their families out.

#29

Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that close appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

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UMATILLA COUNTY
PLANNING DEPARTMENT

Respectfully,

Theodore Richerzhagen III, Ph. D.
24 SE Sunny DR
College Place, WA 99324
509.301.1035
tricherz@charter.net

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JAN 08 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

-------- Original Message --------
Subject: Concerning East End Rod and Gun Club
Date: Wed, 8 Jan 2014 18:48:48 +0000
From: Anthony Remboldt <Anthony.Remboldt@wallawalla.edu>
To:tamra@co.umatilla.or.us <tamra@co.umatilla.or.us>
CC:verl.pressnall@eergunclub.com <verl.pressnall@eergunclub.com>

To whom it may concern,

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

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While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this in the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

#30

Pg 2

Thank You,

Anthony Remboldt
Walla Walla University
Director of Training | Aviation Program
(Airport Office) 124 W. Boeing Avenue | Walla Walla, WA 99362
(Campus Office) 204 S. College Avenue | College Place, WA 99324

Office: 509.527.2723 | Cell: 509.540.7257
fly.wallawalla.edu | facebook.com/wwuaviation

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JAN 08 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

-------- Original Message --------
Subject: East End Rod and Gun Club
Date: Wed, 8 Jan 2014 18:56:26 +0000
From: Arlene Isaacson <AIsaacson@bluecc.edu>
To:'tamra@co.umatilla.or.us' <tamra@co.umatilla.or.us>

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JAN 08 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

To: Tamra Mabbit

Planning Director

From: Arlene Isaacson

Teacher and Gun Club Member

Re: East End Rod and Gun Club

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I do believe that the Gun Club is well managed and is very safety conscious. There is really no need to impose additional restrictions upon the club and its members.

Sincerely,

Arlene Isaacson

Gun Club Member and Respected Teacher

#31

-------- Original Message --------
Subject:RE: East End Rod and Gun Club
Date: Wed, 8 Jan 2014 12:42:37 -0800
From: Mark Mebes <mmebes@wwps.org>
To:tamra@co.umatilla.or.us

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JAN 0 8 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

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Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

Mark Mebes

EERGC Member

#32

Umatilla County Land Use Planning Commission **January 8, 2014**

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley.

Oregon has had Land use zoning legislation in place for over 50 years that has been constantly evolving to meet the State's needs. Oregon's current statewide land use planning program — originated in 1973 under Senate Bill 100 — provides protection of farm and forest lands, conservation of natural resources, orderly and efficient development, coordination among local governments, and citizen involvement. According to the Oregon Department of Land Conservation, the guiding principles are:

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- Provide a healthy environment;
- Sustain a prosperous economy;
- Ensure a desirable quality of life; and
- Provide fairness and equity to all Oregonians

These principles all carry the same weighted value. No one is more important than the other. Rather it is the whole or the majority that carries more value than any part. Therefore, one can not consider one principle over any other and that is true of good governance. The needs of the many must outweigh the needs of the few!

The availability of the range to our 800 plus members gives them a safe place to practice with their firearms. Our range is also used government at several levels; by several small police departments that do not have access to any other local facility as well as the multi-state task force, Veterans Administration, and Department of Corrections for long range and Swat Entry training.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when anyone would be able to use it.

As you are aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. When I worked the farm we were up before

#33

daylight (well before 8 AM). While we often worked the fields until 5 PM, we also reserved the afternoons for equipment maintenance and repair back at the homestead.

Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this is only real safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food and gasoline, as well as purchase shooting supplies locally.

Shooting safety is a very serious concern to the Club that has been addressed by the board of directors and is constantly evolving. For example, Current and new member range safety orientation is a way to assure that everyone understands the safety rules that are in place, and the Club's 29 NRA certified Range Safety Officers are on alert for anything that may be of concern. Also, the range safety committee is constantly reviewing and revising the Club rule's as needed. Another example pertains when farmers are observed in the neighboring fields; a black flag is flown that closes appropriate portions of the range as needed for safety; or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

I consider the needs of the many and please allow us to keep a safe place to train, practice; and even occasionally compete with our firearms.

Thank You,

Greggory S. Bond

10 Wilkenson Ct, Milton Freewater, Oregon 97862

RECEIVED
JAN 0 8 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

-------- Original Message --------
Subject: Milton Firearms training facility
Date: Wed, 8 Jan 2014 15:53:05 -0800
From: Steve Filkins <sdfilkins@msn.com>
To:tamra@co.umatilla.or.us <tamra@co.umatilla.or.us>
CC:verl.pressnall@eergunclub.com <verl.pressnall@eergunclub.com>

I thank you for the opportunity to submit this letter and to have my opinion in the matter of the Milton Freewater Firearms range.

Steve Filkins
45210 Mission Road
Pendleton, OR
97801
541-278-4205
cel- 541-379-7958

RECEIVED
JAN 0 8 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

letter attached

RECEIVED

JAN 0 8 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

I was at the range this last fall with some young shooters and one that it was his first exposure to shooting and shooting safety. The Milton range is an excellent training ground to show future generations the joys of shooting sports.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

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While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this in the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. It should also be noted that I am a former Police Officer and for the majority of my ten years with the Umatilla Tribal Police department, I was the Firearms Instructor. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

#34

Verl Pressnall
Email

RECEIVED
JAN 09 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

1-9-2014

Umatilla County Land Use Planning Commission

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Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

Paul E. Roquet

Paul E. Roquet
1866 Home Ave.
Walla Walla, WA 99362-9059

#35

Paul E Roquet
1866 Home Ave
Walla Walla, WA 99362

Umatilla County Land Use Planning Commission

I have been a member of the EERGC and using the range since it first moved out to the current location. As photo's showed in the last meeting there was not much out there. We had to take our own targets and stands. We shot off the hoods of our vehicles or t[illegible]our own seating benches and there was no oversight. As with all things we have progressed into a managed safe club in which results in expansion and growth. I think it is better and safer to have the people shooting in a safe controlled environment rather than along all the county roads into any bank someone can find that suits their need. Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. We have actually had more members stay in the club or join because of our safety concerns and training. With 29 NRA certified safety officers in the club and more on the way it is not often that there is not one at the range. These officers have the authority to remove anyone that is not following the safety protocol from the range and confiscate their gate key. We also have several police departments and swat teams that use the range to better their skills and maintain certifications.

Many of our members are from outside of Milton Freewater which was brought up at the last meeting. These members are paying dues to an organization in Milton Freewater and the money stay's in Milton Freewater. They purchase gas, food and ammunition on their way to and from the range. They meet other members that may be in business and start using their products, services or visit their place of business. This is no different than any other location that has proximity to a state line. Milton Freewater employ's many from Walla Walla and those people do pay taxes to the state. I am sure the members of the club pay a higher percentage of taxes to the county and state than what our range neighbors do.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it. This is impractical as many members work weekends, nights, graveyard shifts or 10 hours a day. During the summer months it can also be over 100 degree's by 9 or 10 in the morning which affects the way a firearm will shoot. We have been using the range for over 20 years and as far as I know never had a complaint from the Rae family. The question to be raised is if any member of the Rae family has ever applied to the range, has ever tried to lease land to the EERGC or purchase the land the range is[illegible] Irrigated farm ground was brought up a lot at the previous meeting and this is pretty much a mute point. The ground the ra[illegible]e is on is not irrigated and there cannot be any industrial type well drilled within a 5 mile radius of the City of Milton Freewater as per the State water regulations.

It was brought up in the last meeting about the proximity to the urban growth line for the City of Milton Freewater. If you have ever visited this part of the valley you would have seen that it is a valley. I have spoken with the members of the city council and due to the river and the elevation change there are no plans to grow this direction due to the cost for infrastructure which would include another water tower and a route to get the sanitary sewage across the river. I also have a father resting in the cemetery which was brought up and he has had no complaints. I have attended several services in the cemetery and cannot remember ever hearing anything from the range. Due to the layout of the land the range is protected in another small valley. In fact you cannot even see the Rae home from the range due to the hills.

I live in the farming area of Milton Freewater and they do not farm 9 to 5. If the Rae's want to make this a nuisance issue I can bring up many from farming practices. Even if you are in the commercial or residential area you hear the bird cannons, trucks hauling product 24 hrs a day with Jake breaks, equipment being moved 24 hrs a day in front of our homes. We deal with the wheat truck and their dust and spillage on the roads. We slide around in the pea juice at intersections and spray on our cars along with sprinklers constantly watering down the asphalt. Yes there are days I can hear the range at my residence 4 miles away. It all depends on the weather and air movement. I was at the range on the day of the photos and I could hear the rock pit operation that is over a mile away, it all depends on how the air is moving and cloud layer. Some days I can smell Wallula pulp mill and the Tyson feed lot but I do not try to get them to move. It is life.

Thank you for your service on the commission. Please help us keep and maintain a place for the members of the county and su[illegible]nding areas to have a safe environment to shoot and have family activities.

Ken Sloan
84907 Humbert Lane
Milton Freewater, OR

#360

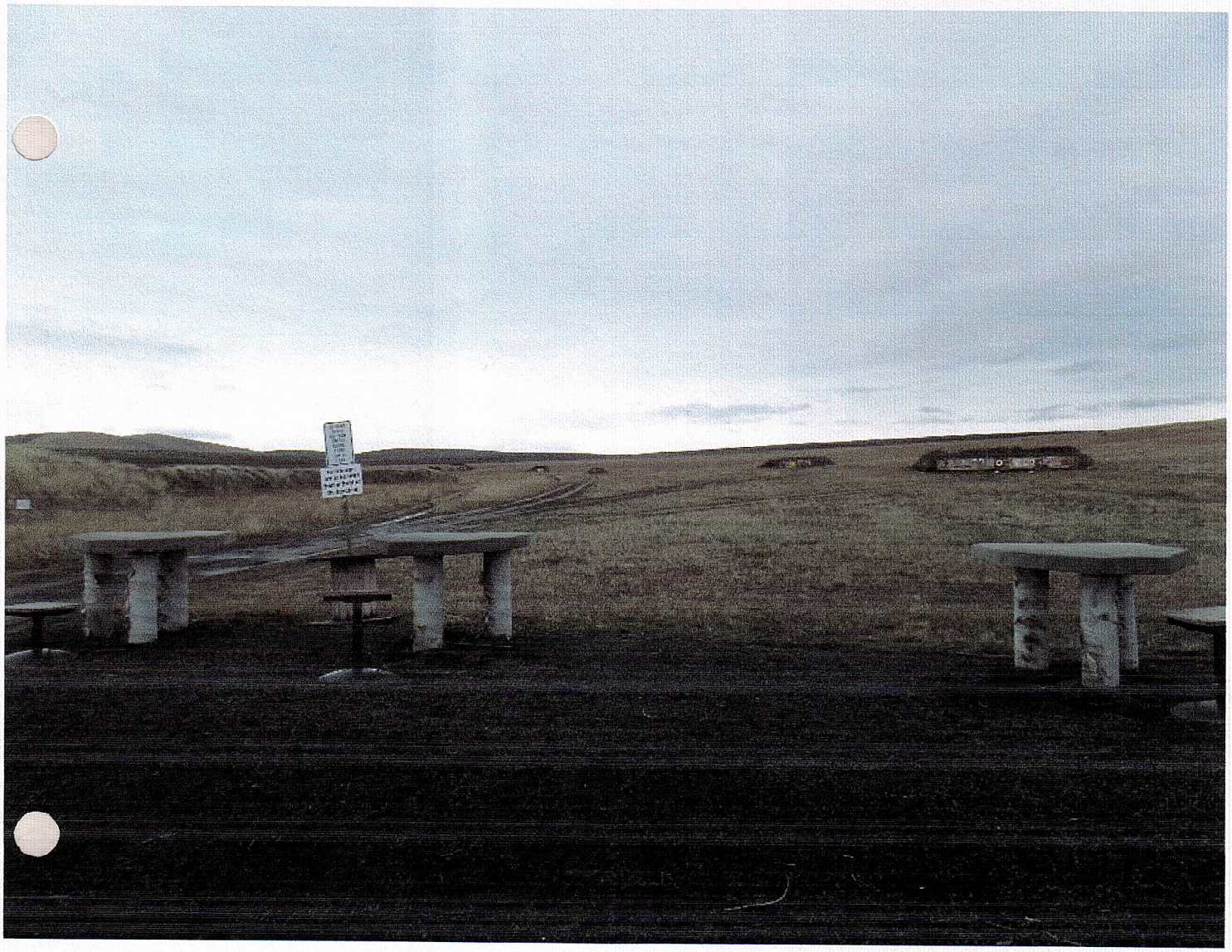
I have included some ground level photos to show the range and the vision from surrounding areas.

Looking east towards range from cemetery. Range in valley arrow is pointing

Looking SW from shotgun area

Handgun, lead only range

Handgun range



Rifle range looking South/SE

Rifle range towards Rae's farm (not visible due to hills)

From gate towards Rae's farm (still not visible over the hill)

From Gate looking west back toward cemetery

Richard A. Ullian
1852 SW Athens Avenue
Pendleton, OR 97801
(541) 278-1150
raullian@q.com

January 8, 2014

RECEIVED
JAN 0 9 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

TO: UMATILLA COUNTY PLANNING COMMISSION
RE: LUD-163-13

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

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Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank you for your consideration on this matter.

Sincerely,

Richard A. Ullian
Member, East End Rod & Gun Club

#37

-------- Original Message --------
Subject:letter to the planning board
Date: Thu, 09 Jan 2014 19:22:04 -0800
From: Paul <PaulS1950@yahoo.com>
To:tamra@co.umatilla.or.us
CC: Verl Pressnall <verl.pressnall@eergunclub.com>, Paul Stephens <pauls1950@yahoo.com>

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

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Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You
Paul Stephens

please read the following:

#38

Paul Stephens
1309 S. 3rd Ave.
Walla Walla, WA. 99362

Umatilla County Land Use Planning Commission
Dear Sirs;

Since the shooting range known as East End Rod and Gun Club was established in 1947 and we are grandfathered in on the land upon which we shoot I see no question about the use of the land that we lease. Those who have lived as neighbors to us recognize the sound of shooting as the sound of freedom and have not complained of the noise.We are doing our part to have the land inspected and kept clean.

The following are my personal feelings about this situation:

The complaint being brought to this commission is being brought by, or on behalf of, an individual who would attempt, through a back door, to rid the land of that sound of freedom. I am a new member of this club as I have only lived in the larger area for about a year. I find the rules of the range similar to the common sense rules that were in effect at the Seattle Police Athletic Association where I was a member when I lived in Seattle. That range had to deal with even wilder attempts to close it down even though it served the Seattle Police Department and the county sheriff as a shooting and training facility. We were once presented with a live round of 9mm ammo that was supposed to have been fired onto the runway to the north of the range. As you know a bullet still in its cartridge could not have been fired at all but the King County Airport required satisfaction. This is a similar case.

The East End Rod and Gun Club has been a good neighbor and teaches men and women of all ages to properly and safely handle firearms. My granddaughter is learning to shoot skeet and participates with me, her dad, and her other grandfather in small-bore silhouette. Knocking over metal targets with twenty-two caliber rifles from a standing, unsupported position. This provides us with good family time doing what we enjoy and builds the bonds that keep generations together. It provides me with a reason to get out and exercise my bad back which is getting stronger due to my practice.

This is more than a place to go and shoot. It is a place where children learn discipline and respect. It is a friendly competition among people of different ages and genders. It is a place of recovery and a place for newcomers to meet new friends. It centers around guns and the shooting of them, and that worries some people. Especially people who do not understand the sound, that has been heard in conflicts around the world, in the battle for our way of life is the sound of freedom. That bell rings at this small club. The same sounds that were heard at Lexington in the early morning hours on the 19th of April in 1775. They were heard again later that same day in Concord. The sound of freedom was heard in Europe, the pacific, and in Asia each time the world went to war against those who would take our freedom and our rights.

We are here today to see if those hard fought for rights can be taken through a whimper from a back door instead of shots from an enemy at the front gates. This is the hardest battle to win and it is your hands gentlemen. Your decision here today can remove that sound, those future bonds or ensure that they last at least another generation.

Sincerely yours,

Paul Stephens

(CERTIFICATE OF FILING ARTICLES OF INCORPORATION—NOT FOR GAIN) [illegible]

File No. 15818

State of Oregon

CORPORATION DEPARTMENT

Certificate of Filing Articles of Incorporation

To all to Whom These Presents May Come, Greeting:

Know Ye, *That whereas* HAROLD OTTO, GEORGE ... BELLER and V. E. NYGREN

having presented Articles for a Nonprofit Corporation, organized and formed under and pursuant to the Laws of the State of Oregon and having paid the required organization fee;

Now, Therefore, I, Maurice Hudson, *Corporation Commissioner of the State of Oregon, DO HEREBY CERTIFY that said Articles of Incorporation have been filed in the office of the Corporation Commissioner; that the name assumed by said corporation is*

EAST END ROD AND GUN CLUB

the duration perpetual *; the object, business, or pursuit in which this corporation proposes to engage is as follows:*

The objects, business and pursuit of said Corporation shall be the better protection of forests, fish and game; the propagation of fish and game in Umatilla County, State of Oregon, and adjoining territory; the promotion of a better understanding between sportsmen and landowners; the advocation of legislation in aid of the above stated purposes and objects; to promote recreation for its members; to own, hold, buy, sell, lease, mortgage or encumber real estate and personal property; to develop lands for the purpose of carrying out the objects and purposes of said Corporation; and to do every other act and thing incidental to or growing out of or connected with the aforesaid objects, business and pursuits.

#39

the estimated value of its property and money One Thousand Five Hundred and No/100 ($ 1,500.00) *Dollars;*

the location of its principal office at Freewater *, in the County of* Umatilla *, State of Oregon; the date of filing its Articles of Incorporation, the* 17th *day of* July *, A.D. 19* 47; *and the amount of the organization fee paid* Five and 00-100 ($5.00) *Dollars.*

In Testimony Whereof, *I have hereunto set my hand and affixed hereto the seal of the Corporation Department of the State of Oregon at Salem, this* 17th *day of* July *, 19* 47.

SEAL

Maurice Hudson

Corporation Commissioner

STATE PRINTING DEPT.

0000 300312 0001

ARTICLES OF INCORPORATION

OF

EAST END ROD AND GUN CLUB

****

We, HAROLD OTTO, GEORGE W. [illegible] and V. S. [illegible], President, Vice-President and Secretary-Treasurer, respectively, of the EAST END ROD AND GUN CLUB, a voluntary association [illegible], having been elected to the respective offices in accordance with the [illegible] of said association, to hereby associate ourselves [illegible] and [illegible] in triplicate the following articles of incorporation under the provisions of the laws of the State of Oregon for the incorporation of non-profit corporations, as follows:

ARTICLE I

The name assumed by this Corporation and by which it shall be known is "EAST END ROD AND GUN CLUB", a Corporation, and its duration shall be perpetual.

ARTICLE II

The objects, business and pursuit of said Corporation shall be the better protection of forests, fish and game; the propagation of fish and game in Umatilla County, state of Oregon, and adjoining territory; the promotion of a better understanding between sportsmen, landowners; the advocation of legislation in aid of the above stated purposes and objects; to promote recreation for its members; to own, hold, buy, sell, lease, [illegible] or encumber real estate and personal property; to [illegible] for the purpose of carrying out the objects and purposes of said Corporation; and to do such and [illegible] acts as may [illegible] out of or connected with the aforesaid objects, and [illegible] purposes.

ARTICLE III

The estimated value of the property and funds possessed by this

DOCS DC/O Dir: 0002

Corporation at the time of executing these Articles of Incorporation is approximately ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500.00), and consists of paraphernalia, ammunition, trap-shooting equipment and lawful money of the United States, and the revenue shall be derived from fees for initiation of and dues from its members, rents, admission charges and fees for shooting, donations, and other like sources.

ARTICLE IV

The names and official titles of the persons [illegible] these Articles of Incorporation and their postoffice addresses are:

Harold Otto, President, Treasurer, Orejon;

George A. Dallas, Vice-President, Treasurer, Oregon;

V. E. Lyon, Secretary-Treasurer, Lake, Oregon.

The governing body of said Corporation shall be composed of three (3) officers above stated and six (6) additional members elected by said Club, which [illegible] will form the board of directors. The governing body will be elected at the annual meeting of said Corporation, which will be held at 8:00 o'clock P.M. on the first Monday of April of each year. Each of the officers shall hold their respective offices for a period of one (1) year, and the additional six (6) members shall hold their offices each for periods of two (2) for one (1) year, two (2) for two (2) years, and two (2) for three (3) years; the first group elected shall determine their respective terms of office by lot.

The mode of election shall be by majority vote of the members present.

ARTICLE V

The location and address of the principal office of said Corporation shall be Prineville, Oregon.

IN WITNESS WHEREOF, we have hereunto set our hands this the

16th day of July, 1947.

Harold Otto

George W. Bellis

T. E. Nygren

State of Oregon,)
) ss.
County of Umatilla.)

This instrument was acknowledged before me on this 16th day of July, 1947, before me the undersigned, a Notary Public in and for said County and State, personally appeared the within named GEORGE W. BELLIS and T. E. NYGREN, known to me to be the identical persons named in and who executed the foregoing Articles of Incorporation and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial Seal the day and year first above written.

Notary Public for Oregon.

My Commission expires Nov. 7, 1948

Articles of Incorporation.
EAST END MOTOR AND KEN CLUB.

-5-

0004

POWER OF ATTORNEY

To be executed, acknowledged, and filed in the office of the corporation Commissioner by a domestic nonprofit corporation required by the provisions of Section 77-408a or Section 77-408b, O. C. L. A. Pocket Part. (See Sections 8 and 12 of Chapter 462, Oregon Laws 1941.)

NOW ALL MEN BY THESE PRESENTS:

That EAST END ROD AND GUN CLUB (Name of Corporation)

is a corporation duly organized under and by virtue of the laws of Oregon, having its principal place of business in Oregon.

That said EAST END ROD AND GUN CLUB (Name of Corporation) *has made, constituted and appointed, and does hereby make, constitute and appoint* HENRY KAYE (Name of Attorney-in-Fact) *a citizen of the United States, and a citizen and resident of the state of Oregon, residing at* Milton *Oregon, and whose place of business and postoffice address is No.* 344 S. Main *Street, its true and lawful Attorney-in-Fact and authorized Agent for it and in its name, place and stead to make and accept service of all writs, processes and summonses in any action, suit or proceedings in any of the courts of the state of Oregon, or the United States courts therein, and upon whom all such lawful writs, processes and summonses may be served requisite and necessary to give competent and complete jurisdiction of the said corporation to any of the said courts*

This Power of Attorney is irrevocable except by the substitution of another qualified person for the one hereby appointed.

IN WITNESS WHEREOF, said corporation, in pursuance of a resolution duly adopted by its Board of Directors (Directors or Trustees) *has caused this instrument to be executed in its name by its* Secretary (Name of Officer or Trustee) *and its Corporate Seal (if it have a seal) to be hereto affixed the* 21st *day of* July, 19 47.

[Corporate Seal]

EAST END ROD AND GUN CLUB (Name of Corporation)

By _____ (Title of Secretary, President or Trustee)

NOTE: If the corporation has no seal, please indicate this fact.

(OVER)

No. O. [redacted]. Mail to Corporation Commissioner, Salem, Oregon. There is no fee. Any corporation failing to file this document is subject to involuntary dissolution.

Designation of Initial Registered Office and Registered Agent

..... a corporation
(Exact name of corporation)

organized and existing under the laws of the State of .....,

hereby certifies that, pursuant to a duly adopted resolution of its board of directors, the address of the registered office of the corporation in the State of Oregon shall be .....
(Number, street and city)

that the registered agent of the corporation shall be ..... ; and that the address of its registered office and the address of the business office of its registered agent are identical.

IN WITNESS WHEREOF, the undersigned corporation has caused this certificate to be executed in its name by its President or Secretary, this 20 day of 19 40

.....
(Name of corporation)

By .....
(President or Secretary)

STATE OF .....
County of ..... } ss.

I, ..., a Notary Public, do hereby certify that on the 20 day of ..... A. D. 1940, personally appeared before me ..... who declares he is ..... of the corporation executing the foregoing document, and being first duly sworn acknowledged that he signed the foregoing document in the capacity therein set forth and declared that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year before written.

.....

Notary Public for .....

My commission expires: .....

FILED
IN THE OFFICE OF THE CORPORATION COMMISSIONER OF THE STATE OF OREGON
SEP 21 1940
FRANK J. HEALY
CORPORATION COMMISSIONER

045818-15

STATE OF OREGON
CORPORATION DIVISION
158 12TH ST. NE
SALEM, OR 97310

FILED
OFFICIAL SEAL OF THE SECRETARY OF STATE OF THE STATE OF OREGON
NOV 0 2 1990
CORPORATION DIVISION

LESS RAY
432 MILLER
MILTONFREEWATER OR 97862

OCTOBER 2, 1990

ACTION: REINSTATEMENT
ENTITY TYPE: DOMESTIC NON-PROFIT (831.115)
REGISTRY #: 045818-15
RE: EAST END ROD AND GUN CLUB

Please complete and return this letter and any enclosed documents so that we can file the requested reinstatement.

Please submit $40.00 to cover the fees for the requested reinstatement.

The above entity hereby requests to be active on the records of the Corporation Division. The effective date of administrative dissolution is 9/9/88 . Please check one of the following:

_____ The reason(s) for administrative dissolution has been eliminated.

_____ The reason(s) for administrative dissolution did not exist.

By: Leslie A. Ray Date: 10/1/90
(Authorized Signature)

PLEASE RETURN THIS LETTER AND ALL DOCUMENTS WITH YOUR RESPONSE AS SOON AS POSSIBLE. IF WE DO NOT HEAR FROM YOU IN 45 DAYS, YOUR ACTION WILL NOT BE COMPLETED.

Document Review/Data Entry
Corporation Division

(503) 378-4901, 378-4743

ENC: Duplicate Annual Report

PLP
NONOTH-814200-06-87

1017900150 831.115 40.00

Submit the original and one true copy
$10.00

Registry Number:
045818-15

SECRETARY OF STATE
Corporation Division
Business Registry
158 12th Street NE
Salem, OR 97310-0210
(503) 378-4166

THIS SPACE FOR OFFICE USE ONLY

FILED
OCT 19 1992
Secretary of State

ARTICLES OF AMENDMENT
Nonprofit Corporation

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

1. Name of the corporation prior to amendment:

EAST END ROD AND GUN CLUB

2. On a separate sheet, please state the article number(s) and set forth the article(s) as it is amended to read.

3. The amendment(s) was adopted on Sep 10, 1992. (If more than one amendment was adopted, identify the date of adoption of each amendment.

4. Check the appropriate statement:

[X] Membership approval was not required. The amendment(s) was approved by a sufficient vote of the board of directors or incorporators.

[ ] Membership approval was required. The membership vote was as follows:

Class(es) entitled to vote	Number of members entitled to vote	Number of votes entitled to be cast	Number of votes cast for	Number of votes cast against

Execution: Richard G Jackson Treas
Signature

RICHARD JACKSON
Printed name

Secretary
Title

Person to contact about this filing: R.A. Andy Millar (503) 938-4485
Name Daytime phone number

Make checks payable to the Corporation Division. Submit the completed form and fee to: Corporation Division, Business Registry, 158 12th Street NE, Salem, Oregon 97310-0210.

NP-2 (4/90)

10199204302 881.218 18.00

CP 10-19-92

6-5818-15

FILED
OCT 19 1992
Secretary of State

ARTICLES OF AMENDMENT
ARTICLES OF INCORPORATION

EAST END ROD AND GUN CLUB

ARTICLE VI

This Corporation shall be a public benefit non-profit corporation.

ARTICLE VII

Upon dissolution of this corporation, the corporation shall distribute its assets to another organization, organized for a public or charitable purpose in accordance with Oregon Revised Statute 65.627.

DATE of adoption of the above amendments: Sep 10, 1992

Approval of the general membership is not required. The amendments were approved by a sufficient vote of the Board of Directors.

SIGNED this 15th day of October, 1992.

Richard C. Jackson

RICHARD JACKSON, Secretary-Treasurer
East End Rod and Gun Club

Revised 12/14/2011

BY-LAWS
of the

EAST END ROD AND GUN CLUB

MILTON-FREEWATER, OR 97862

AFFILIATED WITH THE NATIONAL RIFLE ASSOCIATION OF AMERICA

ARTICLE 1 - Name

The name of this organization shall be EAST END ROD AND GUN CLUB.

ARTICLE II - Object

The object of this organization shall be the promotion of the conservation of our natural resources, hunter safety education, and shooting sports among the citizens of our community. It shall be our further object and purpose to forward the development of those characteristics of honesty, good fellowship, self-discipline, team plan and self-reliance which are the essentials of good sportsmanship and the foundation of true patriotism.

ARTICLE III - Membership

Any citizen of the United States 18 years of age or older may become a member of this organization on payment of the usual initiation fee and dues.

ARTICLE IV - Dues

(a) The member's annual dues to the club shall be $ 50.00 prior to members anniversary date. A new member's anniversary date is determined by the date they first paid membership.

(b) No member of the club in arrears shall be eligible to vote or to enjoy any other of the privileges or benefits offered by this club.

(c) A member is in arrears if dues not paid by the day after members anniversary date.

ARTICLE V - Meetings

(a) Annual Meeting. The annual meeting of the club shall be held the second Wednesday of January each year. If the annual meeting shall not take place at the time fixed it shall be held within a reasonable time there-after, and the officers shall hold over until their successors shall have been elected.

(b) Regular Meetings. The regular business meeting of the club for the transaction of ordinary business shall be held on the second Wednesday of each month, as such time and place as may be fixed by the executive Committee.

(c) Special Meetings. A special meeting of the club may be held at any time upon the call of the President or upon the call of the executive Committee, or upon demand in writing, stating the object of the proposed meeting, and signed by not less than 20 percent of the members entitled to vote. Notice of the time, place and object of any special meeting shall be given all officers and members in good standing in writing by Untied States mail not less than seven days prior to the date fixed for the holding of the meeting. The place of such special meeting shall be fixed by the Executive Committee.

(d) Quorum. Those members in good standing present shall constitute a quorum at any meeting.

ARTICLE VI - Officers

(a) The officer of this club shall be a President, Vice-President, Secretary, Treasurer, three Directors, acting together, shall constitute the Executive Committee. They shall be elected by a majority vote by ballot of the members in good standing present at the annual meeting of the club. They shall hold office for two years or until their successors are elected.

(b) The Executive Committee shall have general supervision and control of all the activities of the club.

(c) Meetings of the Executive Committee shall be held at such time and place as the Committee may determine. Special meetings may be held at any time on the call of the President or on demand, in writing to the Secretary, by three members of the Committee.

(d) Four members of the Committee shall constitute a quorum.

(e) Resignation of any officer may be accepted by a majority vote of the remaining members of the Executive Committee.

(f) A vacancy in the Executive Committee may be filled by a majority vote of the remaining members of the Committee. However, if more than one vacancy exists, a special meeting of the club shall be called and new officers shall be elected to fill the vacancies until the date of the next annual meeting as provided in paragraph VI (a) above.

ARTICLE VII - Duties of the Officers

(a) President. The President shall preside at all meetings of the club and of the Executive Committee. He/she shall be a member ex-officio of all regular and special committees, and shall perform all such other duties as usually pertain to his office. The President shall conduct all official correspondence pertaining to the proper preparation and forwarding of all reports required of the club by the National Rifle Association and by the Director of Civilian Marksmanship.

(b) Vice-President. The Vice-President shall perform the duties of the President in his absence or at his/her request.

(c) Secretary/Webmaster. He/She shall notify the members of the Executive Committee of all meetings and shall notify all members of special and annual meetings, as required in Article V. He/She shall keep a true record of all meetings of the Executive Committee and of the club and have the custody of the books and papers of the club, except the Treasurer's book of accounts. Web maintenance shall be performed as needed to keep the online calendar and information up to date.

(d) Treasurer. The Treasurer shall have charge of all funds of the club and place the same in such bank or banks as may be approved by the executive Committee. Such money shall only be withdrawn by check signed by two officers which may or may not include the Treasurer and for the payment of such bills as shall have been approved by the Executive Committee. All applications for membership in the club shall be made to the Treasurer. The Treasurer shall keep an accurate account of all his/her transactions and render a detailed report with vouchers at any meeting when requested and an annual report to the organization at its annual meeting.

(e) Officers will receive their yearly membership gratis.

ARTICLE VIII - Suspension or Expulsion

(a) Any officer may be removed by a two-thirds vote of the members in good standing present at any special meeting called for this purpose. No vote on suspension or removal may be taken unless at least fifteen days' notice in writing shall have been given to the officer of the reasons for his/her removal and of the time and place of the special meeting at which such ballot on his removal is to be taken. At such special meeting the officer shall be given a full hearing.

(b) Any member may be suspended or expelled from the club for any cause deemed sufficient by the Executive Committee by a two-thirds affirmative vote of the members of the Committee present at any regular or special meeting. No vote on suspension or expulsion may be taken unless at least fifteen days' notice in wiring shall

have been given to the member of the charges preferred and of the time and place of the meeting of the Executive Committee at which such charges will be accorded a full hearing.

(c) Charges against any officer or member may be preferred by any member in good standing. They shall be in wiring clearly stating the facts relied upon and accompanied by all affidavits or exhibits which are to be used in their support. Such charges shall be filed with the Secretary-Secretary-Treasurer, who will immediately notify the President. The President will call a meeting of the executive Committee to hear the charges. The Secretary – Secretary-Treasurer will give at least fifteen days' notice of the meeting to each member of the Executive Committee and to the accuser and to the accused, which notice shall be in writing and will include a true copy of the charges and of the supporting affidavits and exhibits.

(d) Any member suspended or expelled by the executive Committee may appeal to the full membership of the club. Such appeal shall be made in writing to the Secretary – Treasurer who will notify the President. The President will call a special meeting of the club for the purpose of acting on the appeal. The Secretary shall give at least fifteen days' notice in writing to all members of the club in good standing stating the date, time, place, and the reason for such special meeting. At the meeting of the full club, the Secretary will read the original charges, the supporting affidavit, and will read or display the accompanying exhibits, and will read the minutes of the special meeting of the Executive Committee at which the charges were heard and action taken. A full hearing will be ballot of the members in good standing present and a two-thirds vote shall be required to reverse the action of the Executive Committee.

ARTICLE IX - Amendments

Any proposed amendments to these by-laws may be introduced by any member of the club at any regular meeting or special meeting called for the purpose. A two-thirds vote of the members present will be necessary to pass or reject it.

I hereby certify that these revised by-laws have been adopted by this club.

David P. Russell — 12/14/2011

President's Signature — Date

Felicia Renee Kemmerer — 12/14/2011

Secretary's Signature — Date

Liberty Northwest.

AMERICAN STATES INSURANCE COMPANY
FIRST NATIONAL INSURANCE CO. OF AMERICA

SEATTLE, WASHINGTON
COMMERCIAL INSURANCE POLICY

RENEWAL DECLARATIONS

NAMED INSURED AND MAILING ADDRESS
EAST END ROD & GUN CLUB
PO BOX 251
MILTON FREEWATER, OR 97862

POLICY NUMBER 01-CG-626034-0
RENEWAL OF 01-CG-626034-9 09-04

AGENT NAME AND ADDRESS
MCDONALD-ZARING INSURANCE INC
PO BOX 648
WALLA WALLA, WA 99362

4653589 (509) 525-5730

POLICY PERIOD FROM 09-07-13 TO 09-07-14 12:01 AM STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE.

THE TOTAL PREMIUM DUE FOR THE POLICY TERM IS $1,033.00.
YOU WILL BE BILLED THROUGH YOUR CUSTOMER ACCOUNT #420-3235-581-01.
YOU NEED NOT PAY ANY PREMIUM AT THIS TIME. WE WILL SEND A BILLING STATEMENT IN A SEPARATE MAILING.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE COMPANIES INDICATED ON THE SPECIFIC COVERAGE PART DECLARATIONS AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

COMMERCIAL PROPERTY COVERAGE PART	$	501.00
COMMERCIAL INLAND MARINE COVERAGE PART	$	524.00
		1,025.00
PREMIUM FOR CERTIFIED ACTS OF TERRORISM	$	8.00
TOTAL POLICY PREMIUM	$	1,033.00

(DATE) BY (AUTHORIZED REPRESENTATIVE)

AMERICAN STATES INSURANCE COMPANY
FIRST NATIONAL INSURANCE CO. OF AMERICA

SEATTLE, WASHINGTON

PREMISES ADDRESSES

NAMED INSURED: EAST END ROD & GUN CLUB

POLICY NUMBER: 01-CG-626034-0

PREMISES 1
57752 CEMETERY RD M.F.
MILTON FREEWATER, OR 97862

FIRST NATIONAL INSURANCE COMPANY OF AMERICA
SEATTLE, WASHINGTON

COMMERCIAL PROPERTY COVERAGE PART DECLARATIONS

NAMED INSURED: EAST END ROD & GUN CLUB POLICY NUMBER: 01-CG-626034-0

PREMISES 1 57752 CEMETERY RD M.F.
MILTON FREEWATER, OR 97862

BUILDING 1 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	$ 1,400	$ 250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			$ .493	$ 7.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				
PERSONAL PROPERTY OF INSURED	29,900	250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			1.491	446.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				

BUILDING 2 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	$ 1,400	$ 250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			$ .493	$ 7.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				

BUILDING 3 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	$ 1,400	$ 250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			$ .493	$ 7.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				

NAMED INSURED: EAST END ROD & GUN CLUB POLICY NUMBER: 01-CG-626034-0

PREMISES 1 57752 CEMETERY RD M.F.
MILTON FREEWATER, OR 97862

BUILDING 4 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	$ 1,400	$ 250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			$ .493	$ 7.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				

BUILDING 5 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	$ 1,400	$ 250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			$ .493	$ 7.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				

BUILDING 6 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: GUN CLUB

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	$ 1,400	$ 250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			$ .493	$ 7.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				

BUILDING 7 FIRST NATIONAL INSURANCE CO. OF AMERICA
OCCUPANCY: PORT A JOHN

APPLICABLE TO THIS BUILDING	LIMIT OF INSURANCE	DEDUCTIBLE	RATE	PREMIUM
BUILDING	$ 2,800	$ 250		
COINSURANCE: 100%				
SPECIAL CAUSES OF LOSS			$ .493	$ 13.00
CERTIFIED ACTS OF TERRORISM			.004	1.00
REPLACEMENT COST				

****

COMMERCIAL PROPERTY COVERAGE PART DECLARATIONS PAGE CP 3

NAMED INSURED: EAST END ROD & GUN CLUB POLICY NUMBER: 01-CG-626034-0

****

COMMERCIAL PROPERTY TOTAL $ 509.00

A PREMIUM OF $ 8.00 IS INCLUDED IN THE TOTAL ABOVE FOR CERTIFIED ACTS OF TERRORISM. A PORTION OF THIS PREMIUM INCLUDES FIRE LOSSES FROM CERTIFIED ACTS OF TERRORISM AS REQUIRED BY CERTAIN STATES.

AMERICAN STATES INSURANCE COMPANY
SEATTLE, WASHINGTON

COMMERCIAL INLAND MARINE COVERAGE PART DECLARATIONS PAGE CM

NAMED INSURED: EAST END ROD & GUN CLUB POLICY NUMBER: 01-CG-62603

PREMISES 1
57752 CEMETERY RD M.F.
MILTON FREEWATER, OR 97862

COVERAGE(S)	PREMISES	LIMIT OF INSURANCE ($)	DEDUCTIBLE ($)	RATE ($)	PREMIUM ($)
CONTRACTORS EQUIPMENT 90% COINSURANCE	1	30,000	250	1.746	524.00

****

PREMIUM ADJUSTMENTS:

CERTIFIED ACTS OF TERRORISM	$	0.00
COMMERCIAL INLAND MARINE TOTAL	$	524.00

NAMED INSURED: EAST END ROD & GUN CLUB POLICY NUMBER: 01-CG-626034-0

SCHEDULED ITEMS

PREMISES 1 SCHEDULE FOR: CONTRACTORS EQUIPMENT

ITEM	DESCRIPTION	LIMIT OF INSURANCE
01	1976 RORAN UTILITY TRAILER S#5150027	$ 12,000
02	6 LINCOLN SC 90E TRAPS AT $750 EACH	4,500
03	FENCING W/ELECTRONIC GATE & 2 CARD READERS	13,500

-------- Original Message --------
Subject: Letter to Umatilla County Land Use Planning Commission
Date: Fri, 10 Jan 2014 05:15:52 -0800
From: Brian Schnick <bschnick@live.com>
To:<tamra@co.umatilla.or.us>
CC:<verl.pressnall@eergunclub.com>

Ms. Mabbott,

Please note the attached document regarding the East End Rod & Gun Club.

Thank you,

Brian Schnick
509-540-6106
mailto:bschnick@live.com

In everything, an opportunity

letter attached

RECEIVED
JAN 10 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this in the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You,

Brian Schnick

College Place, WA

#40

To: Umatilla County Land Use Planning Commission

Re: East End Rod & Gun Club Land Use

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms. This is a legal land use.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

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Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons. This is safe range and a well-run operation.

RECEIVED

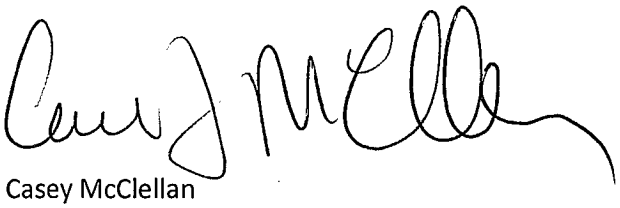
JAN 10 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#41

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms. I appreciate the Planning Commission's consideration of our position.

Sincerely,



Casey McClellan

Umapine, Oregon

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

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Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

RECEIVED

JAN 10 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Thank You

Lorne Harney
323 NE Damson Ave
College Place, WA 99324

#42

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

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Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

Adam Sherman
117 Depot
Milton Freewater OR 97862

Adam Sherman

#43

RECEIVED
JAN 10 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

Tamra Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th ST | Pendleton, OR 97801

Umatilla County Land Use Planning Commission

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Thank You

Douglas L. Humphrey

Douglas Humphrey
53895 Daniel Ct.
Milton Freewater OR 97862

RECEIVED
JAN 10 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

#44

January 8, 2014

Umatilla County Land Use Planning Commission:

First, legally carrying a firearm for the protection of me and my family is a right that carries great responsibility. Part of that responsibility is to be well trained with a firearm not only with regard to accuracy, but also in making split second decisions in difficult situations. My membership with the EERG Club has provided me with a close-in-proximity and safe place to train. The personal value that the EERG Club affords me to keep well trained is unmeasurable.

Secondly, my family and some of our friends consider the EERG Club to be a great recreational resource. We spend at least one Saturday a month using the facility for various shooting activities. It's a family outing that everyone enjoys.

Third, this is one of the reasons why my wife and I chose to live in a rural area, not an urban area. It is wide open spaces that make this kind of recreation possible. This is part of the *uniqueness* of this side of the state; and, this *uniqueness* adds value to our lives. The planning commission would be wise to place a priority on this type of recreation and what it affords the people in our community.

In summary, the EERG Club has proven to be a positive asset to the M-F and Walla Walla area. I urge the Land Use Commission to allow the EERG Club to continue with normal operating procedures at their present location.

Rich Eagon
918 Blue Mtn. Drive
Walla Walla, Wa. 99362

RECEIVED

JAN 10 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

#45

On 1/10/2014 8:33 PM, Terry Hayes wrote:

Tamra J. Mabbott
Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801
451.278.6246

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I have been told by other members that the Rae family would like to have time and day restrictions placed on the range limiting when the range could and couldn't be used. As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which a farmer should understand more then anyone. As a stay at home dad I myself don't get set times or days that I can go to the range and shoot. I either depend on a babysitter who is in school (college) or I have to wait for my wife to get home from work. So I enjoy the fact my use isn't restricted or I might not be able to use the range at all. Some of our members are limited to certain activities because of religious beliefs Friday afternoon to Saturday afternoon. Many of our members only have week days off and many of them are on a rotating schedule so they never have a regular schedule, such as some of the police officers and firemen that are members. And many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

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#46

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Thank you,
Terry Hayes

Berton K. Kinman, POA for Berton E. Kinman
2115 Sudbury Rd.
Walla Walla, WA 99362

January 11, 2014

Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

Re: East End Rod & Gun Club
Land Use Request #LUD-163-13

Dear Members of the Planning Commission:

The Kinman family owns farmland to the east and southeast of the VonDerAhe property, and we aware of the proposed expansion and request for special permitting of a firearms training facility on the site before the Umatilla County Land Use Planning Commission. My family has owned this farmland for over seven generations. Our land is to the south and southeast of the East End Rod and Gun Club's range. In fact, the rifle range is aimed in the approximate direction of our properties, which are on both sides of Spofford Road.

We are strongly opposed to the permitting of this facility at this location and ask that the planning commission deny any such land use requests.

Our area, although close to Milton-Freewater, is rural in character, and the overwhelming use of the land in our area is for agricultural purposes. I am concerned that if the East End Rod and Gun Club gets a special permit or is allowed to expand in the Exclusive Farm Use zone, it will have a significant negative impact upon the area and upon agricultural practices in our area.

Specifically, I am concerned that this facility will have a significant negative impact on farmland values in our area for the current and future generations who own and operate farmland such as ours neighboring the firearms training facility. Farmland values will be impacted due to the existence of a regional firearms training facility that produces constant loud noises, presents inherent safety issues due to large arms and semi-automatic weapon firing, and because of increased traffic and potential for hosting large regional events. Combined, the existence of this facility in this area and its impacts will impact our ability to sell property in this area now and into the future.

I am strongly concerned about the possibility – accidental or otherwise – of errant bullets leaving the facility's property. This is especially the case since I've learned how much of a regional training facility this facility has become for law enforcement and

#47

Washington State Penitentiary snipers. The possibility of these groups such as these shooting large or even small caliber rifles is very concerning. There are a number of roads in the area and increased use of the gun club will increase the danger to the residents and those conducting farming in our rural area. As a landowner, we want to be sure our current or future farmer tenants have a safe working environment that is not impeded by burdensome safety procedures tied to and resulting from this firearms training facility.

These reasons are why we are asking that Umatilla County deny this land use request. It seems prudent that County Planning Commission, County Commissioners and gun club work to find a more suitable location to conduct its business in a safer and less disturbing way to neighbors, neighboring farmland, and the City of Milton-Freewater. This decision will be much easier today than once this is permitted and causing more serious issues in our area.

Best regards,

Berton K. Kinman
On Behalf of the Entire Kinman Family

-------- Original Message --------
Subject: East End Rod and Gun Club Location
Date: Sat, 11 Jan 2014 07:34:28 -0800
From: Brian <b_lovgren@msn.com>
To:<tamra@co.umatilla.or.us>
CC:<verl.pressnall@eergunclub.com>

Umatilla County Land Use Planning Commission

I am concerned that without this range, local families will no longer have access to a proper regulated facility for firearms safety training. I try hard to help make those close to me safe, responsible gun owners and this range is a big part of that. It seems that losing this facility could lead to more un-supervised target shooting at sites around the area. I also feel the firearms safety training is incomplete without hands-on training at the range. This range is also hosts numerous events and classes dedicated to helping the local population reach a higher level of firearms safety. In addition, every year hunters rely on this range to sight in a rifle prior to hunting season, which is good for the community and for the animals they pursue. This is a valuable resource that should be cherished and protected for the service it provides to the entire community.

Thank you,

Brian Lovgren
EERGC Member

#498

1/12/14

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

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Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank you,

David Juhasz

David Juhasz

#49

RECEIVED

JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

UMATILLA COUNTY LAND USE PLANNING COMMISSION

AS A MEMBER OF EAST END ROD AND GUN CLUB I FEEL THAT THE RANGE IN THE CURRENT LOCATION IS OF VITAL IMPORTANCE TO UMATILLA COUNTY AND THE WALLA WALLA VALLEY. THE AVAILABILITY OF THE RANGE TO THE MEMBERS AND ALL THE PROGRAMS WE HAVE GIVES US A SAFE PLACE TO LEARN AND PRACTICE FIREARMS SAFELY.

THE RANGE ALSO PROVIDES A SAFE PLACE FOR TRAINING PROGRAMS SUCH AS 4H SHOOTING SPORTS, BOY SCOUTS OF AMERICA, NRA WOMEN ON TARGET AND NSSF FIRST SHOTS PLUS HUNDREDS OF PEOPLE THAT USE THE RANGE FOR HUNTER SAFETY FIELD DAY TRAINING. THESE PROGRAMS ASSURE THE NEXT GENERATION WILL LEARN FIREARM SAFETY AT A VERY SAFE GUN RANGE, THEY ALSO LEARN THE IMPORTANCE OF THE 2nd AMENDMENT TO THE AMERICAN WAY OF LIFE. OUR RANGE IS ALSO USED BY SEVERAL LAW ENFORCEMENT DEPARTMENTS THAT MAY NOT HAVE ACCESS TO OTHER FACILITIES. THERE ARE MULTI STATE TASK FORCE AND DEPARTMENT OF CORRECTIONS FOR LONG RANGE AND SWAT TRAINING.

THE RAE Family would like to have time and day restrictions put on the range limiting when we can use the range.

(IF THEY ARE 4th GENERATION FARMERS ON THEIR FARM AND THE RANGE HAS BEEN AT ITS LOCATION SINCE 1994 WHY IS IT NOW ALL OF SUDDEN THERE IS A PROBLEM with the noise?)

#10

WE HAVE OVER EIGHT HUNDRED MEMBERS

AND WE ALL DON'T WORK OR LIVE IN A 9 TO 5 MONDAY THROUGH FRIDAY SOCIETY ANYMORE, WHICH ANY FARMER SHOULD UNDERSTAND. ALL THE OTHER FARMERS THAT FARM RIGHT UP NEXT TO THE RANGE DON'T HAVE A PROBLEM WITH THE NOISE OR THE SAFETY FACTOR AT ALL, THE RAE FARM IS A MILE AND A HALF AWAY. WE HAVE ADDED HAY BALES WALLS AROUND THE RANGE NOT ONLY FOR SAFETY BUT REDUCED NOISE. ALOT OF OUR MEMBERS CAN ONLY USE THE RANGE AT THEIR TIME OFF FROM WORK. OUR OPERATING HOURS ARE FROM 8AM TO DUSK, NO NIGHT SHOOTING BECAUSE THERE ARE NO LIGHTS.

THE RANGE IS BENDING OVER BACKWARDS ALL THE TIME TO MAKE A SAFER AND QUIETER RANGE FOR ALL TO USE. ALOT OF FARMERS AROUND THE RANGE KNOW THIS AND WORK WITH US SO EVERYONE IS HAPPY. WE WOULD LIKE THE RAE family TO VISIT THE RANGE TO SEE WHAT IMPROVEMENTS WE'VE HAVE DONE, IT WOULD BE NICE IF THEY COULD WORK WITH US TOO.

THANK YOU,

MICHAEL FERGUSON

513 SW Nye Ave
Pendleton 97801

RECEIVED 1-8-14

JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Land Use Planning Commission

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Thank You

Stan Brindley

541-938-3072

#51

RECEIVED

JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

January 9, 2014

Tamra Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th ST | Pendleton, OR 97801

Re: Umatilla County Land Use Planning Commission

Dear Ms. Mabbott:

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#52

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Thank You!

Sincerely,

Jess & Sandi Roddick

cc: Verl Pressnall - East End rod & Gun Club via e-mail

RECEIVED 1-9-2014

JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Land Use Planning Commission

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Thank You

Paul E. Roquet

Paul E. Roquet
1866 Home Ave.
Walla Walla, WA 99362-9059

#53

Paul E Roquet
1866 Home Ave
Walla Walla WA 99362
509-529-9837

RECEIVED

JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Tamra Mabbott

10-Jan-2014

Umatilla County Land Use Planning Commission

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#54

ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

I agree completely with the above letter

Thank You

Leticia W. Turner
59004 Lone Fir Rd
Milton Freewater,
OR. 97862

RECEIVED
JAN 13 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

Umatilla County Land Use Planning Commission

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Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

J. Buetton #55

I am writing this letter in behalf of my gun club east end rod and gun club I have attached a copy of the letter from my gun club and I totally support ever part of this letter we do have a go and safe range for all to use do not have a small group sway the use of are very nice range as it is a big part in my hunting sighting in for my rifle.

JIM BUETTNER
NEED MY RANGE

J. Buettner

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JAN 13 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

January 8, 2014
1570 Kaniksu Loop
Walla Walla, WA 99362

Umatilla County Department of Land Use Planning
216 SE 4th ST
Pendleton, OR 97801

ATTENTION: **Tamra Mabbott, Planning Director**

Dear Ms. Mabbott and Planning Department Members:

I am a retired citizen of Washington State and I cherish the right to exercise and enjoy the freedoms granted to me under the US Constitution. I am a recent member of the East End Rod and Gun Club (EERGC) and feel that the range in its current location is of prime importance to Umatilla County and the Walla Walla Valley.

The availability of the range to members gives us a safe place to practice with our firearms. I have looked for similar facilities for some time but to no avail until introduced by a friend to EERGC. This range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training as well as those members who simply shoot for recreation and competition. These programs and individuals assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long-range and Swat-Entry training.

I have become aware that the Rae family would like to have time and day restrictions placed on the range, limiting when we would be able to use it. As you and your Department members are probably aware, we do not live in a 9-5, Monday through Friday society in this agrarian locale. Farmers in particular are

#560

keenly aware of this fact and would be severely handicapped if restricted to operate their farms on certain days and then only from 9-5. Many of our members only have week-days off and many of them are on a rotating schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this in the only safe place with facilities for them to come and shoot as well as feel safe bringing their families along. Many if not most of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the EERGC board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern while the range safety committee is constantly reviewing and revising the rules as needed. When the farmers are in the neighboring fields, a black flag is flown that closes appropriate portions or all of the range as needed for safety. We also use a safety flag system to alert users down-range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

I earnestly urge you all to allow us to keep this safe place to train, practice and even occasionally compete with our firearms. We have been using this location for several years and the EERGC is almost as old as I am, founded way back in 1947. Please do not allow the voices of the few to infringe on the rights of the many.

Respectfully Yours,

DK Unrue

Darrel Unrue, EERGC member

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JAN 13 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Tamra Mabbott
Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th St.
Pendleton, OR 97801

January 9, 2014

Subject: East End Rod and Gun Club

Dear Ms. Mabbott:

As a long standing member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. The NRA in conjunction with the EERGC also use the range for certain other training schedules such as its Range Safety Officer training scheduled in February. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world. These programs also are a continuing reminder to the current members of the above as well.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training. If my memory serves me correctly the Army National Guard has also used the range for its training missions.

I have heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it. As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week ends off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights. The Waitsburg Gun Club is a good example.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this in the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

#57

Safety is the paramount concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. Each member before renewing their membership must attend the Member Orientation class. There is a mechanism in place to completely shut down the range, or certain portions, when the farmers are in the neighboring fields. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

The range has been active for many decades without incident both on the range and outside of it boundaries. The EERGC has always driven to be a good and considerate part of the community. No issues have been left unaddressed in complying with our good neighbor policy.

The club has recently spent many thousands of dollars upgrading the facility. Most of that money was to introduce additional safety items throughout the range. Most of the money was received in the form of grants from the State of Oregon. The labor was almost all volunteers. If the club were to move all of that money would have been wasted and not easily, if at all, duplicated. Even so it would take years to build a new range to the current condition of this one.

The club now has over 800 memberships outstanding. This membership along with the many neighbors, friends and family members that also share the club on a guest basis is a substantial number for the area. They come to the range for a safe and controlled environment to shoot, for the camaraderie, and the competition shoots. I ask that you continue to support the EERGC going forward making the changes necessary to allow the club to continue as it has.

Sincerely,

Richard Backlund
4641 Peppers Bridge Rd.
Walla Walla, WA. 99362
509-520-7656

cc: V. Presnall, President EERGC

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JAN 14 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

January 12, 2014

Tamra Mabbott, Planning Director
Umatilla County Dept. of Land Use Planning
216 SE 4th Street
Pendleton, Oregon 97801

Re: East End Rod & Gun Club

"Women On Target" a program for women interested in the sport of shooting, is presented by East End Rod & Gun Club. The site reflects many hours of planning and work. Strict rules and regulations are in effect. Trained members are there to answer your questions; and, you have the opportunity to learn about and shoot various weapons. Many women have participated in this popular event.

The club has a busy calender and offers various events.

I believe this facility, and, it's members, fill a need for the community and surrounding area.

Thank you,

Deanna D Ferguson

Deanna D. Ferguson
52497 Ferguson Road
Weston, Oregon 97886

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Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this in the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

Thank You

Unfortunately, as you know, Umatilla County is becoming more and more urbanized and safe places to hone skills, enjoy plinking, and to train new shooters are becoming hard to find. We need to keep the EERGC free of interference by others residents and government generated regulations for a significant segment of Umatilla County residents.

Respectfully,

Bill Lamm 1/13/14

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JAN 14 2014
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PLANNING DEPARTMENT

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NEXT PAGE

Bill Timmermann
81368 Kupers Rd
Helix OR 97835

Member, EERGC

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JAN 14 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

January 14, 2014

Ms. Tamra Mabbot
Planning Director
Umatilla County Department of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

Re: East End Rod & Gun Club
Land Use Request #LUD-163-13
Our File No. 113-398

Dear Tamra:

At the request of the Planning Commission at the first hearing on LUD-163-13 we offer, on behalf of H.T. Rea Farming Corp. the following legal analysis of the East End Rod & Gun Club's application.

In summary, H.T. Rea Farming Corp. believes the application sought by the East End Rod & Gun Club in LUD-163-13 should be denied because the proposed use does not satisfy the requirements of ORS 197.770 and otherwise seeks an impermissible expansion of a non-conforming use.

i. The East End Rod & Gun Club must meet ORS 197.770 in order to receive approval of their application.

The East End Rod & Gun Club is presently located in an Exclusive Farm Use ("EFU") zone. Shooting ranges and firearms training facilities are not permitted on EFU zoned land under the Umatilla County Development Code ("the Development Code"), nor under the Oregon Revised Statutes, except for the limited application of ORS 197.770. That statute provides as follows:

> (1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.
> (2) For purposes of this section, a "firearms training facility" is an indoor or

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outdoor facility that provides training courses and issues certifications required:

(a) For law enforcement personnel;

(b) By the State Department of Fish and Wildlife; or

(c) By nationally recognized programs that promote shooting matches, target shooting and safety. ORS 197.770.

The East End Rod & Gun Club has failed to provide sufficient evidence that their location was a "firearms training facility" as of September 9, 1995. The evidence in the record consists of letters in support of the facility from East End Rod & Gun Club members and an affidavit from Andy Millar, a former president of the East End Rod & Gun Club. None of these documents provides evidence sufficient to meet the requirements of ORS 197.770. The East End Rod & Gun Club has not shown that any training within the meaning of ORS 197.770 (2)(a) through (c) took place.

Further, the use of the word "and" in subsection (2) of ORS 197.770 means that training and the issuance of certifications both must have occurred with respect to any law enforcement activity. The same principle applies to any training courses or certifications issued on behalf of the Department of Fish and Wildlife and "nationally recognized programs that promote shooting matches, target shooting, and safety." Put another way: Two separate elements must be shown for any of the three categories (law enforcement, Fish and Wildlife, and nationally recognized programs promoting shooting). First, the training courses must have actually occurred at the current site used by the East End Rod & Gun Club. Second, the East End Rod & Gun Club must have actually issued certifications for that training.

No evidence has been presented that any certifications were issued for law enforcement personnel by the East End Rod & Gun Club. Even if law enforcement personnel trained at the facility before September 9, 1995, the lack of any certification being issued by the East End Rod & Gun Club is fatal. Thus, the location cannot qualify as a firearms training facility under ORS 197.770 (2)(a). Similarly, the only evidence in the record regarding issuance of certifications and training was contained in Andy Millar's affidavit which indicates that he personally conducted Hunter's Safety classes. Thus, the East End Rod & Gun Club does not qualify under ORS 197.770 (2)(b).[1] Finally, there was no evidence presented of any training or certifications conducted pursuant to "nationally recognized programs" as of September 9, 1995. Thus, the East End Rod & Gun Club cannot qualify under ORS 197.770 (2)(c).

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[1] Even if Andy Millar's individual actions are viewed as applicable to the East End Rod & Gun Club there still must be some evidence provided from some person who actually participated in training at the facility and received a certification in order for the East End Rod & Gun Club to meet their burden of proof before the Planning Commission.

Further, to the extent that any additional evidence is proffered by the East End Rod & Gun Club at the hearing two salient points should be considered. First, in order to meet the requirements of ORS 197.770 certifications issued to particular persons on or before September 9, 1995, under the ambit of the East End Rod & Gun Club must be provided. Mere self-serving letters that indicate a person went to the facility sometime in the vicinity of the early to mid-1990s are insufficient to meet the requirements of ORS 197.770.

The second point to consider goes to the weight of the evidence. If additional evidence of use that satisfies ORS 197.770 is proffered the weight of this evidence should be considered in light of the fact that in 2002, when the East End Rod & Gun Club originally applied for land use approval for this facility, the application never proceeded under ORS 197.770, which was in existence at the time. Instead the East End Rod & Gun Club simply withdrew the application. The presentation of evidence and testimony tailored toward ORS 197.770 at this time, over a decade after the original application was withdrawn with no mention of ORS 197.770, should raise a significant question as to why that evidence was not originally provided.

ii. The East End Rod & Gun Club cannot rely on ORS 197.770 to gain approval of buildings and development at the location subsequent to September 9, 1995.

If the Planning Commission finds that the East End Rod & Gun Club satisfied the elements of ORS 197.770 the protections of that statute only apply to the facility and continued use of the facility as it existed on September 9, 1995. Any buildings or portions of the facility constructed subsequent to that date–as well as any of the expansions to the facility proposed to be constructed should not be analyzed under ORS 197.770 because it does not apply to expansion.

Analysis of the text and context of ORS 197.770 makes it clear the statute was not intended to apply to any future expansions or alterations of a "firearms training facility." First, the express language of the statute does not mention expansion, it only says that a facility which qualifies as of September 9, 1995, "may continue operating" as long as it is used as a firearms training facility. Further, the legislative history behind ORS 197.770 makes expressly clear that the statute was designed to allow permitting of firearms training facilities in existence at the time the law was passed so that they were not subject to a "moving goalpost" regarding land use approval. The following exchange in the Oregon Senate makes that point clear:

> NEW SPEAKER: I have a question.
>
> NEW SPEAKER: Senator Shannon?
>
> NEW SPEAKER: What about siting new ones? This would mean that --
>
> NEW SPEAKER: This has nothing to do with that.

> NEW SPEAKER: No, nothing to do with that.
>
> NEW SPEAKER: Mr. Chair, Senator Shannon. No, it would not -- new ranges, new construction would have to comply with provisions in existence at the time and go through the process. This is just simply for things that are there and have been there.

Examination of the text of ORS 197.770 and the context of the statute–including the legislative history–makes clear that any structure added or proposed to be added after September 9, 1995, does not fall under the protections of the statute. This view of the statute also comports with the idea that the purpose of the statute was to prevent a "moving of the goalpost" for any firearms training facilities that were in existence as of the date of the statute. Additions made after September 9, 1995, are not facing a "moving goalpost." Rather, they must simply satisfy the applicable land use criteria similar to any other proposed use.

This analysis is consistent with the most recent analysis of ORS 197.770 by the Oregon Court of Appeals. In the recent case of *Conrady v. Lincoln County* the Oregon Court of Appeals engaged in a detailed analysis of the legislative history behind ORS 197.770. In discussing ORS 197.770 the Oregon Court of Appeals said:

> In the debate on the House floor, the bill's carrier, Representative Adams, clarified that the bill specifically referring to those facilities 'in existence' and would not include expansion of existing facilities. The obvious implication, both from his remarks and from the text of the statute itself, is that firearms training facilities that were not in existence would continue to be subject to local zoning restrictions, as would those facilities that were in existence but had ceased being used as firearms training facilities as defined in the statute. *Conrady v. Lincoln County*, ___ Or App ___, (slip op at 17) (citations omitted).

Thus, any portion of the East End Rod & Gun Club that was put in place after September 9, 1995, and any proposed additions to the facilities contained in this application, must be analyzed under the remaining portions of the Umatilla County Development Code Chapter 152 and ORS 215.213, the Oregon revised statute dealing with those uses allowed in EFU zones. Unless the East End Rod & Gun Club can demonstrate its facility is an allowed use under those criteria then the land use application as to any portion of the facility added after September 9, 1995, or now proposed to be added, violates applicable land use law and cannot continue to exist in its present location.

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iii. Alteration and expansion of the shooting range after September 9, 1995, must be analyzed under UCDC § 152.591, which applies to non-conforming uses.

As noted in section ii above, the portions of the East End Rod & Gun Club's application that seek approval of structures completed after September 9, 1995, and which seek approval for construction of new facilities, are not protected by ORS 197.770. Thus, the only basis for approval must come from some other section of the Development Code. Since the proposed uses do not qualify as an allowed use under any other portion of the Development Code applicable to an EFU zone the East End Rod & Gun Club's application–to the extent it applies to facilities built or proposed to be built after September 9, 1995–must be rejected.

Uses in an EFU zone are governed by ORS 215.213 and UCDC §§ 152.056, 152.057, 152.058, 152.059, and 152.060. The only location where a firearms training facility or a shooting range is identified as being permitted is in § 152.059 (E). That section of the UCDC provides that a firearms training facility may be permitted through a land use decision if the facility was in existence on September 9, 1995, and meets "the intent and purposes of ORS 197.770 (2)."

UCDC 152.059 merely adopts at the local level the requirements of ORS 197.770. As noted above, ORS 197.770 does not apply to any expansion or change in a firearms training facility after September 9, 1995. To read UCDC § 152.059 in a broader fashion than ORS 197.770–and to construe UCDC § 152.059 as applying to expansion of a firearms training facility after September 9, 1995–is incorrect. Local land use requirements cannot be more permissive than state statutes. This is a foundational principle of Oregon land use law. Thus, UCDC 152.059 (E) does not aid the East End Rod & Gun Club to the extent the application seeks approval of anything at the location after September 9, 1995, or anything now proposed to be added.

To the extent the Planning Commission desires to perform additional analysis–which is not necessary as the East End Rod & Gun Club's application does not meet the requirements of ORS 197.770 and UCDC § 152.059, the remainder of the Development Code must be consulted. That is a short inquiry. Nowhere in the Development Code are firearms training facilities otherwise permitted on EFU land. The use is therefore not a permitted use and must instead be analyzed under ORS 215.130 and UCDC § 152.590 through § 152.600, governing non-conforming uses. Here, the applicable code section is § 152.591 (B) which provides as follows:

> A nonconforming use shall not be increased, except the permission to extend the use to any portion of a building or lot, which portion was arranged or designed for such nonconforming use at the time of the passage of this chapter, may be granted as a variance to the provisions of this chapter. UCDC § 152.591 (B).

The expansion of the existing facility by adding an additional 35 acres under lease by the East End Rod & Gun Club is clearly an increase under UCDC § 152.591 (B) because it expands both the physical area and the intensity of the use, and is therefore impermissible. Further, under the language of UCDC § 152.591 (B) the existing parcel under lease—the 85 acres the East End Rod & Gun Club leases from the Von der Ahe family–was not "designed" nor "arranged" for use as a shooting range when the Umatilla County Development Code was enacted in 1982. Thus the exception in UCDC § 152.591 (B) does not apply. Further, the proposed increase in use, by adding a skeet range and five additional buildings, some on the 85 acre parcel and some on the 35 acre parcel, also would result in an increase in the intensity of the use and thus violate UCDC § 152.591 (B). Finally, the expansion in members and frequency of use of the existing site also violates UCDC § 152.591 (B) as the increased frequency of use by more members is also an impermissible expansion of a non-conforming use.

iv. Conclusion

Two levels of analysis apply to the East End Rod & Gun Club's application. First, the East End Rod & Gun Club, to even be allowed to continue operating at its current location, must meet the requirements of ORS 197.770. If these requirements are not met the East End Rod & Gun Club cannot continue to operate in its present location irrespective of the length of time that it has been in place.

Second, any changes in the scope of use and physical structure to the East End Rod & Gun Club's facility that occurred after September 9, 1995, cannot be approved under ORS 197.770. Such changes must be analyzed under the non-conforming use analysis. Such an analysis leads to a single conclusion: the Development Code does not permit expansion of a non-conforming use. Thus, even if the East End Rod & Gun Club qualifies under ORS 197.770, anything built after September 9, 1995, is not a permitted use in an EFU zone, and would be an impermissible expansion of a non-conforming use. It cannot be approved. Similarly, any future buildings contemplated by the East End Rod & Gun Club also cannot be approved.

We look forward to discussing these matters further at the January 23, 2014, public hearing before the Planning Commission. Thank you very much.

Sincerely yours,

Patrick M. Gregg

Affidavit In Support of The East End Rod and Gun Club

STATE OF OREGON)
) ss.
County of Umatilla)

I, Gary VanBlokland, under penalty of perjury, do say the following:

1. I am a member of the National Rifle Association ("NRA") and am authorized to make this statement.

2. The National Rifle Association is a nationally recognized program that promotes shooting matches, target shooting and safety.

3. The NRA's members have used the East End Rod and Gun Club (the "Gun Club") at all times since its beginning in 1994.

4. The NRA's members that use the Gun Club have an intent on behalf of the Gun Club to provide training courses and issue certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife and by nationally recognized programs that promote shooting matches, target shooting and safety, including NRA.

Dated this 14th day of January, 2014.

Gary VanBlokland

Subscribed and sworn to before me this 14 day of January, 2014.

Tina M Schroeder

Notary Public for Oregon
My commission expires: 6-16-2017

OFFICIAL SEAL
TINA M SCHROEDER
NOTARY PUBLIC-OREGON
COMMISSION NO. 479116
MY COMMISSION EXPIRES JUNE 16, 2017

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JAN 15 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

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JAN 15 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

January 13, 2014

Tamara Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801

RE: East End Rod and Gun Club Issues

Dear Ms. Mabbott:

First I would like to address safety - that is exactly what this range in its current location is all about. That safe and proper training is available to whole families and allows testing of most types of firearms. Best of all is the long range testing that allows for knowing the limits of the weapons thus making all more safe in the field. Ever diligent members take the range and field safety very seriously.

Next I would like to address noise issue - I would point out that the closest neighbors are agriculture fields and a rock crushing business with tractors and large trucks,grape fields and orchards. We all know the sounds of those hail and bird cannons at all times of the day and night.

Next I would like to address time and day restrictions - having to work a six day schedule with limited time off it is very important that the range be available when I do get that rare opportunity to use it. It is even rarer that the whole family can participate due to school and other activities - thus the need for late evenings and 7 day usage - it is very important to all.

Please consider the options if this range is closed - unsupervised shooting off the rural roads and close by foothills - not a safe or pleasant thought.

In closing I would say that the whole community should be proud and happy to have this range due to the generosity of the land owner and members who do so much for the cause.

Thank you,

Joseph C. Harshman
211 East Cherry Street
Walla Walla, WA 99362

Family Member and Local

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JAN 15 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

TAMRA MABBOTT

To: Umatilla Land Use Planning Commission

Re: East End Rod and Gun Club

I have been a member of the East End Rod and Gun Club for the last 3 years and was really disheartened when I heard that there was issue with our club and that there was an individual that was trying to limit or close the range. I have loved to shoot for years and have in the past found it hard to find a safe and practical place to shoot firearms without just going out into the country and hoping that no one would complain. The range provides a safe place to shoot and to give people a place to teach others how to use a gun. I have taken 2 of my grandkids there and I hope showed them what a gun is and how to use it right. I also know that the range is used for several of the police depts. and clubs in the area for the same purposes as well.

If safety is or misuse is a concern I know that all the members have to go on site to a instruction program and to the use and where you can shoot different firearms. I was not allowed to use the range until I had completed that class. There is a good program with flags of when to shoot and not shoot, there are quite a few range officers that are there to make sure that people don't abuse the range and a general concern for safety that I appreciate when I go to the range. They have a good program for notifying the members if issues do come up and I have always felt comfortable using the range. I know there are limits to the type of firearms that can be used and know that there are certain arms that cannot be used on the range.

There is also the issue of limiting the hours that are part of the discussion and would like to say that I feel the hours are already limited as to when we can use the range. The more you limit the hours you end up with either people not able to go at all or too many people trying to use the range at the same time. We are not allow to use the range at night or early in the morning as they do in some areas so I have a hard time understanding how limiting our times even more would be right.

I don't know why the Rae family picked this point in time, the range has been a part of the area for a long time and I feel has been in a good position to serve a lot of people who live in the area . To use land use violation as an excuse and to try to push us out I think is just wrong. I would hope that you would take that into consideration at your hearing and put an end to this.

Walt Caton

1-14-14

#163

1011 S.E. Broadway
College Place, WA 99324
11 January 2014

RECEIVED

JAN 15 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Tamra Mabbott, Planning Director
Umatill County Dept. of Land Use Planning
216 S.E. 4th Street
Pendleton, OR 97801

Dear Tamra Mabbott:

I am currently a member in good standing of the Fort Walla Walla Muzzleloaders and of East End Rod and Gun Club.

Please keep the East End Rod and Gun Club open, giving us a safe place to train, practice our skills, and occasionally compete with our firearms.

Allowing us to continue to shoot in these protected environs also will keep folks from shooting (and littering!) all over the county.

Thank you.

Sincerely,

Richard McCann

Richard McCann

#164

Jan 10, 2014

Umatilla County Land Use Planning Commission

As a member of East End Rod and Gun Club I feel that the range in the current location is of vital importance to Umatilla County and the Walla Walla Valley. The availability of the range to members gives them a safe place to practice with their firearms.

The range also provides a safe place for training programs such as 4-H shooting sports, Boy Scouts of America, NRA Women on Target and NSSF First shots not to mention the hundreds of people that have used the range for Hunter Safety Field Day training. These programs assure the next generation will learn firearm safety and understand the importance of the 2nd amendment to the American way of life and our security in the modern world.

Our range is also used by several small police departments that do not have access to any other local facility as well as the multi-state task force and Department of Corrections for long range and Swat Entry training.

I have also heard that the Rae family would like to have time and day restrictions placed on the range limiting when we would be able to use it.

As most of you are probably aware we do not live in a 9-5, Monday through Friday society anymore which any farmer should understand. Many of our members only have week days off and many of them are on a rotating schedule so they do not have a regular schedule such as some of the police officers and firemen that are members. Many of them only have evenings in the summer available to them or mornings that are already restricted to an 8am start time. Most ranges, even in urban areas operate well into the evening with shotgun shooting sports under lights.

While it is true that many of us are from Washington there are also many members from Milton-Freewater, Weston, Athena, Pendleton, Pilot Rock and Hermiston as this in the only safe place for them to come and shoot as well as feel safe bringing their families out. Many of these people from out of the region spend money on food as well as purchase shooting supplies locally.

Safety is a very serious concern that has been addressed by the board of directors and is constantly evolving. Member orientation is a way to assure that everyone understands the safety rules that are in place and the 29 NRA certified Range Safety Officers are on alert for anything that may be of concern and the range safety committee is constantly reviewing and revising the rule's as needed. When the farmers are in the neighboring fields a black flag is flown that closes appropriate portions or all of the range as need for safety or the complete range may be closed as needed. We also use a safety flag system to alert to people down range checking and placing targets as well as a flag letting us know that the range is hot with live fire. Certain firearms can only be used in designated areas for safety reasons. Certain types of ammunition and firearms are not allowed at all for safety reasons.

Please allow us to keep a safe place to train, practice and even occasionally compete with our firearms.

RECEIVED

JAN 15 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

Thank You

Grant Stanley Ray #65
345 Short Rd
Touchet, WA 99360

RECEIVED

JAN 15 2014

UMATILLA COUNTY
PLANNING DEPARTMENT

April Dyntera
P.O. Box 122
210 N College Street
Adams OR 97810

January 14, 2014

Tamra Mabbott, Planning Director
Umatilla County Department of Land Use Planning
216 SE 4th Street
Pendleton OR 97801

Dear Ms. Mabbott,

Others have written in support of the East End Rod & Gun Club retaining its use of the property in Milton-Freewater. Many have addressed the various advantages in having a safe gun range locally as well as all the benefits provided to a wide variety, both near and far, of organizations, individuals, and law enforcement agencies. I am a member of the EER&GC. I use our facility and want it to remain at the current location, but I have to question the motives to the current claims made by Mr. Rea and his family.

Why is he raising an issue of safety and noise now when activity had been increasing at the range for quite a few years prior? Why has he not visited the range and talked to the club officers to gain knowledge of the standards of safety and use, and express his concerns at one of the meetings? I suspect that in talking with his neighbors, he has learned of the measures taken when workers are in the fields, and yet he has not made any attempt to make use of the flag system that other farmers take advantage of. He has not made any attempts to achieve a reasonable arrangement but has opted to take his grievances to the county government and the public.

I suspect his motives are for personal advantage and the issues of safety and noise are bogus. Anyone familiar with firearms is not frightened or bothered with the noise resulting in the safe discharge of firearms. While Mr. Rea enjoys peace and quiet between dusk and 8am, my neighbors' barking dogs, yelling kids, and loud music know no bounds. Nor would anyone near the current gun range be excessively worried about "what if" when no incident of harm has ever occurred. I suspect Mr. Rea and his family have had their eye on acquiring the acreage where we have our range and are trying to push their agenda in this direction.

In my opinion, there are no legitimate grounds for removing our club from the current location.

Thank you for your time and consideration.

April Dyntera

April Dyntera

#166

-------- Original Message --------
Subject:[FWD: Re: response]
Date: Wed, 15 Jan 2014 15:19:59 -0700
From:<verl.pressnall@eergunclub.com>
To: Tamra Mabbot <tamra@co.umatilla.or.us>

This is what I received from MF Rural Fire.

Verl Pressnall
President
East End Rod & Gun Club

RECEIVED
JAN 15 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

> -------- Original Message --------
> Subject: Re: response
> From: "R. Saager" <rsaager@mfrfd.com>
> Date: Wed, January 15, 2014 2:10 pm
> To: <verl.pressnall@eergunclub.com>
>
> Hi Verl,
>
> I can not remember one time that we have made a response to the gun range for a fire or ambulance call in the last 20 years.
>
> Thanks.
>
> Rick Saager Chief
> MFRFD/EMS
>
> > ----- Original Message -----
> > **From:** verl.pressnall@eergunclub.com
> > **To:** rsaager@mfrfd.com
> > **Sent:** Wednesday, January 15, 2014 1:38 PM
> > **Subject:** response
> >
> > Rick
> >
> > This is Verl Pressnall with the gun club. Tamra Mabbot suggested I contact you regarding any emergency calls or dispatches to the range on Milton cemetery road since it has been in operation. She was unable to make the request herself at this time.
> >
> > Sent from my Verizon Wireless 4G LTE Smartphone.

#67

Umatilla Planning Commission

My name is Sheldon Ferguson 51854 Watts Rd Weston, OR 97886.

I'm submitting this letter IN SUPPORT of the East End Rod and Gun Club in Milton-Freewater OR. I urge that you approve the land use request under the provisions of ORS197.770.

I'm a current member of the gun club and have participated in several community oriented functions at the site. I have obtained Range Safety Officer training from the gun club that is sanctioned by the NRA.

Each time I participate in shooting events at the range, I'm impressed with how much this range means to the community. From young hunters participating in the hunters safety course to women learning how to handle firearms safely in the Women on Target program. A lot of people benefit from the shooting and safety instruction that is provided – which is directly a result of having this range available.

As further testimony to the importance of this range to the community, I have attached a list of people in support of this range. The majority of these people are members of the club, have participated in shooting events at the range, or feel strongly that this facility is important to our community.

Again, I urge that you approve the land use permit that is being considered for the East End Rod and Gun Club.

Thank you,

Sheldon Ferguson

Sheldon Ferguson

RECEIVED
JAN 16 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

#68

Umatilla Planning Commission

I'm signing this letter IN SUPPORT of the East End Rod and Gun Club in Milton-Freewater OR. I urge that you approve the land use request under the provisions of ORS197.770.

NAME	CITY
Sheila Ferguson	Weston
John A Drago	M-F Live NW of Range
Howard Gilbertson	Milton Freewater
Doug Bezek	Milton - Freewater
John Mosby	Milton - Freewater
Jerry Schmieren	MILTON Freewater
Tom Bramblack	Milton Freewater
Ron Hayes	Milton Freewater
Lee Leonard	WALLA WALLA
Daniel Edwards	WALLA WALLA
Dan McDowell	Milton Freewater
Brian Horton	College Place
Dawn McFarland	Walla Walla
Paul Barton	Walla Walla
Elliot Vallejo	Walla Walla
Greg Leland	Milton-Freewater
Ken Hall	Kennewick

Umatilla Planning Commission

I'm signing this letter IN SUPPORT of the East End Rod and Gun Club in Milton-Freewater OR. I urge that you approve the land use request under the provisions of ORS197.770.

NAME	CITY
Erin Mason (Erin Mason)	Walla Walla
Todd Hoff	Adams, OR.
George Anderson	M-F, OR.
Lee T. Goodman	M-F, OR.
Bob Mans	Walla, Wa.
Stan Cooghan	M-F OR.
David G Boyer	M-F OR.
Art Miller	M-F. OR.
[illegible]	WALLA WALLA WA
J.D. Jarvis.	WALLA WALA WA.
Brad Tinhof	Pendleton, OR
[illegible]	WALLA WALLA
Ryan Johnson	M.F.
Karl B [illegible]	M-F OR
Donald Bolling	M-F OR
Curtis Partney	M-F OR
David Peake	[illegible]

Umatilla Planning Commission

I'm signing this letter IN SUPPORT of the East End Rod and Gun Club in Milton-Freewater OR. I urge that you approve the land use request under the provisions of ORS197.770.

NAME	CITY
Jeff Bryant	WALLA WALLA
Rob Lee	College Place
Curtis Mains	Milton Freewater
John Woodruff	Milton-Freewater
Tom Mc	Athena
Mark Easy	Milton Freewater

Perkins Coie

1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
PHONE: 503.727.2000
FAX: 503.727.2222
www.perkinscoie.com

Michael C. Robinson
PHONE: (503) 727-2264
FAX: (503) 346-2264
EMAIL: MRobinson@perkinscoie.com

VIA E-MAIL

RECEIVED
JAN 16 2014
UMATILLA COUNTY
PLANNING DEPARTMENT

January 16, 2014

Mr. Randy Randall, Chair
Umatilla County Planning Commission
Umatilla County Department of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801

Re: Umatilla County File No. LUD-163-13, Application by the East End Rod and Gun Club

Dear Chair Randall and Members of the Umatilla Planning Commission:

This office represents the East End Rod and Gun Club (the "Gun Club"). This letter on behalf of the Gun Club fully explains why the Planning Commission can make a determination that the Gun Club complies with ORS 197.770. For the reasons set forth below, the Planning Commission should reject the arguments against the determination made by opponents.

1. The Gun Club satisfies the requirements of ORS 197.770. (Exhibit 1).

ORS 197.770 is entitled "Firearms Training Facilities" and provides in its entirety:

> **"(1) Any firearms training facility in existence on September 9, 1995 shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.**
>
> **(2) For purposes of this section, a 'firearms training facility' is an indoor or outdoor facility that provides training courses and issues certifications required:**
>
> **(a) For law enforcement personnel;**
>
> **(b) By the State Department of Fish and Wildlife; or**

#104

(c) By nationally recognized programs that promote shooting matches, target shooting and safety."

The plain language of the statute provides for the following:

- A firearms training facility meeting the definition of "firearms training facility" in ORS 197.770(2) is allowed to continue operating under the statute. The statute does not require that the firearms training facility have been lawfully established or obtained any permits when it was established. *Citizens for Responsibility v. Ziebert*, 207 Or App 500, 142 P3d 486 (2006).

- The firearms training facility need only have been in existence on September 9, 1995.

- The statute uses the word "shall", which is mandatory, and means that as long as substantial evidence demonstrates that the Gun Club meets ORS 197.770, the Planning Commission ***must*** make a determination that the Gun Club satisfies this statute, providing substantial evidence supports such determination.

- The statute is intended to permit the continuation of firearms training facilities that meet the statutory definitions in ORS 197.770. *Citizens for Responsibility, id.*

- The statute does not require that the firearms training facility provide certificates in any particular number or within any particular timeframe in order to continue to qualify as a firearms training facility. *Citizens for Responsibility, id.* As long as the facility is functioning and able to and has the intent to conduct training and issue certificates, ORS 197.770 is satisfied.

- The administrative rule governing farm uses authorizes the expansion of the Gun Club. OAR Chapter 660-033-0120, Table 1 (**Exhibit 2**), provides that firearms training facilities are a use that may be allowed after required review subject to OAR 660-033-0130 (**Exhibit 3**). OAR 660-033-0130(2)(a)-(c) provides that "existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract subject to other requirements of the law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule." The Planning Commission can find that any Gun Club facilities established after September 9, 1995 are allowed pursuant to this administrative rule, subject only to the provisions of OAR 660-033-0130(2)(a)-(c). Those provisions, in turn, prohibit enclosed structures with an individual or cumulative design capacity greater than 100 people. The Gun Club does not have any enclosed structures

with a design capacity greater than 100 people. The Planning Commission is not required to apply additional criteria to the Gun Club facilities established after September 9, 1995.

- Umatilla County allows the continuation of a firearms training facility under Umatilla County Development Code ("UCDC") 152.059(E) subject to the requirements of ORS 197.770(2) and as provided in UCDC 152.617(ii)(5). UCDC 152.617(ii)(5) simply repeats ORS 197.770 without imposing any additional substantive requirements.

- *Citizens for Responsibility,* discussed in more detail below, addressed the issue of whether ORS 197.770 is subject to non-conforming use standards and concluded that it is not. The Court of Appeals held:

> **"ORS 197.770 does have some similarities to a non-conforming use provision. "Firearms training facility" is not listed as a permitted or conditional use in exclusive farm use zones under ORS 215.213 and ORS 215.283, and an existing facility in such a zone (or other restricted zone) may be regarded as a non-conforming use. Also, the statute includes a means to end the protected use, providing certain conditions are met. Nonetheless, the statute does not import the specific abandonment or disuse provisions from the other statutory nonconforming use provision found in ORS 215.130, and nothing in the statute requires local governments to treat the allowed firearms training use as a nonconforming use. Authorization in ORS 197.770 to continue a use coming within the definition of a firearms training facility does leave the specifics of implementation to the local government."**

Id. at 6 and 7. Therefore, the nonconforming use provisions in ORS Chapter 215 and the UCDC do not apply to the requested determination that this firearms training facility satisfies ORS 197.770.

2. *Conrady* does not control the outcome of this application.

The Reas have cited *Conrady v. Lincoln County*, ___Or App ___ (2013) as controlling the outcome of this application but they are mistaken. The most relevant appellate decision is *Citizens for Responsibility v. Lane County*, 207 Or App 500, 142 P3d 486 (2006).

The Oregon Court of Appeals in *Citizens for Responsibility* had the occasion to consider questions relevant to the application before the Planning Commission and an application by firearms training facility in Lane County. In that case, a firearms training facility had applied for a permit under ORS 197.770. Lane County approved the permit. Opponents to the firearms training facility appealed the County's land use decision to the Oregon Land Use Board of Appeals ("LUBA"). LUBA remanded the County's decision. Lane County appealed the decision to the Oregon Court of Appeals, which remanded and reversed LUBA.

The Oregon Court of Appeals made four important findings relevant to this application. First, the Oregon Court of Appeals rejected the argument that a firearms training facility under ORS 197.770 must have been lawfully established or otherwise obtained all land use permits when it began operation. The Oregon Court of Appeals noted the express language of ORS 197.770, which uses the word "any" in describing firearms training facility eligible for its determination under ORS 197.770 and noted the lack of the words "lawfully established" or "lawful" in the statute.

Second, the Oregon Court of Appeals determined that a firearms training facility need only show an intent to provide training courses and issue certifications required by the statute to find that a firearms training facility is functioning and able to conduct training and issue certificates so that it has been continued since the beginning of its operation.

Third, as discussed above, the court held that a firearms training facility under ORS 197.770 is not subject to non-conforming use provisions.

Finally, the Oregon Court of Appeals determined that the authorization in ORS 197.770 to continue the use leaves the specifics of implementation of the statute to the local government.

Applying *Citizens for Responsibility* to the present application, the Planning Commission can find that the substantial evidence before it shows that the Gun Club was established before September 9, 1995, that it meets the definition of a firearms training facility because it provides training courses and issues certifications required by the statute and that its members have had an intent to provide training courses and to issue certifications since its founding in 1994. *Citizens for Responsibility* is the controlling appellate decision that guides the Planning Commission in applying ORS 197.770 to this land use application.

3. The Gun Club satisfies the statutory requirements of ORS 197.770.

The Gun Club submitted an application for a determination to allow the continuance of the firearms training facility pursuant to ORS 197.770 and also to approve a 35-acre expansion of the facility.

Substantial evidence demonstrates that the Gun Club was in existence on September 9, 1995. **Exhibit 4** is an affidavit of Mr. R.A. Andy Millar dated August 14, 2013 in which he states in paragraph 2 that:

> **"On April 24th, 1993, we conducted the first Range and Field Day at the present facility. Not only were the students trained in marksmanship and conducted live fire of rifles and shotguns, the students also demonstrated their proficiency in handling firearms when crossing fences and other obstacles, entering and exiting a vehicle, hunting 3 abreast, walking on trails with others in front, behind, or to the side and shoot-don't-shoot scenarios. After successfully completing the training and testing at the site, the students were certified by Oregon Department of Fish and Wildlife."**

The Planning Commission can find based on Mr. Millar's affidavit that the firearms training facility was in existence on September 9, 1995 as required by ORS 197.770(1). Further, the Planning Commission can find that the Gun Club constituted a firearms training facility pursuant to ORS 197.770(2)(b) because it provided, beginning on or before September 9, 1995, training courses and the attending certificates required by the State Department of Fish and Wildlife ("ODFW"). Additionally, four (4) other affidavits are substantial evidence that the Gun Club was a firearms training facility in existence on September 9, 1995. (***See*** Exhibits 5-8, Affidavits by Mr. Malcolm Miller, Mr. Buddy Birdwell, Mr. Robert Sallee, and Mr. Larry Zalazenk).

As the Court of Appeals held in *Citizens for Responsibility*, "The [Lane] County understood that the statutory definition [in ORS 197.770] was satisfied if the operator of the facility *intended* to provide training and issue certificates and retain the ability to do so. We believe that that understanding is consistent with the text of the statute. As long as the facility is functioning and able to conduct training and issue certificates, we believe that the statutory definition is satisfied." *Citizens for Responsibility, id.* (Emphasis added). The County can find that the Gun Club intends to provide and has continued to provide training and issue certificates and that it retains the ability to do so.

The record contains substantial evidence demonstrating that the Gun Club has provided and has had the intent and continues to have the intent to provide training and certification as required by ORS 197.770(2). The fact that members have conducted the training does not defeat this conclusion; a member of the Gun Club offers training certifications on behalf of the Gun Club.

First, the December 16, 2013 letter from Mr. Mike Davis states that he used the Gun Club for official training programs for the Oregon State Police Special Weapons and Tactics ("SWAT")

team and the Explosive Disposal unit about 10 years ago. This satisfies the requirement of ORS 197.770(2)(a). **(Exhibit 9).**

Second, Mr. Zalaznik's letter states that he is a certified National Rifle Association ("NRA") Range Safety Officer. His letter further states that he conducts a regular shoot schedule each month. This activity meets the requirements of ORS 197.770(2)(c). **(Exhibit 10).**

Third, Lieutenant Douglas Jones' December 17, 2013 letter states that he is the lead firearms instructor for the United States Department of Veterans Affairs Police in Walla Walla, Washington, and that the group has been using the Gun Club for its firearms training for the past three years. This satisfies the requirements of ORS 197.770(2)(a). **(Exhibit 11).**

Fourth, Mr. John Shafer's December 19, 2013 letter states that he is a 4-H shooting sports instructor and that all 4-H Umatilla County students use the Gun Club. This satisfies ORS 197.770(2)(c). **(Exhibit 12).**

Fifth, Mr. Scott Gilmore's undated letter states that the Gun Club provides safety and education courses and NRA training courses. He also states that the Gun Club provides training courses for women shooters through the NRA's Women on Target program. This satisfies the requirements of ORS 197.770(2)(c). **(Exhibit 13).**

Sixth, Ms. Stacy Alexander, an NRA certified instructor Range Safety Officer, submitted an undated letter in which she states that the Walla Walla chapter of "A Girl and a Gun Women's Shooting League" uses the Gun Club. This satisfies ORS 197.770(2)(c). **(Exhibit 14).**

This evidence demonstrates, consistent with the Court of Appeals' decision in *Citizens*, that the Gun Club meets the requirements of ORS 197.770 to be a firearms training facility.

For the above reasons and based on substantial evidence in the whole record, the Planning Commission can find that the Gun Club is a firearms training facility, as that term is defined in ORS 197.770(2), that has been in existence since September 9, 1995, that has continued since that time and that may continue because the Gun Club continues to be used as a firearms training facility with the intent to provide training courses and issue certificates.

4. The arguments and evidence submitted by the Reas in opposition to the Gun Club application must be rejected.

The Reas make four (4) main arguments in opposition to the application, all of which are without merit under the statute.

First, the Reas argue that the Gun Club "never obtained land use approval for its operations." The Planning Commission must reject this argument because the Oregon Court of Appeals has

done so. In *Citizens for Responsibility*, the Court of Appeals expressly rejected this argument when it held:

> **"There is no language in ORS 197.770 that provides that the statute is intended to permit the continuation of only those firearm training facilities established in conformity with whatever regulations existed prior to the effective date of the statute. Indeed, the statute says only that '[a]ny firearms training facility *in existence* on September 9, 1995, shall be allowed to continue operating until "it is no longer used"' (emphasis added). *Id.*, ___ Or App _____. . . . The County's understanding of the statutory language is also consistent with the apparent purpose of the statute, namely, to permit the continuation of firearms training facilities that meet the statutory definition of such facilities set out in ORS 197.770."** ***Id.*** **(emphasis added).**

Just as in *Citizens for Responsibility*, the Planning Commission must reject the argument advanced by the Reas that there is any requirement for a firearms training facility under ORS 197.770 to have been lawfully established or to have obtained any permits in order to be found to be consistent with the statute.

Second, the Reas argue that the Gun Club's use is "inconsistent with the EFU zone in which it is located and the Gun Club conflicts with the farming activities in the EFU zone." The Planning Commission must also reject this argument. Nothing in ORS 197.770 requires that a firearms training facility must be consistent with the purposes of the EFU zone or that it not conflict with farming activities in the EFU zone. For a firearms training facility that is shown by substantial evidence to meet the statutory definition of such facility and to have been in operation as of September 9, 1995, there is no further test to meet the statute. Moreover, the County is not required to apply any statutory provisions to the continuation of the firearms training facility provided that it continues to show an intent to provide training courses and issue certifications as required by ORS 197.770(2).

Third, the Reas argue that the Planning Commission improperly applied ORS 215.296. The Planning Commission must reject this argument. First, there is no requirement that ORS 215.296 be applied to the determination required by ORS 197.770. A firearms training facility is not a use allowed under ORS 215.283(2), So ORS 215.296 is not applicable.

Fourth, and not found in the Reas' written submittal but advanced by the Reas in their oral argument to the Planning Commission on December 18, 2013, the Oregon Court of Appeals decision in *Conrady v. Lincoln County* is irrelevant. The issue before the Court of Appeals in

that case was whether Lincoln County's permit requirement was preempted under state law. Nothing about that case is relevant to the determination the Planning Commission must make about the satisfaction of ORS 197.770. Indeed, the Court of Appeals in *Conrady* mentions ORS 197.770 in only two places in its opinion:

First, court said in note 9:

> **"Plaintiff suggests, by way of a footnote, that the County's interpretation of the term 'firearms training facility' in LCC1.1375(2)(m) is somehow inconsistent with the legislative definition of that term in ORS 197.770(2). The County interpretation of ' firearms training facility' is not properly before us in this case. In any event, we note that ORS 197.770(2), set out previously (citation omitted) was enacted after the County's ordinance."**

Second, the court noted the legislative history of the bill that became ORS 197.770. At best, the passage relying on legislative history is *dicta*. *Dicta* is an opinion of the court that is unrelated to the specific controversy before the court. In *Conrady*, the issue involved an argument that statutes other than ORS 197.770 pre-empted Lincoln County's regulation of firearms training facilities. The court of appeals rejected that argument, as did the lower court, and cited to the legislative history in ORS 197.770 only as a way of examining the pre-emption case but the legislative history analysis was not relevant to the court's holding. *Contrady* is not a case that stands for any holding on ORS 197.770. In fact, n9 of *Conrady* (*Id.* 260 Or App 115, 129) makes clear that the statute was not before them in that case.

In any event, OAR 660033-0130(2)(c) expressly allows existing firearms training facilities to be expanded, maintained or enhanced subject only to OAR 660-033-0130(2)(a) and (b). These two provisions are inapplicable because the Gun Club's evidence shows no enclosed structures within an individual or cumulative decision capacity greater than 100 persons.

For these reasons, *Conrady* has no relevance on the determination that the Planning Commission is required to make in this quasi-judicial application.

5. Conclusion.

For the reasons contained in this letter, the Planning Commission must reject the arguments advanced by the Reas in their letter dated December 12, 2013 and in their oral testimony at the initial evidentiary hearing on December 18, 2013 and find that the Gun Club meets the statutory requirements for ORS 197.770 for a determination that the Gun Club was in existence on September 9, 1995, that the Gun Club continues to have the intent to provide training courses

and issue certifications required by the statute and that the County has the authority under the statute to determine how to implement ORS 197.770. The Gun Club respectfully requests that the Planning Commission approve its request and find that the Gun Club meets the requirements of ORS 197.770.

Very truly yours,

Michael C. Robinson

MCR:rsp
Enclosures

cc: Mr. Verl Pressnall (via email) (w/ encls.)
Ms. Tamra Mabbott (via email) (w/ encls.)

FILED: August 30, 2006

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CITIZENS FOR RESPONSIBILITY,
an unincorporated association,
PHILIP ZIEBERT, ADAM NOVICK,
and MAUREEN HUDSON,

Respondents,

v.

LANE COUNTY,

Petitioner.

2005-082; A132091

Judicial Review from Land Use Board of Appeals.

Argued and submitted June 6, 2006.

Stephen L. Vorhes argued the cause for petitioner. With him on the brief was Lane County Office of Legal Counsel.

Daniel J. Stotter argued the cause for respondents. With him on the brief was Bromley Newton LLP.

Before Linder, Presiding Judge, and Wollheim, Judge, and Deits, Judge pro tempore.

DEITS, J. pro tempore.

Reversed and remanded.

DEITS, J. pro tempore

Lane County seeks review of a Land Use Board of Appeals (LUBA) decision remanding the county's approval of a special use permit for a firearms training facility for further proceedings consistent with LUBA's understanding of ORS 197.770. We reverse and remand LUBA's decision.

Before addressing the merits of the county's challenge to LUBA's decision, we consider whether the county has standing to bring this review proceeding. If the county lacks standing to seek review, this court does not have jurisdiction to review LUBA's decision. As we held in *Utsey v. Coos County*, 176 Or App 524, 546-47, 32 P3d 933 (2001), *rev dismissed*, 335 Or 217 (2003), any party seeking review under ORS 197.850 of a decision by LUBA must satisfy the constitutional requirement that our decision will "have a practical effect" on the party. Accordingly, the county must demonstrate a practical effect

EXHIBIT 1

on its interests in order to establish standing to bring this appeal.

The county's petition for judicial review alleges that "a decision of this court will have a practical effect on the interests of petitioner by determining the meaning of the applicable law and the scope of any further county proceedings, if required." That statement, by itself, does not necessarily answer the question of standing here. The same could be said of many court decisions. As the Oregon Supreme Court recently reiterated in its decision in *MacPherson v. DAS*, 340 Or 117, 134, 130 P3d 308 (2006), governmental entities perform multiple functions; they are not solely legislative, executive, or judicial. Whether a governmental entity has standing to seek judicial review of a judicial or quasi-judicial decision will depend on the particular functions that the governmental entity is exercising in the case.

The Oregon Supreme Court considered an analogous issue in *Valley & Siletz Railroad v. Laudahl*, 296 Or 779, 681 P2d 109 (1984), in which LUBA sought review of a decision of this court. In that case, the court held that LUBA had not demonstrated the statutorily required adverse affect or aggrievement that was necessary to invoke the court's jurisdiction. The court explained:

> "LUBA's role in policy development is no greater than that of any quasi-judicial body which applies the law to factual settings consistently and over a period of time in its area of specialty. Certainly, land use regulation is a matter of statewide public interest, but this alone does not render every agency involved in land use regulation, for instance a local planning commission, 'aggrieved' when it is dissatisfied with a judicial ruling. The role delegated to the agency apart from its use of quasi-judicial procedures is the controlling consideration. We find no indication in the duties delegated to LUBA that the legislature contemplated that the tribunal would assume the role of advocate. Both enforcement and primary policy making responsibility reside in the Department and the Commission. LUBA's 'statutorily defined interest or responsibility,' *Ochoco Const. v. DLCD*, [295 Or 422,] 433[, 667 P2d 499 (1983)], lies in impartial, consistent and speedy review of local land use decisions. Having no statutory interest beyond this, LUBA cannot be aggrieved by a reversal of its order on appeal."

Id. at 788.

The county's functions here involve the application and interpretation of county land use regulations relating to ORS 197.770.[(1)] The county's review of the permit application at issue here is, of course, quasi-judicial in nature. However, the county's exercise of this quasi-judicial authority is inextricably intertwined with its legislative and executive responsibilities to adopt and implement county policies and regulations that carry out the statutory directives. For example, implementation of the statutory requirements involves decisions concerning the allocation of county staff and governing body time and the expenditure of county funds, which the county is required to appropriate from limited resources, as well as other local policy decisions relating to this particular type of use.

This difference is significant because, in contrast to the circumstances in *Valley & Siletz Railroad*, where LUBA was acting solely in an adjudicative capacity, the county here was exercising both legislative and executive functions in addition to its adjudicative

function. Whether sufficient practical effects have been demonstrated to establish standing by a governmental entity to seek review of a judicial or quasi-judicial decision will depend to a great degree on the particular circumstances of a case. Based on the circumstances here, however, we conclude that the county has shown sufficient impact on its interests to establish standing to bring this review proceeding. Accordingly, we proceed to the merits.

The permit that is the subject of this appeal was sought by the property owner, the Izaak Walton League (the League). The League has operated a gun club on the property, which consists of 17 acres, since the mid-1950s. The property was once zoned AGT (Agriculture, Grazing, Timber). That zone did not expressly allow shooting ranges but allowed authorization of such uses by means of a conditional use permit. In 1975, the League obtained a conditional use permit to facilitate the expansion of the facility, apparently to include a skeet shooting range.[(2)] Subsequently, the property was rezoned "F-2" which, under the provisions of the county code for that zone, allows a firearms training facility "that shall not significantly conflict with the existing uses on adjacent and nearby lands" under Lane Code (LC) 16.211(3)(c-c). Since the time of the rezoning, a number of changes have been made to the operation of the facility.

The League applied for the permit at issue here in 2003. It asked for *post hoc* approval of modifications made to the facility after 1975. In its request, the League relied on the provisions of ORS 197.770 that allow firearms training facilities in existence on September 9, 1995, to continue until such time as the facility is no longer used as a firearms training facility. The League asserted that the modifications made before the effective date of the statute would not need to be evaluated under LC 16.211(3)(c-c) to determine whether the uses "significantly conflict with the existing uses on adjacent and nearby lands."

The county planning director conducted a hearing on the permit application in April 2004. The planning director agreed with the League that, as of September 9, 1995, the facility qualified as a "firearms training facility" under ORS 197.770(2). The planning director reached that conclusion based on his determination that, before September 9, 1995, the facility provided training courses and issued certifications required by nationally recognized programs that promote shooting matches, target shooting, and safety. Consequently, the planning director evaluated only the modifications made to the facility after September 9, 1995, under LC 16.211(3)(c-c) to determine whether the facility conflicts with existing uses on adjacent and nearby lands. The planning director found that the modifications made after September 9, 1995, did not conflict with existing adjacent uses and approved the application.

Citizens For Responsibility, Novick, Ziebert, and Hudson (Citizens) appealed the planning director's decision to the county hearings officer. Citizens argued to the hearings officer that there was no evidence that the facility provided training courses and certifications after 1995. It was Citizens' position that, for that reason, the facility was no longer used as a firearms training facility after 1995 under the terms of ORS 197.770(2) and, accordingly, the facility lost the protection of that statute. Citizens asserted to the hearings officer that, therefore, all of the post-1975 modifications must be evaluated under LC 16.211(3)(c-c). In Citizens' view, the modifications could not be approved because the facility as a whole significantly conflicts with forestry and other uses on adjacent lands.

The county hearings officer agreed with the League that the facility was in existence on September 9, 1995, and, consequently, could continue to operate until such time as it was no longer used as a firearms training facility. The hearings officer concluded that the intent and the capability to provide training and certifications were sufficient indications of the use of the facility as a firearms training facility. Because of his view that the facility was in existence on September 9, 1995, the hearings officer held that only modifications or improvements made after September 9, 1995, were subject to the "significantly conflict" standard of LC 16.211(3)(c-c). The hearings officer affirmed the planning director's decision but did note that, if the facility as a whole were subject to the "significantly conflict" standard, it would not comply with the code because there was evidence of significant impacts by the facility as a whole on neighboring forestry operations and other uses.

Citizens appealed the county's decision to LUBA. Before LUBA, Citizens asserted that, under ORS 197.770, the fact that the facility *existed* on September 9, 1995, is not enough for it to be entitled to the protection of the statute. Citizens argued before LUBA that the statute only authorizes the continued use of and improvements to a firearms training facility that *lawfully existed* on September 9, 1995. In other words, the uses and improvements must have been "authorized" and "lawful" under the regulations that existed when the improvements were first constructed and the particular use began in order for a facility to be considered to be *in existence* on September 9, 1995. Citizens argued that, because modifications made to the League facility between 1975--that is, the year that the conditional use permit was issued--and 1995 were not authorized and were unlawful, ORS 197.770 may not be used to "grandfather" the League facility. The county, on the other hand, asserted before LUBA that the statute provides protection for all uses and improvements associated with a firearms training facility in existence on September 9, 1995, regardless of whether the uses were authorized or lawful.

LUBA agreed with Citizens, concluding that "it seems unlikely that the legislature intended to protect unauthorized or unlawful facilities, or the entirety of facilities with unauthorized and unlawful expansions." *Citizens for Responsibility v. Lane County*, 51 Or LUBA ___, ___ (Apr 7, 2006) (slip op at 10). LUBA explained that "[t]he statute protects only lawful uses (including lawful nonconforming uses), and does not protect unauthorized uses that required the county's discretionary approval but did not receive such approval." *Id.* at ___ (slip op at 12-13). Accordingly, LUBA remanded the county's decision for further proceedings consistent with its reading of ORS 197.770. As we will explain in more detail, LUBA also concluded that, under its interpretation of the statute, the property was no longer being used as a firearms training facility.

On review in this court, the county first assigns error to LUBA's holding that the statute protects only lawful or authorized uses in existence on September 9, 1995. The county argues to this court that the statute protects any firearms training facility in existence on September 9, 1995, that meets the statutory criteria for a firearms training facility regardless of whether the particular use was authorized or lawful. The county argues that LUBA's interpretation of ORS 197.770 is inconsistent with the text of the statute and requires the addition of language that does not appear in the statute, an act inconsistent with rules of statutory interpretation set out in ORS 174.010 and articulated in *PGE v. Bureau of Labor and Industries*, 317 Or 606, 611, 859 P2d 1143 (1993).[3]

We agree with the county's understanding of the text of the statute. There is no language in ORS 197.770 that provides that the statute is intended to permit the continuation of

only those firearm training facilities established in conformity with whatever regulations existed prior to the effective date of the statute. Indeed, the statute says only that "*[a]ny* firearms training facility *in existence* on September 9, 1995, shall be allowed to continue operating until" it is no longer used. (Emphasis added.) Were the legislature to have intended to limit the statutory authorization as Citizens asserts and LUBA opined, the legislature easily could have added such limiting language. ORS 92.017 exemplifies such language. That statute provides that "[a] lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law." Another example is found in ORS 215.705, which controls the construction of dwellings on lots of record within farm and forest use zones. *See also Yamhill County v. Ludwick*, 294 Or 778, 790, 663 P2d 398 (1983) (unauthorized subdivision tracts not "existing legal lots of record" as that term is used in county ordinance).

The county's understanding of the statutory language is also consistent with the apparent purpose of the statute, namely, to permit the continuation of firearms training facilities that meet the statutory definition of such a facility set out in ORS 197.770. We conclude that the county's reading of the statute is consistent with the text and apparent purpose of the statute. *See PGE*, 317 Or at 610-11.

The county also assigns error to LUBA's holding regarding the county's understanding and application of the statutory provision that allows the continued use of a firearms training facility in existence on September 9, 1995, until such time as it is "no longer used as a firearms training facility." LUBA agreed with Citizens that the county hearings officer erred in his interpretation of the statutory provision that the firearms training facility may continue to operate until it is "no longer used as a firearms training facility." Citizens asserted to LUBA that, in order to determine if a firearms training facility is "no longer used," the *actual* use of the facility must be considered. In explaining its decision, LUBA acknowledged that the statute requires "a significant degree of interpretation and reasoning by analogy, given that the text and context of the statute say nothing about how to determine when a qualifying facility is 'no longer used as a firearms training facility.'" *Citizens for Responsibility*, 51 Or LUBA at ___ (slip op at 6). It reasoned, however, that ORS 197.770 treats firearms training facilities as something like nonconforming uses. LUBA explained:

> "In other words, like nonconforming uses, a 'firearms training facility' may lose its qualifying status through disuse or discontinuation of qualifying activities. *See* ORS 215.130(7)(a). Significantly, the statutory language focuses on how the facility is 'used,' not on the intent of the property owner or whether the facility continues to be capable of qualifying uses. We agree with petitioners, therefore, that a determination whether a qualifying firearms training facility has lost the protection of ORS 197.770 requires evaluation of the actual use of the facility following September 9, 1995, and whether it continues to qualify as a firearms training facility. If the facility is 'no longer used as a firearms training facility,' the mere intent and capability to use it as a qualifying facility are insufficient to prevent loss of the statute's protection.
>
> "As the hearings officer noted, ORS 197.770 does not specify how long qualifying uses at a facility may be discontinued before losing the protection of the statute. The hearings officer apparently viewed the statute as allowing indefinite discontinuation of actual use as a firearms training facility, as long

> as there remains an intent and capacity to use it as a training facility. We reject that view. As explained, the statute clearly contemplates that a qualifying facility will be disqualified when it is 'no longer used as a firearms training facility.' While the statute does not specify what period of disuse disqualifies a facility, in this respect the statute is again similar to the statutes governing non-conforming uses at ORS 215.130, which do not specify the length of the period of interruption that will terminate the right to continue a non-conforming use. Instead, ORS 215.130(10)(b) leaves it up to individual counties to establish criteria to determine when a use has been interrupted or abandoned. We note that the county has adopted regulations providing that nonconforming uses are deemed interrupted or abandoned if discontinued for more than one year. LC 16.251(1)(c). Absent some other basis to apply a different period of time, we conclude that whether a qualifying facility in the county is 'no longer used as a firearms training facility' for purposes of ORS 197.770 depends on whether qualifying use of the facility has continued since 1995 with no interruption longer than one year."

Id. at ___ (slip op at 7-8) (emphasis omitted).

LUBA added that the county erred in relying on evidence that the facility had been used for training by several organizations not listed among the types set out in ORS 197.770 (2). LUBA also agreed with Citizens that evidence of such use does not support a finding that the facility continues to be used as a firearms training facility.

On appeal, the county argues that LUBA erred in concluding that the property was "no longer used as a firearms training facility" under the terms of the statute. We agree with the county that LUBA erred in its understanding of ORS 197.770. First, we do not find any support in the statute for a requirement that the firearms training facility provide certificates in a particular number or within a particular time frame in order to continue to qualify as a firearms training facility. The certificate issuance provision in the statute is part of the definition of a "firearms training facility," ORS 197.770(2), and not a mandate for a particular level of facility performance. The county understood that the statutory definition was satisfied if the operator of the facility intended to provide training and issue certificates and retained the ability to do so. We believe that that understanding is consistent with the text of the statute. As long as the facility is functioning and *able* to conduct training and issue certificates, we believe that the statutory definition is satisfied. (4)

Our second disagreement with LUBA's treatment of the continuation of operation issue is its importation of the one-year abandonment of use provision from the nonconforming use provisions in the county's zoning ordinance. Notably, the county did not treat the statutory authorization for a particular kind of firearm training facility as analogous to a locally declared nonconforming use. The county did not apply any of its nonconforming use regulations. Because the legislative grant required the continuation of the statutorily described uses, the local planning jurisdiction was required to permit them; thus, the legislature took the described uses out of the traditional definition of "nonconforming use." (5) ORS 197.770 does have some similarities to a nonconforming use provision. A "firearms training facility" is not listed as a permitted or conditional use in exclusive farm use zones under ORS 215.213 and ORS 215.283, and an existing facility in such a zone (or other restrictive zone) may be regarded as a nonconforming use. Also, the statute

includes a means to end the protected use, providing certain conditions are met. Nonetheless, the statute does not import the specific abandonment or disuse provisions from the other statutory nonconforming use provision found in ORS 215.130, and nothing in the statute requires local governments to treat the allowed firearms training use as a nonconforming use. The authorization in ORS 197.770 to continue a use coming within the definition of a firearms training facility does leave the specifics of implementation to the local government.

In this case, the county did not apply its nonconforming use provisions as an implementing tool. We conclude that LUBA erred in doing so. Consequently, LUBA erred in establishing a hard time line of nonuse to show an end to the statutorily protected activities. As discussed above, the hearings officer used a "reasonable person" standard, which we find to be consistent with the statute. The hearings officer explained the standard that he used as follows:

> "I believe that several factors are paramount in a determination of whether a facility is no longer used as a firearms training facility. Primary among these factors are intent to utilize a facility for firearms training, whether the facility has retained the ability to serve in that capacity and, o[f] course, whether the facility has actually served in that capacity."

As to the first factor, the hearings officer found that the League had approved the range for hunter education courses and for use by the U.S. Marine Corps Reserve, the Emerald Empire Gun Club, and the Oregon State Defense Force.(6) Also, he noted that the record demonstrated there are several League members who have taught courses and awarded certificates and wish to do so in the future at the facility. With regard to the second factor, the hearings officer found that the League maintained and enhanced its ranges since 1995, and that they can be and are used for training and shooter education "to this day." Finally, he found that there was ample evidence that the facility had been used for firearms training during the last eight years, but there was no evidence to support a finding that certificates issued during the last several years. The hearings officer determined that a reasonable person would not conclude the facility no longer qualified as a firearms training facility merely because "training certificates have not been issued for a couple of years."

Citizens and LUBA identify nothing inherently wrong in using a "reasonable person" standard under the apparently very broad delegation to local planning jurisdictions that is evident in ORS 19.770, and we find that the standard is consistent with the statutory scheme. The hearings officer's decision provided an explanation of how he applied this standard given the facts before him. Given the lack of standards in the statute, we conclude that nothing more was required in support of the decision to grant the requested permit, assuming the facts stated are supported by substantial evidence. The county identified the standard, applied the available facts, and explained its decision.

Admittedly, the use of a reasonable person standard does not provide much general guidance about what the county believes would support a conclusion that a facility was no longer used as described in the statute and about the required duration of nonuse that would support denial of a request to reestablish the use. Although it would be helpful for the county to provide such guidance and, for that matter, it would be helpful for the statute to provide more definite guidance, we cannot say that articulating a standard that will provide the answer as to how each case that might come before it would be decided

is necessary for the county's decision to be upheld in this case.

As LUBA itself recognized, ORS 197.770 calls upon the county to exercise "a significant degree of interpretation and reasoning by analogy, given that the text and context of the statute say nothing about how to determine when a qualifying facility is 'no longer used as a firearms training facility.'" *Citizens for Responsibility*, 51 Or LUBA at ___ (slip op at 6). We agree, but we also conclude that the county did so with respect to the particular application before it by explaining both its interpretation and how the facts before it fit within the interpretation.

Reversed and remanded.

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1. ORS 197.770 provides:

> "(1) Any firearms training facility in existence on September 9, 1995, shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.
>
> "(2) For purposes of this section, a 'firearms training facility' is an indoor or outdoor facility that provides training courses and issues certifications required:
>
> "(a) For law enforcement personnel;
>
> "(b) By the State Department of Fish and Wildlife; or
>
> "(c) By nationally recognized programs that promote shooting matches, target shooting and safety."

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2. The conditional use permit required a three-year review to ensure compatibility with the neighborhood, limited the allowed uses to the recreational shooting of rifles, shotguns, and handguns, and placed a limit on development and improvements.

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3. In view of our holding, it is unnecessary to address the county's argument that LUBA erred in remanding the county decision for a determination of what authorized or lawful uses existed on September 9, 1995, while at the same time making findings relating to that determination.

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4. The hearings officer's decision included a finding that

> "[t]he Eugene Practical [S]hooters Association, which is affiliated with the United States Practical Shooting Association (USPSA), has continuously held monthly target matches at the range from the mid-1980s through at least 1995. The testimony of Oscar Thomsen, Mr. Sam Pitts, Mr. Carl McGlothin, and Mr. Monty Millican establishes that firearms training and certifications occurred through 1996 and that firearms training continued after that date at the applicant's facility."

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5. In *Bergford v. Clack. Co./Trans. Serv.*, 15 Or App 362, 367, 515 P2d 1345 (1973), we articulated a definition of "nonconforming use":

> "Furthermore, a nonconforming use is, by its very nature, a use which has been determined to be contrary to the zoning plan, and one which is allowed only because to eliminate it forthwith upon adoption of a zoning plan would constitute a taking without compensation. It follows that a zoning plan, by its very existence, forbids the expansion of a nonconforming use--absent a finding by the appropriate authorities that given the choice of continuing an existing nonconforming use 'as is' or allowing a proposed expansion with attendant changes in the nature of the structure, the changes will result in a situation in which the nonconforming use will be more compatible with the goals of the zoning plan than the existing nonconforming use."

(Footnotes omitted.)

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6. Of those, only the Gun Club appears to come within the language of ORS 197.770(2).

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Home

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

OREGON ADMINISTRATIVE RULES

CHAPTER 660, DIVISION 033, RULE 0120, TABLE 1

February 2012

Uses Authorized on Agricultural Lands

OAR 660-033-0120 The specific development and uses listed in the following table are allowed in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:
A Use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.
R Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

* Use not allowed.

\# Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

HV Farmland	All Other	USES
		Farm/Forest Resource
A	A	Farm use as defined in ORS 215.203.
A	A	Other buildings customarily provided in conjunction with farm use.
A	A	Propagation or harvesting of a forest product.
R6	R6	A facility for the primary processing of forest products.
R28	R28	A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141.
		Natural Resource
A	A	Creation of, restoration of, or enhancement of wetlands.
R5,27	R5,27	The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.
		Residential
A1,30	A1,30	Dwelling customarily provided in conjunction with farm use.
R9,30	R9,30	A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either, if the farm operator does, or will, require the assistance of the relative in the management of the farm use.
A24,30	A24,30	Accessory Farm Dwellings for year-round and seasonal farm workers.
A3,30	A3,30	One single-family dwelling on a lawfully created lot or parcel.
R5,10 30	R5,10,	One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building 30 in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the

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R2,5,36	R2,5,36	Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.
R2, 18(a)	R2,5, 20	Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.
R2,5,21	R2,5,21	Living history museum
R2	R2	Firearms training facility as provided in ORS 197.770.
R2, 25	R2, 25	Armed forces reserve center as provided for in ORS 215.213(1).
A	A	Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.
R5	R5	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.
A26	A26	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.
R5	R5	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
R5	R5	Operations for the extraction and bottling of water.
A11	A11	Land application of reclaimed water, agricultural or industrial process water or biosolids.
R5	R5	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(1).
		Outdoor Gatherings
A33	A33	An outdoor mass gathering or other gathering described in ORS 197.015(10)(d).
R34	R34	Any outdoor gathering subject to review of a county planning commission under ORS 433.763.

(The numbers in the table above refer to the section numbers in OAR 660-033-0130)

(5) A county may choose to establish a different minimum parcel size for distinct commercial agricultural areas of the county. The appropriate minimum lot or parcel size for each area shall reflect the type of commercial agriculture in the area, consistent with section (2) of this rule.

(6) Counties may allow the creation of new parcels for nonfarm uses only as authorized by ORS 215.263. Such new parcels shall be the minimum size needed to accommodate the use in a manner consistent with other provisions of law except as required for the nonfarm dwellings authorized by section (7)of this rule.

(7)(a) Counties may allow the creation of new lots or parcels for dwellings not in conjunction with farm use pursuant to ORS 215.263(4) or (5), whichever is applicable.

(b) In the Willamette Valley, a new lot or parcel may be allowed if the originating lot or parcel is equal to or larger than the applicable minimum lot or parcel size, and:

(A) Is not stocked to the requirements under ORS 527.610 to 527.770;

(B) Is composed of at least 95 percent Class VI through VIII soils; and

(C) Is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and

(D) The new lot or parcel will not be smaller than 20 acres.

(c) No new lot or parcel may be created for this purpose until the county finds that the dwelling to be sited on the new lot or parcel has been approved under the requirements for dwellings not in conjunction with farm use in ORS 215.284(3) or (4), 215.236 and OAR 660-033-0130(4).

Stat. Auth.: ORS 197.040, 197.230 & 197.245
Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700 - 215.710 & 215.780
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 1994, f. & cert. ef. 1994; LCDC 5-1996, f. & cert. ef 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 7-2012, f. & cert. ef. 2-14-12

660-033-0120

Uses Authorized on Agricultural Lands

The specific development and uses listed in the following table are allowed or may be allowed in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

(1) A — Use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.

(2) R — Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

(3) * — Use not allowed.

(4) # — Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]

Stat. Auth.: ORS 197.040 & 197.245
Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243; 215.283, 215.700 - 215.710 & 215.780
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994, f. & cert. ef. 6-3-94; LCDC 2-1995(Temp), f. & cert. ef. 3-14-95; LCDC 7-1995, f. & cert. ef. 6-16-95; LCDC 5-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD 5-2009, f. & cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 9-2011, f. & cert. ef. 11-23-11; LCDD 7-2012, f. & cert. ef. 2-14-12

660-033-0130

Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

The following standards apply to uses listed in OAR 660-033-0120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

(1) A dwelling on farmland may be considered customarily provided in conjunction with farm use if it meets the requirements of OAR 660-033-0135.

(2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

EXHIBIT 3

(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

(3)(a) A dwelling may be approved on a pre-existing lot or parcel if:

(A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (3)(g) of this rule:

(i) Since prior to January 1, 1985; or

(ii) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

(B) The tract on which the dwelling will be sited does not include a dwelling;

(C) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

(D) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

(E) The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in subsections (3)(c) and (d) of this rule; and

(F) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

(c) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a);

(C) A hearings officer of a county determines that:

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;

(ii) The dwelling will comply with the provisions of ORS 215.296(1); and

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(D) A local government shall provide notice of all applications for dwellings allowed under subsection (3)(c) of this rule to the Oregon Department of Agriculture. Notice shall be provided in accordance with the governing body's land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the hearings officer under paragraph (3)(c)(C) of this rule.

(d) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The tract on which the dwelling will be sited is:

(i) Identified in OAR 660-033-0020(8)(c) or (d);

(ii) Not high-value farmland defined in OAR 660-033-0020(8)(a); and

(iii) Twenty-one acres or less in size; and

(C) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(D) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or